



**CENTRAL ARIZONA WATER CONSERVATION DISTRICT  
SPECIAL MEETING OF THE BOARD OF DIRECTORS  
November 15, 2018**

A special meeting of the Central Arizona Project ("CAWCD" or "CAP") Board of Directors was called to order by President Lisa Atkins on November 15, 2018, at 9:15 am. The meeting was held at Central Arizona Project Headquarters, located at 23636 North Seventh Street, Phoenix, Arizona, in the Board Room.

Board members present were President Lisa Atkins, Maricopa County; Alexandra Arboleda, Maricopa County; Jennifer Brown, Maricopa County; Karen Cesare, Pima County; Terry Goddard, Maricopa County; Benjamin Graff, Maricopa County; Jim Hartdegen, Pinal County; Jim Holway, Maricopa County; Pat Jacobs, Pima County; Mark Lewis, Maricopa County; Heather Macre, Maricopa County; Sharon Megdal, Pima County; and Mark Taylor, Pima County.

Staff members present were Ted Cooke, General Manager; Jay Johnson, General Counsel; Bridget Schwartz-Manock, Director, Public Affairs; Suzanne Ticknor, Director, Water Policy; Megan Casey, Public Affairs Management Analyst; and Jennifer Miller, Board Support Specialist.

**1. REPORT AND DISCUSSION OF CAP'S ONGOING COMMITMENT OF THE DROUGHT CONTINGENCY PLAN - ATKINS**

President Atkins reiterated CAP's long commitment to protecting Lake Mead and sustaining Arizona's Colorado River Supply. She noted that CAP has been an enthusiastic supporter of the 2007 Guidelines and efforts to create a Drought Contingency Plan (DCP), including participating in the Pilot System Conservation program for a number of years and making voluntary contributions to Lake Mead. She detailed CAP's involvement with Minute 319 and Minute 323, and its work with ADWR and other Basin States to draft documents and agreements that will be required to put DCP into place.

President Atkins also reiterated CAP's active participation in the Lower Basin Drought Contingency Plan (LBDCP) Steering Committee as evidence of CAP's longstanding commitment to the success of DCP. She also noted that the Special Board Meeting should not be interpreted in any way as a criticism of or interference in the Steering Committee process, but rather that proposals discussed at the Board meeting are intended to serve as a potential foundation and catalyst for further DCP negotiations. She said that CAP aims to do its part to contribute to the discussion, while also fulfilling its duty to conduct CAP business in public.

**2. REPORT AND DISCUSSION OF THE LOWER BASIN DROUGHT CONTINGENCY PLAN AND THE STATUS OF THE ARIZONA IMPLEMENTATION OF THE DROUGHT CONTINGENCY PLAN - TICKNOR**

Suzanne Ticknor, Director of Water Policy, gave an update on the status of the DCP negotiations in Arizona, which are fluid and changing day-to-day, with new proposals coming forward each day. She reviewed recent mitigation plans that have been discussed, including the Joint ADWR/CAWCD proposal to the Steering Committee, the Gila River Indian Community informally discussed proposal, and the Agency Conceptual Response informally discussed proposal. Ms. Ticknor noted that none of the three proposals are still active, reviewed them to provide context for the meeting. She provided details of each proposal, and the reasons why each are no longer under consideration.

3. **DISCUSSION AND POSSIBLE CONSIDERATION OF ACTION OF THE POSSIBLE IMPACTS OF THE DCP ON CAP WATER SUPPLIES AND FINANCES, AND DEVELOPMENT OF AN INTRA-ARIZONA DCP MITIGATION PROPOSAL TO RECOMMEND TO THE DCP STEERING COMMITTEE - COOKE**

Ted Cooke, General Manager, presented information on the sources of CAWCD funding that could be used for mitigation under the Drought Contingency Plan (DCP), including water rates and property taxes and constraints on those sources. He reviewed the potential impact of shortage on CAP water rates, which may increase as a result of reduction in delivery supply, as well as potential impacts of mitigation on CAP water rates, which will vary depending on the type of mitigation implemented.

