

JANICE K. BREWER
Governor



HERBERT R. GUENTHER
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
(602) 771-8500

Notice

for the following files

Designation of Assured Water Supply
Designation of Adequate Water Supply
Modification of a Designation of Assured Water Supply
Modification of a Designation of Adequate Water Supply

The imaged record for this file contains only the issued Decision and Order. The remainder of the file, including a hydrologic study or other supporting documentation (if submitted with the application), is retained in the Office of Assured and Adequate Water Supply. Please contact the Office of Assured and Adequate Water Supply if you wish to view the remainder of the file. You will be requested to complete and submit a Public Records Request Form (available on the Arizona Department of Water Resources website). The Department will provide access to the file within a reasonable amount of time and will notify you when the file is available. If requested the Department will make copies of documents in the file. Please note that there is a copying charge for this service.

If you have any questions, contact:
The Office of Assured & Adequate Water Supply at 602-771-8599.

1 **DEPARTMENT OF WATER RESOURCES**

2 **BEFORE THE DIRECTOR**

3
4 **IN THE MATTER OF THE APPLICATION OF) AWS No. 2008-006**
5 **THE CITY OF PRESCOTT FOR A MODIFICATION)**
6 **OF ITS DESIGNATION AS HAVING AN ASSURED) DECISION AND**
7 **WATER SUPPLY) ORDER**
8 **No. 86-401501.0001**

9 **I. INTRODUCTION**

10 On October 12, 2007, the Arizona Department of Water Resources ("Department")
11 received an application from the City of Prescott ("Prescott"), requesting that the Department
12 modify Prescott's designation of assured water supply pursuant to A.R.S. § 45-576, *et seq.*, and
13 A.A.C. R12-15-701, *et seq.* On August 21 and August 28, 2008, the Department gave public
14 notice pursuant to A.R.S. § 45-578. Multiple objections were filed with the Department.

15 After receiving Prescott's request to modify its designation of assured water supply, the
16 Department reviewed relevant information regarding the application, including: 1) the
17 hydrologic information submitted by Prescott; 2) information regarding consistency with the
18 management goal of the Prescott Active Management Area ("AMA"); 3) information regarding
19 Prescott's financial capability to construct the necessary delivery system, treatment works and
20 storage facilities; and 4) the issues raised by the objections to the application. Based on that
21 information, the Department makes the following Findings of Fact, Conclusions of Law, and
22 Order of Designation and Conditions of Designation:

23 **II. FINDINGS OF FACT**

24 **A. General**

- 25 1. Prescott is a city incorporated in accordance with Article XIII of the Arizona
26 Constitution.
27 2. Prescott is located within the Prescott AMA.
28 3. Prescott currently serves water through its municipal distribution system to its customers.
29 4. Prescott has the legal authority to deliver water to its customers located within its service
30 area.

- 1 5. Prescott is currently designated as having an assured water supply pursuant to Decision
2 and Order AWS 2005-004, issued on September 16, 2005.

3 **B. Water Demands**

- 4 6. Prescott reported that its current demand as of calendar year 2007 is 8,327.1 acre-feet per
5 year ("current demand"). The current demand includes deliveries to the Yavapai-Prescott
6 Indian Tribe ("Tribe") in 2007.

- 7 7. Prescott's committed demand as of calendar year 2007 is 2,409.44 acre-feet per year
8 ("committed demand"). The committed demand includes the annual average of the
9 volume of water that Prescott is obligated to deliver to lands within the Chino Valley
10 Irrigation District ("CVID").

- 11 8. Prescott's projected demand in 2023 is 5,660.46 acre-feet per year ("2023 projected
12 demand"). The 2023 projected demand does not include the current demand or the
13 committed demand, or any volume of water that Prescott would be obligated to deliver to
14 the Town of Prescott Valley ("Prescott Valley") for use outside Prescott's service area.
15 The 2023 projected demand does include the demand at build-out of plats reasonably
16 projected to be approved through calendar year 2023.

- 17 9. Prescott's annual estimated water demand in 2023, which is the sum of its current
18 demand, committed demand and 2023 projected demand, is 16,397 acre-feet per year
19 ("2023 annual estimated water demand").

- 20 10. Prescott's projected demand in 2027 is 9,938.9 acre-feet per year ("2027 projected
21 demand"). The 2027 projected demand does not include the current demand or the
22 committed demand. The 2027 projected demand does include the demand at build-out of
23 plats reasonably projected to be approved through calendar year 2027, the volume of
24 water that Prescott is obligated to deliver to Prescott Valley for use outside Prescott's
25 service area, and the projected demand of the Tribe.

