

Southern Arizona Water Users Association



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SAWUA is a voluntary nonprofit association organized in 1999 to discuss, analyze, and recommend ways to preserve and enhance the quality and quantity of Southern Arizona's water resources.

Avra Water Co-Op

BKW Farms

Community Water Company of Green Valley

Farmers Investment Company

FICO/ Farmers Water Co

Flowing Wells Irrigation District

Green Valley Water Improvement District

Kai Farms

Marana Water Department

Metro Water District

Oro Valley Water Utility

Pima County Regional Wastewater Reclamation Department

Red Rock Utilities

Sahuarita Water Company

Sahuarita Wastewater Utility

Tucson Water

2016 Legislative Session Wrap-Up

For the past 15 years, SAWUA has maintained a responsive and respected presence at the Arizona Legislature, working with elected officials, senior appointed officials and stakeholders to advocate for effective water policy, mitigating those measures that otherwise may potentially have adverse impacts, and when necessary, opposing legislation that would be detrimental to Southern Arizona or statewide water policy interests.

This edition of the SAWUA Quarterly Bulletin is intended to provide an overview of the major legislation impacting water policy during the 2016 legislative session.

Noteworthy Legislation of 2016

Citing the importance of avoiding a "patchwork of water ordinances," Governor Doug Ducey vetoed SBs 1268 and 1400, relating to how municipal and county governments would have complied with adequate water supply requirements in regions outside the purview of Active Management Areas (AMA).

SAWUA, like several other water policy organizations throughout Arizona, expressed significant concerns over the legislation and encouraged the Governor to carefully consider the water policy implications of both bills during his decision making exercise.

SB 1268 would have allowed municipal governments, located in counties that have adopted an adequate water supply ordinance outside of an AMA, to opt out of such ordinances, provided certain criteria was met, notably that the municipality was participating in a program to augment the underlying aquifer.

In contrast, SB 1400 allowed county governments to rescind the water adequacy ordinance by a unanimous vote of the county board of supervisors after such ordinances had been enacted for at least five years.

The genesis of the public policy debate that dominated the water agenda during the 2016 legislative session was a state statute, enacted in 2007, which granted counties, cities and towns located outside of an AMA the authority to adopt an ordinance requiring new subdivisions to have sufficient groundwater, surface water or effluent of adequate quality to satisfy the needs of the proposed use for at least 100 years.

The statute allows a county board of supervisors to adopt, by unanimous vote, an adequacy ordinance that prohibits municipalities within the county from approving a new subdivision unless the subdivision has an adequate water supply.

In contrast, municipalities located in counties that have not adopted an ordinance may adopt a local adequacy ordinance to require new subdivisions to demonstrate that an adequate water supply exists before the final plat can be approved. A municipality that enacts a local adequacy ordinance must notify the Arizona Department of Water Resources (ADWR), other relevant state agencies and the board of supervisors of the county in which the municipal government is located.

Only Cochise and Yuma Counties and the towns of Clarkdale and Patagonia adopted the relevant adequate water supply ordinance.

With respect to the 2016 legislative session, the City of Sierra Vista was motivated by wanting to establish local control over zoning and development related responsibilities, as articulated by Mayor Rick Mueller.

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Legislation (continued)

What is at issue for Sierra Vista, is that the community has a stigma of not being able to develop new projects due to water adequacy concerns. The uncertainty of the legal availability of water has stymied economic development, impacting commercial and industrial projects, not just residential.

Opponents of the legislation asserted that the bills were intended to short-circuit ongoing litigation brought by the Arizona Center for Law and Public Interest against ADWR, otherwise known as *Robin Silver v. Pueblo del Sol Water Company*. The litigation stems from a Determination of Adequate Water Supply for a 7,000-unit residential development in Sierra Vista. In addition to other stakeholders, the United States Department of Interior, Bureau of Land Management, has challenged the ADWR decision.

While Sierra Vista was an active proponent of SB 1268, city representatives have gone to great lengths to distance themselves from SB 1400, as that legislation reflected a more aggressive approach to addressing the adequate water supply requirements.

Opponents further expressed concerns relating to the broad integrity of the Groundwater Management Act of 1980 and the inconsistency with the Arizona Water Initiative and the Water Augmentation Council, recently established by Governor Ducey.

Both bills, prior to being vetoed, were the subject of lengthy floor debates, before passing with narrow partisan majorities.

Given the gubernatorial vetoes and the lack of political prospects and uncertainty for reintroducing the legislation in 2017, the issue will likely be decided in the Courts.

The litigation is currently pending in the Arizona Court of Appeals and any decision is almost certainly going to be subject to an appeal to the Arizona Supreme Court.

CAP Update

The State of Arizona has been active in negotiations with the other Lower

Colorado River Basin states regarding the expected shortages on the Colorado River.

The Lower Colorado River Basin Drought Contingency Plan was presented in April 2016 to SAWUA by ADWR. The presentation essentially outlined a potential agreement between Arizona, California and Nevada involving an overlay of increased voluntary reductions to states' allocations to keep Lake Mead levels from falling below 1025 feet of elevation. At that level, potentially all municipal providers and industrial and tribal users in the Tucson Active Management Area (TAMA) could be adversely impacted by reduced deliveries of CAP water throughout the CAP service area.

Lake Mead levels below elevation 1025 feet could trigger potential unilateral restrictions by the Secretary of the Interior outside of *the Law of the River*.

The water providers within TAMA have been actively increasing the purchase and storage of their CAP allocations over the past 15 years. Many of the TAMA municipal providers are purchasing and storing annually more than their current customer demands. In addition, the Arizona Water Banking Authority has been storing CAP water in the AMA building a reserve to strengthen municipal providers' supplies for times of shortage. Expanded use of Groundwater Savings Facilities by providers has supported local agriculture and preserved tens of thousands of acre-feet of groundwater as another backup to CAP supplies during shortages in the future.

Additional infrastructure projects are under consideration to increase the use of CAP supplies in the near future. All these efforts are making the TAMA and its water users very resilient to potential shortages from climate change that may be affecting Arizona in the coming years.

Ongoing Water Policy Issues Impacting Southern Arizona

For 2016, while the U.S. Department of Interior did not declare a shortage on the Colorado River, there is still an ongoing concern for such a shortage declaration in 2017 or 2018. SAWUA will continue to advocate for continued preparation so that Southern Arizona is well prepared in the event that a shortage on the Colorado River is declared.

Furthermore, the Lower Santa Cruz River Basin study needs to be finalized to better understand where physical water resources are needed to mitigate impacts, including climate change, and to improve water reliability for municipal, agricultural and environmental sectors.

In addition, SAWUA continues to monitor new water quality regulations and emerging contaminants in order to meet all drinking water requirements. SAWUA remains an advocate for the continued use of remediated water beyond the current sunset of 2025.

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