Mr. Cooke also presented on the CAWCD Interim Mitigation Plan, which he noted could provide a path for Arizona to immediately move forward with DCP to allow more time to prepare a detailed mitigation plan for the full term of DCP. Mr. Cooke noted that this plan is not the only plan that could work, and is not set in stone. He further noted that the discussions surrounding DCP are very fluid and include other options, including a recent new proposal by the Gila River Indian Community (GRIC). Mr. Cooke presented key assumptions for the CAWCD Interim Mitigation Plan, which include a 3-year term and measures that could rely solely on CAWCD funding. The plan includes 100% mitigation for the NIA pool and fixed mitigation for the CAP Ag Pool and Developers. Mr. Cooke reviewed two mitigation scenarios for different hydrology and water order possibilities, as well as resources for both scenarios and how they may impact water rates.

Mr. Cooke presented details on a staff recommendation for an Interim Mitigation Plan, slightly modified from what showed on the presentation to allow the Steering Committee delegations to continue to negotiate a mitigation plan within the general parameters of the Interim Plan Proposal. Mr. Cooke answered questions from Board Members Lewis, Holway and Jacobs to clarify elements of the proposed plan.

Vice President Holway asked if the improvement of infrastructure for Pinal County could be completed sooner. Mr. Cooke replied that he was not sure of the feasibility of that, but could be considered. Mr. Holway also commented that he would like to reduce the use of CAP ICS, because there is a cost to replace it, even if there is not a cost to use it. He would also like to increase compensated conservation cap to be up to 500,000AF to give negotiators flexibility, with the correlated cost increase necessary to do that. Board Member Taylor agreed with Mr. Holway's comments and proposed changes.

Board Member Lewis commented that he can support the staff recommendation with the ability for Steering Committee delegates to negotiate details. He also commented that he understands the changes proposed by Mr. Holway, but is concerned about where the money comes from. He said he could support the increase if no property taxes are involved. He also noted that he likes the infrastructure component of the plan, but is hesitant to give blanket authorization for funding because there are other sources of grant funding available for infrastructure.

Board Member Goddard expressed support for the staff recommendation and opposition to Mr. Holway's proposed changes. He commented that it is irresponsible to increase negotiating authority without knowing where money is coming from for the additional compensated conservation. Mr. Cooke estimated the increase would be to about \$150 million and would push rates up.

Board Member Jacobs said that he would not support increasing anything at this meeting, but could reconsider with additional details on funding at the Board meeting in three weeks.

Secretary Megdal agreed with Mr. Goddard and Mr. Jacobs, noting that she likes that the staff proposal has a defined financial commitment with specificity.

Vice President Holway commented that he thinks the Board is making a mistake in assuming the 400,000AF of ICS credits in Lake Mead are free and putting no value on them. He noted that CAP would pay more money up front to get system conservation, but would get equal value in the reservoir. He also stated he is more comfortable in mitigating NIA and Ag users with new system conservation than with ICS. He acknowledged this could raise rates, but suggested letting users decide if they are willing to pay more.

**Vice President Holway made a motion, seconded by Board Member Lewis to: 1) Authorize utilization of CAP water resources 2020-2022 of up to 400,000 acre-feet of CAP ICS in Lake Mead and up to 50,000 acre-feet of CAP Project Water in Lake Pleasant; 2) Authorize creation of a compensated conservation program to obtain necessary quantities of water for mitigation purposes, up to 500,000 acre-feet from 2020-2022 and a cost of up to \$150 million to be included in CAP Fixed OM&R recharge rates 2020-2022; 3) Authorize CAWCD support for development of separate programs for groundwater infrastructure and system efficiency for CAP Ag Districts in cooperation with the United States, the state of Arizona, the Ag districts, tribes and others. Funding participation TBD; and 4) Authorize the CAP Board delegates to bring the Interim Mitigation Plan Proposal to the AZ LBDCP Steering Committee and to continue to negotiate as necessary in collaboration with CAP General Manager.**

Board Member Jacobs made a motion to table discussion until after public testimony. There was no second to the motion, but President Atkins clarified that the Board would hear from the public before voting.

Several individuals submitted public testimony:

Tom Buschatzke, Director of ADWR, expressed gratitude for the work and collaboration by the CAP Board and staff. He said the State seeks strong consensus for intrastate DCP for all Arizona water users, and while the State wants to continue discussing CAP's proposal to find a package acceptable to all, the CAP proposal in its current form does not conform to the guiding principles as outlined by Governor Ducey in a recent editorial. Mr. Buschatzke expressed appreciation that the motion allows for additional negotiations to take place. He also noted that the State has \$4 million in funding available for DCP.

