

ARIZONA DEPARTMENT OF WATER RESOURCES

REPORT ON ACTIVITIES WITH INDIAN TRIBES PURSUANT TO TRIBAL GOVERNMENT POLICY (July 1, 2020 through June 30, 2021)

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: <https://new.azwater.gov/sites/default/files/TribalGovernment-TG1Statement.pdf>.

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 2020.

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 tribal hydrologists to obtain and share local drought condition information. • Sixteen 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 provided administrative and technical support to the CPWP on Phase I of a groundwater modeling project of the Coconino and Redwall-Muav aquifers completed under a Bureau of Reclamation WaterSMART grant that will provide resource and sustainability information to tribal participants. • In June 2020 ADWR completed agreements to provide funding to maintain the Chevelon Creek stream gage which provides data to support the Coconino Aquifer (C Aquifer) Monitoring Program in cooperation with the Navajo Nation, the City of Flagstaff, and the USGS. The areal extent of the C Aquifer includes the Hopi and Navajo Reservations and provides groundwater used for municipal, agricultural and industrial purposes. • On November 19, 2020 Arizona Water Protection Fund (AWPF) staff had a virtual meeting with Ms. Maria Dadgar, Executive Director of the Arizona Inter Tribal Council . The purpose of the meeting was to provide an overview of the AWPF program and AWPF Commission, and to answer any questions relating to a current Tribal Member vacancy on the AWPF Commission that is to be appointed by the Inter Tribal Council of Arizona.

	<p>March 6, 2020 - Letters were sent to the 22 tribes within Arizona, inviting them to present on tribal water rights and water rights settlements to the Governor's Water Council at upcoming meetings</p> <ul style="list-style-type: none"> • Important for the Council to have the opportunity to hear the Tribes' perspectives • March 13, 2020 – Presentation on Tribal Water Rights & Settlements in Arizona <ul style="list-style-type: none"> • ADWR staff provided the Governor's Water Council with a foundational understanding of tribal water rights & settlements • August 12, 2020 – Invitation to present at a special meeting of the Council, Sept. 10, 2020 • September 10, 2020 – Presentations by the Tribes to the Governor's Water Council
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	<ul style="list-style-type: none"> • The Gila River Indian Community, the Colorado River Indian Tribes and the Tohono O'odham Nation are represented on the Arizona Reconsultation Committee that was established by ADWR and the Central Arizona Water Conservation District in June 2020. Tribal participation is an essential element toward the goal of the committee, which is to develop an Arizona perspective on the reconsultation of 2007 Interim Guidelines.
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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. In February 2020, ADWR Director Buschatzke visited the Havasupai Reservation and met with the Havasupai Tribal Council and its attorneys to discuss initiating settlement discussions. Director Buschatzke agreed to begin settlement discussions with the Tribe and other appropriate parties when the Tribe notifies ADWR that it is ready to begin the discussions. During the visit, Director Buschatzke viewed Havasupai Creek, the springs that feed into the Creek and the waterfalls along the Creek to gain a better understanding of the water features that are of cultural, religious and economic importance to the Tribe. Although settlement negotiations have not yet occurred, ADWR remains ready to initiate settlement discussions when notified by the Tribe that it wishes to proceed. Settlement discussions 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. The settlement agreements settle the Tribe's claims in the Bill Williams River watershed, but not the Tribe's claims for its main reservation, including its claims for water from the Colorado River. The settlement agreements include provisions that are intended to facilitate a future settlement of the Tribe's claims for its main reservation, and, therefore, they 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, but that legislation also was not enacted into law. 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. ADWR anticipates that federal legislation approving the settlement will be re-introduced in Congress in 2021 or 2022.

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. Legislation authorizing and approving a settlement of the tribes' claims to the Little Colorado River was introduced in Congress on February 14, 2012 by Senators McCain and Kyl, but the legislation was not enacted into law. On March 30, 2016, ADWR hosted a meeting with Governor Ducey, Senator McCain, Senator Flake, and representatives of the Navajo Nation, the Hopi Tribe, the United States and the 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. Settlement discussions with all the parties resumed on May 11, 2020 and are ongoing. Those settlement discussions are confidential.

Tohono O'odham Nation

The Tohono O'odham Nation's water rights claims for its San Xavier and Shuck Toak Districts were resolved in settlements approved by Congress in 1982 and 2004. Those settlements did not resolve the Nation's water rights claims for its other lands, including the Sif Oidak District in Pinal County. Although discussions to settle the Nation's remaining claims occurred during 2009 and 2010, the discussions did not lead to a settlement. Settlement discussions resumed in December 2019 and are ongoing. The settlement discussions include the Nation, the United States, ADWR and other state parties. The discussions are confidential.

Tonto Apache Tribe

Water rights settlement discussions between the Tonto Apache Tribe, the United States, ADWR and other state parties occurred during 2014 but did not result in a settlement. Settlement negotiations resumed in 2019 and are ongoing. All settlement discussions are confidential.

White Mountain Apache Tribe

The White Mountain Apache Tribe's water rights claims were resolved through a water rights quantification agreement (Agreement) approved by Congress in 2010 (Public Law 111–291). Although the Agreement was approved by Congress, the Agreement will not become enforceable until certain conditions are met, including the issuance of a Record of Decision by the Secretary of the Interior approving construction of the Miner Flat Dam and other water infrastructure for use by the Tribe. In December 2019, Congress extended the deadline for issuing the Record of Decision from May 1, 2021 to May 1, 2023 because of delays in designing Miner Flat Dam.

Yavapai-Apache Nation

Discussions between the Yavapai-Apache Nation, ADWR and other parties to settle the Nation's water rights claims have been ongoing for the past several years. Those discussions are confidential.