



ARIZONA DEPARTMENT OF WATER RESOURCES

REPORT ON ACTIVITIES WITH INDIAN TRIBES PURSUANT TO TRIBAL GOVERNMENT POLICY (July 1, 2018 through June 30, 2019)

Agency Overview

The Arizona Department of Water Resources (ADWR) was created by the 1980 Groundwater Code to manage the water resources of Arizona. ADWR administers state laws regarding water and it works to develop public policies which promote efficient use and equitable allocation of available water supplies. To ensure long-term water supplies for Arizona, ADWR oversees the use of surface water, groundwater and Colorado River water under state jurisdiction and represents the state's interests in interstate and federal issues, including participation in Indian water rights settlement discussions.

Tribal Liaison and Tribal Government Consultation Policy

In 2006, ADWR adopted a substantive policy statement (ADWR Tribal Government Policy) that established the basic principles governing the relations of ADWR with the 22 federally recognized tribes within the state and established a tribal liaison function within ADWR. The purpose of the policy was to establish the basic principles that govern ADWR interactions with Arizona tribes. As policy, ADWR recognized the sovereignty of tribal governments and established procedures. The ADWR Tribal Government Policy can be accessed at:

<http://www.azwater.gov/AzDWR/Legal/LawsRulesPolicies/SubstantivePolicyStatement.htm>.

ADWR's primary function with respect to tribal entities under the policy statement is to provide technical assistance and information regarding water resources management and policy. The table below summarizes ADWR's activities that are related to the technical assistance procedures listed in the substantive policy statement for fiscal year 2019.

Procedure in Tribal Government Policy	Activity and Performance Measures
<p>ADWR will assist tribal governments by providing technical assistance, sharing data, conducting joint tribal-state projects and programs and cooperatively resolving issues</p>	<ul style="list-style-type: none"> • ADWR facilitates the work of the State Drought Monitoring Technical Committee (MTC) that gathers Arizona drought, climate and weather information and disseminates that data. ADWR, in coordination with MTC publishes a monthly Drought Status Report that is sent to tribal governments. The MTC also coordinates with the tribal hydrologist for the Navajo Nation to obtain and share local drought condition information. • Fifteen tribal governments and the Inter tribal Council receive notices regarding meetings of the Governor’s Drought Interagency Coordinating Group which provides drought declaration recommendations to the Governor. • The Havasupai Tribe, the Hopi Tribe, the Navajo Nation, and ADWR are participants in the Coconino Plateau Watershed Partnership (CPWP). The tribes and ADWR attend monthly partnership meetings and have the opportunity to work cooperatively to share information and resources. ADWR is providing technical support to the CPWP on projects being completed under a WaterSMART grant that will provide resource and sustainability information to tribal participants. • In September 2018, the Arizona Water Protection Fund Commission sent letters to the Navajo Nation, White Mountain Apache Tribe, San Carlos Apache Tribe, Tonto Apache Tribe, the Yavapai-Apache Nation, and the Yavapai-Prescott Indian Tribe informing the respective Tribal leaders regarding applications for projects in proximity to Tribal lands. • The Gila River Indian Community, the Colorado River Indian Tribes and the Tohono O’odham Nation were represented on the Drought Contingency Plan Steering Committee that was established by ADWR and the Central Arizona Water Conservation District and which met on nine occasions during the fiscal year. Tribal participation was an essential element for successfully enabling the intra-Arizona effort, which concluded with the approval of related measures by the Arizona Legislature that were subsequently signed by Governor Ducey. The enactment by the Legislature further enabled, in significant part, the eventual endorsement of interstate DCP legislation by the Congress and President Trump.

<p>ADWR will not conduct any activities within an Indian reservation without first receiving permission from the appropriate tribal official.</p>	<p>On December 28, 2016, ADWR’s Adjudications Program was requested by the Special Master, Susan Ward Harris, of Maricopa County Superior Court to prepare and file a Hydrographic Survey Report (HSR) of certain water rights claimed for the Navajo Nation. This report was required for the general stream adjudication of all rights to use water in the Little Colorado River System and Source (LCR Adjudication). On August 30, 2018, ADWR received authorization from the Navajo Nation’s Water Management Branch Manager to conduct the field work necessary to complete the HSR. Site visits occurred in October and November 2018.</p> <p>ADWR filed the Preliminary Navajo Reservation HSR on March 8, 2019. The purpose of the Preliminary HSR was to provide the Navajo Nation, the United States and interested parties with the opportunity to inspect the information that ADWR gathered pertaining to certain water rights claimed by the Navajo Nation or by the United States, on behalf of the Navajo Nation, and to file comments with ADWR. ADWR received comments on the report from the Navajo Nation and several other parties, which will be taken into consideration as the Department drafts the final HSR.</p> <p>The final HSR is expected to be filed by December 2, 2019.</p>
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WATER SETTLEMENTS

This activity of ADWR does not fall within the ADWR Tribal Government Policy, but is provided as additional information regarding ADWR participation with tribal entities.