Governor Stephen Lewis, Gila River Indian Community, noted that his comments are based on the four principles that the Community has set forth for an acceptable DCP. He said the Community remains committed to DCP and hopes CAWCD remains flexible to considering other options. Governor Lewis emphasized that the parties are close to a path forward for DCP. He said that the Community believes DCP is not as difficult as presented, but can't support any interim plan that doesn't address concerns of higher priority pools. He stated he is opposed to use of CAP ICS unless offset by other additions to Lake Mead. Governor Lewis supports the motion made by Mr. Holway and accepts possible higher rates. He asked that reductions in water supply be applied equally across all priority pools and also expressed support for well drilling in Pinal County to offset cuts to agriculture users.

Brian Betcher, General Manager, Maricopa Stanfield Irrigation District, said he sees some benefits to the CAP proposal. He noted that there will be a 30% reduction of crops in the case of shortage, which

may put Pinal agriculture on the edge of economic viability. He said they have been working on infrastructure for groundwater since 2000. He said that any mitigation will still result in a reduction of water to the Ag Pool. Mr. Betcher noted that it is not in the State's best interest to not allow time to transition to groundwater.

Bas Aja, Arizona Cattle Feeders Association, spoke in support of the staff recommendation. He commented that there is no equity in the impacts of DCP, even if there is equity among the priority pools. He noted that the impact will be worst for Pinal Ag than for anyone else. Mr. Aja discussed the impact of the local agriculture, noting that Arizona is in the top 10 of cattle feeders, is first in milk per cow in the US, and has the 7th largest beef packing plant in US in Tolleson. He noted that these three categories produce enough beef and milk to feed the whole state. In response to a question from Board Member Brown, Mr. Aja expressed concern for Mr. Holway's motion due to the large increase in the numbers.

Michael Curtis, Arizona Municipal Power, testified that he agrees with Mr. Aja about the increased numbers in the motion, but that considering a proposal is a very positive and proactive step.

Warren Tenney, AMWUA, said that AMWUA is committed to DCP, and feels DCP should strengthen long term water management. He said the AMWUA cities will take a look at details of the current proposal and look forward to further discussions. He questioned any proposal that would allow a group to receive more water than they would under 2007 Guidelines, and about using all of the CAP ICS in 3 years, as it runs counter to the idea of protecting Lake Mead. Mr. Tenney said that the cities have recognized that rates are likely to go up under DCP. He also agreed with Mr. Aja's statements about the increased numbers in Mr. Holway's motion.

Spencer Kamps, Home Builders Association of Arizona, expressed support for the CAP Interim Plan because it is financially viable, it fully mitigates NIA pool, it has a viability component for Pinal Ag, and recognizes future economic development, which are all critical elements.

Paul Orme, General Council to four Pinal County Irrigation Districts that make up 70% of agricultural settlement pool, said that he is recommending that his clients support this plan. He expressed concern that the ag mitigation number is set at 80,000AF and is based on 2019 water orders and not 2018 actual deliveries, which would make the number 150,000AF. He also noted that they have put a lot of money into infrastructure over the past four years, but they will need help to advance their timeline eight years from the original 2031 estimate. He said that they accept there will be cuts in surface water supply, but cannot accept anything less than 595,000AF in mitigation.

Dan Thelander, Pinal County Farmer, noted that he farms 5,000 acres and that farms are an economic driver for Pinal County. He said they need time to build more infrastructure to move groundwater throughout the district, noting that he thought they had until 2030. He expressed support for the staff recommendation to support agriculture to 2026 and possibly beyond, noting that this will still result in dramatic cuts.

Secretary Megdal noted that Mr. Kamps testified support of the proposal, and she wanted to clarify if he supported Vice President Holway's motion or the staff recommendation; however, Mr. Kamps had left the meeting and was unable to answer.

**Board Member Jacobs made a substitute motion, seconded by Board Member Goddard, to 1) Utilization of CAP water resources of up to 400,000 acre-feet of CAP ICS in Lake Mead and up**

**to 50,000 acre-feet of CAP Project Water in Lake Pleasant; 2) Creation of a compensated conservation program to obtain necessary quantities of water for mitigation purposes, up to 250,000 acre-feet and a cost of up to \$60 million to be included in CAP Fixed OM&R rates; 3) Support for development of separate programs for groundwater infrastructure and system efficiency for CAP Ag Districts in cooperation with the United States, the state of Arizona, the Ag districts, tribes and others. Funding participation TBD; and 4) The CAP Board delegates and the general manager to bring the Interim Mitigation Plan Proposal to the AZ LBDCP Steering Committee and to continue to negotiate a mitigation plan within the general parameters of the Interim Plan Proposal.**

Board Members Goddard, Cesare, Brown, Megdal and Arboleda expressed support for the substitute motion and explained their reasons.

Board Member Taylor offered a friendly amendment to the substitute motion to change item 2) to increase 250,000 to 500,000. Board Member Jacobs declined the friendly amendment.

Board Member Macre expressed concern about capping the amounts in the substitute motion and not having enough flexibility in negotiations. She also expressed concern about committing all of CAP's ICS.

**Vice President Holway offered a friendly amendment to the substitute motion to add language to the end of line 1) to add "while maximizing opportunities to maintain CAP ICS water in Lake Mead."** Board Members Jacobs and Goddard accepted the friendly amendment. The amendment to the substitute motion was unanimously approved.

*Voting yes: Lisa A. Atkins, Jim Holway, Sharon B. Megdal, Alexandra Arboleda, Jennifer Brown Macre, Mark Taylor*

*Not voting: Jim Hartdegen*

Vice President Holway offered a friendly amendment to the substitute motion to change 250,000AF in line 2) to 500,000AF. Board Member Jacobs declined the friendly amendment.

Secretary Megdal offered a friendly amendment to remove "up to" from both places in line 2). Board Member Jacobs declined the friendly amendment.

Board Member Cesare offered a friendly amendment to add "approximately" before any "up to" reference in the substitute motion. Board Member Jacobs declined the friendly amendment.

**On a motion by Board Member Jacobs (seconded by Board Member Goddard), the Board approved the 1) Utilization of CAP water resources of up to 400,000 acre-feet of CAP ICS in Lake Mead and up to 50,000 acre-feet of CAP Project Water in Lake Pleasant while maximizing opportunities to maintain CAP ICS water in Lake Mead; 2) Creation of a compensated conservation program to obtain necessary quantities of water for mitigation purposes, up to 250,000 acre-feet and a cost of up to \$60 million to be included in CAP Fixed OM&R rates; 3) Support for development of separate programs for groundwater infrastructure and system efficiency for CAP Ag Districts in cooperation with the United States, the state of Arizona, the Ag districts, tribes and others. Funding participation TBD; and 4) The CAP Board delegates and the general manager to bring the Interim Mitigation Plan Proposal to the AZ LBDCP Steering Committee and to continue to negotiate a mitigation plan within the general parameters of the Interim Plan Proposal. Motion passed.**

*Voting yes: Lisa A. Atkins, Jim Holway, Sharon B. Megdal, Alexandra Arboleda, Jennifer Brown, Karen Cesare, Terry Goddard, Benjamin W. Graff, Pat Jacobs, Mark Lewis, Heather A. Macre, Mark Taylor*

*Not voting: Jim Hartdegen*

4. **DISCUSSION AND POSSIBLE CONSIDERATION OF ACTION REGARDING CAWCD AUTHORITIES AND RESPONSIBILITIES RELATING TO DCP AND THE DCP AGREEMENTS - JOHNSON**

Jay Johnson, General Counsel, presented on the need for CAWCD to sign both the Lower Basin DCP Agreement and the Companion Agreement in addition to the other essential parties to the Agreements. He noted that CAWCD water users, ratepayers and taxpayers bear the brunt of DCP in the Colorado River Basin in terms of both water and money. He also stated that no entity other than the CAWCD Board may legally bind CAWCD to take on the extensive obligations of DCP in water reductions and costs that will fall on its water users and taxpayers. He said that no entity other than the CAWCD Board may forbear on Colorado River water that is available for delivery under the CAP Master Repayment Contract between CAWCD and the United States. He concluded that CAWCD must be a party to participate in order to maintain its rights for recourse to enforce the DCP agreement against other parties in the Basin to avoid further impacts to the District. He explained the difference in signatory issues for the 2007 Guidelines from what is proposed for DCP and its impact to CAWCD, and that an agreement like the MOU utilized in 2007 will not protect CAWCD for issues related to DCP.

Several individuals submitted public testimony:

President Atkins noted that Governor Lewis from GRIC had submitted a blue card for this item but had left the meeting.

Tom Buschatzke, ADWR, agreed with Mr. Johnson on several points, but disagreed that DCP cuts are voluntary. He said that there is no discretionary authority for CAWCD. He said he is willing to work with CAWCD on this important issue.