Havasupai Tribe

Representatives of the Havasupai Tribe met with ADWR in 2017 to discuss initiating negotiations for a settlement of the Tribe’s water rights claims. In 2018, a Federal Indian Water Rights Negotiation Team was appointed to participate in settlement negotiations with the Tribe. Although settlement negotiations have not yet occurred, ADWR anticipates that settlement discussions will begin in the near future and will include the Tribe, ADWR, the United States and various State water users. The negotiations will be confidential.

Hualapai Tribe

In recent years, ADWR has been active in negotiations regarding settlement of the Hualapai Tribe’s water rights claims in Arizona. In December 2014, the Bill Williams River Water Rights Settlement Act (“Act”) was passed by Congress and signed into law by President Obama. The Act authorized and approved two water rights settlement agreements between the Hualapai Tribe, the United States, Freeport Minerals Corporation, the Arizona Game and Fish Department and, in a limited capacity, ADWR. These settlement agreements became enforceable in December 2015. While these settlement agreements do not settle the Tribe’s water rights claims for its main

reservation, they settle the Tribe's claims in the Bill Williams River watershed and facilitate a future settlement of the Tribe's claims for its main reservation, including its claims to the Colorado River. For that reason, these settlements are considered the first phase of a comprehensive settlement of the Hualapai Tribe's water right claims.

Negotiations for a comprehensive settlement of all the Hualapai Tribe's water rights claims in Arizona began in 2011 and included the Tribe, the United States, ADWR and several state water users. In July 2016, the Hualapai Tribe, ADWR and the other state parties agreed to the terms of a comprehensive settlement. Federal legislation approving the settlement was introduced in the Senate in 2016 and in the Senate and House of Representatives in 2017, but the legislation was not enacted into law. Federal legislation approving the settlement was again introduced in the Senate and House of Representatives on May 1, 2019. ADWR Director Buschatzke testified in support of the settlement at a hearing before the House Committee on Natural Resources, Subcommittee on Water, Oceans and Wildlife, on June 29, 2019. Both the Senate bill and the House bill are currently pending before Congress. ADWR continues to provide support for this proposed settlement.

Navajo Nation and Hopi Tribe

Discussions for a settlement of the water rights claims of the Navajo Nation and the Hopi Tribe have been ongoing since the 1980s and have included the Navajo Nation, the Hopi Tribe, the United States, ADWR and a number of state water users. Active settlement negotiations between all the parties have not occurred since 2012. On March 30, 2016, ADWR hosted a meeting with Governor Ducey, Senator McCain, Senator Flake, representatives of the Navajo Nation and the Hopi Tribe and representatives of the various state parties, including ADWR, to discuss reinitiating settlement negotiations. At the meeting, the parties agreed that the Navajo Nation and the Hopi Tribe would first engage in settlement discussions between themselves before including the state parties in the settlement discussions. ADWR is aware that settlement discussions between the Navajo Nation, the Hopi Tribe and the United States occurred during the past fiscal year. ADWR has expressed its willingness to resume settlement discussions and is hopeful that the settlement discussions will be expanded to include ADWR and the other state parties in the near future. Any settlement discussions will be confidential.

Tohono O'odham Nation

The Tohono O'odham Nation's water rights claims for its San Xavier and Shuck Toak Districts were received in settlements approved by Congress in 1982 and 2004. Those settlements did not resolve the Nation's water rights claims for other lands, including the Sif Oidak District in Pinal County. Discussions to settle the Nation's remaining claims occurred during 2009 and 2010. During the past fiscal year, ADWR met with representatives of the Nation and the United States to discuss reinitiating settlement discussions. It is expected that settlement discussions will resume during the fiscal year 2020 and will include the Nation, the United States, ADWR and other state parties. Those discussions will be confidential.

Tonto Apache Tribe

Water rights settlement discussions between the Tonto Apache Tribe, the United States, ADWR and other state parties began in early 2014. Although ADWR was not involved in any settlement discussions during fiscal year 2019, ADWR has been informed that discussions between the Tribe and other parties occurred during the fiscal year. ADWR anticipates re-engaging in the settlement discussions during fiscal year 2020. All settlement discussions are confidential.

Yavapai Apache Tribe

During the past fiscal year, ADWR has had discussions with representatives of the Yavapai-Apache Nation regarding a potential settlement of the Nation's water rights claims. It is expected that settlement discussions will be ongoing during the next fiscal year. Those discussions will be confidential.