Nicole Klobas, General Counsel for ADWR, said that, historically, the ADWR Director has executed interstate agreements on Colorado River issues at the direction of Legislature, and has done so since the 1944 contract. She said that the Director of ADWR signs all contracts, then makes agreements with CAWCD to act consistently with agreement. She said that, even when CAWCD is not a party to an agreement, CAWCD has avenues for relief to ensure that Secretary enforces the law of the river, including DCP. In response to a question from Board Member Brown, Ms. Klobas explained how the other states are handling signatory issues and suggested that this was not the appropriate forum to have the discussion on signatory issues. Board Member Goddard stated that the Board members are all independently elected officials who take obligations to taxpayers and ratepayers very seriously, and asked what the harm is in CAWCD signing the DCP agreements. Ms. Klobas stated that she believes CAWCD has remedies to ensure that the law is enforced. Board Member Goddard questioned whether CAWCD would have standing, and Ms. Klobas replied that the State would join with CAWCD if a showing of standing should ever be necessary. Ms. Klobas said that CAWCD's signature to DCP will infringe on the role of the State. Board Member Goddard noted that CAWCD has already agreed to specify that its signature is not on behalf of the State of Arizona. Vice President Holway noted that this issue is more than symbolic and to find a way forward that preserves both entities' interests and legal opinions. Board Member Arboleda asked questions about the State signing a contract that obligated CAWCD, and to clarify whether DCP would supersede

CAWCD's contract with the United States. Board Member Jacobs asked a question about remedies available to CAWCD and expressed concern about having this discussion outside of a public meeting forum since CAWCD is subject to Open Meeting Law.

Wade Noble, Yuma County Agriculture Water Coalition, spoke in opposition to CAWCD being a signatory to the DCP agreements.

Lois Wakimoto, Chair, Mohave County Water Authority, spoke in opposition to CAWCD being a signatory to the DCP agreements.

Jamie Kelley, Mohave County Water Authority, spoke in opposition to CAWCD being a signatory to the DCP agreements.

Secretary Megdal noted that nothing CAWCD is discussing indicates that CAWCD is not in support of a unified State of Arizona for DDCP.

In response to a question from Board Member Brown, Mr. Johnson listed the other entities that will sign DCP on behalf of other states.

**Board Member Brown made a motion, seconded by Board Member Cesare, to authorize the President of the Board or her designee to sign the Lower Basin DCP Agreement, Lower Basin Drought Contingency Operations Agreement (LBOPS), and the Companion Agreement on behalf of CAWCD.**

Board Member Brown encouraged the dialogue to continue, but noted that the Board can only meet in open session to direct staff.

Board Member Goddard referenced a letter that Board Member Pam Pickard sent to the other Board members about this issue. He also stated that he feels strongly that CAWCD has a legal obligation to be able to have standing to enforce what is required by DCP.

Secretary Megdal commented that this is a challenging issue, noting that when the 1944 Compact was signed, CAWCD did not exist. She said she doesn't see where there is room for agreement, and asked if it is the Legislature who could make the final decision. Mr. Johnson said that no entity can deny CAWCD's authority to sign the agreement, but that the issue does need to be resolved through collaborative discussions.

Vice President Holway, Secretary Megdal, Board Member Macre and Board Member Goddard expressed support for asking staff to continue working on this issue and revisit it at the December 6 Board meeting.

Board Member Brown acknowledged that discussions need to continue and that this motion doesn't mean that CAWCD will sign, just that the authority will be in place once the issue is decided. Board Member Macre asked if the motion could contain language to note that discussion will continue.

Vice President Holway suggested that the Board may want to consider an additional motion that charges the General Manager and staff to work with ADWR officials on identifying option to preserve each entity's positions on their respective legal authorities, while facilitating our mutual commitments to collaboratively developing and implementing the critical Drought Contingency Plan.

Board Member Macre expressed concern that the intent of Board Member Brown's motion may be misconstrued and wanted to ensure that the Board's intent is clear. Board Member Cesare and President Atkins agreed.

President Atkins said that she understood that several Board members support waiting to take action on this issue until December. **Board Member Brown withdrew her motion.**

5. **NEXT STEPS - ATKINS**

No discussion.

6. **PUBLIC COMMENT**

No additional public comment.

7. **ADJOURN**

There being no further business to come before the Board, the meeting adjourned at 2:36 p.m.



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Sharon B. Megdal  
Board Secretary