- 26 11. Prescott's annual estimated water demand in 2027, which is the sum of its current
27 demand, committed demand and 2027 projected demand, is 20,675.44 acre-feet per year
28 ("2027 annual estimated water demand").
29
30

C. Groundwater Withdrawn in the Prescott AMA: Physical, Continuous and Legal Availability, Consistency with the Management Goal, and Consistency with the Management Plan

12. Prescott has the right to withdraw groundwater within its service area in the Prescott AMA and deliver the groundwater to its customers pursuant to Service Area Right No. 56-003017.0000.
13. Prescott has demonstrated that after withdrawing 11,200 acre-feet per year of groundwater or stored water recovered outside the area of impact, from within its service area for 100 years, the depth-to-static water level within its service area is not expected to exceed 1,000 feet below land surface.
14. Prescott currently has wells within its service area of sufficient capacity to withdraw a total of 13,229.63 acre-feet per year of groundwater.
15. As of the date of the application, Prescott pledged 9,448.95 acre-feet of extinguishment credits, or an average of 94.49 acre-feet per year for 100 years.
16. Pursuant to A.A.C. R12-15-726(A), Prescott's groundwater allowance is 9,371.53 acre-feet per year for 100 years. The formula used to calculate this number is included in Attachment A, attached to this Decision and Order.
17. Pursuant to A.A.C. R12-15-722(A), Prescott may withdraw 9,466.02 acre-feet of groundwater over the next 100 years, consistent with the achievement of the management goal of the Prescott AMA.
18. For purposes of increasing the groundwater allowance in Finding of Fact 16, a total of 3,527 lots ("remaining lots") were included on preliminary plats approved by Prescott on or before August 21, 1998, but final plats associated with those preliminary plats have not yet been approved by Prescott and recorded, or have not yet been reviewed by the Department. The remaining lots are listed, by subdivision, in Attachment B attached to this Decision and Order.
19. Prescott is currently regulated as a large municipal provider under the Municipal Conservation Program in the Third Management Plan for the Prescott AMA ("Management Plan"). As of the date of this order, Prescott has not been found to be out of compliance with the Management Plan.

D. Recharge and Recovery

20. Prescott holds an Underground Storage Facility Permit (Permit No. 71-519567.0000) and a Water Storage Permit (Permit No. 73-528737.0000), which allow storage of a maximum volume of 6,721 acre-feet per year of effluent and surface water.
21. Prescott holds Recovery Well Permit No. 74-569302.0000, which allows recovery of 6,700 acre-feet per year outside the area of impact of storage.
22. Prescott holds Recovery Well Permit No. 74-561500.0000, which allows recovery of 1,613 acre-feet per year within the area of impact of storage.
23. Prescott has a pending application for a recovery well permit for Well No. 55-212087, which is located within the area of impact of storage. Prescott is seeking a permit to recover up to 1,694 acre-feet per year.

E. Surface Water: Physical, Continuous and Legal Availability

24. Prescott has demonstrated the physical availability of 1,391 acre-feet per year of surface water for a minimum of one hundred years for underground storage and recovery within the area of impact.
25. The surface water is legally available to Prescott pursuant to Statement of Claimant Nos. 36-40234 and 36-102689, Certificates of Water Right Nos. 593, 594 and 1674, and the Director's Findings of Fact, Conclusions of Law, Decision and Order No. ST 98-001, dated November 17, 1998, as supplemented by the Director's Supplemental Findings of Fact, Conclusions of Law, Decision and Order No. ST 98-001, dated March 28, 2008.
26. Prescott has provided a drought response plan and a back-up supply of groundwater pursuant to A.A.C. R12-15-717(C).

F. Effluent: Physical, Continuous and Legal Availability

27. Prescott holds 16,281.66 acre-feet of existing long-term storage credits for stored effluent, averaging approximately 162.82 acre-feet per year over a 100-year period.
28. Prescott's wastewater treatment plants currently have the capacity to treat 9,353.19 acre-feet per year of effluent for non-potable uses or for storage and recovery.
29. Based on an evaluation of the current, metered production of effluent, Prescott is projected to produce 5,946.49 acre-feet per year of effluent in 2023.

- 1 30. Based on an evaluation of the current, metered production of effluent, Prescott is
2 projected to produce 6,131.65 acre-feet per year of effluent in 2027.
- 3 31. Prescott will treat and directly deliver 1,796 acre-feet per year of effluent for non-potable
4 use.
- 5 32. Prescott is obligated to transfer long-term storage credits to CVID for irrigation uses
6 pursuant to an intergovernmental agreement dated March 27, 1998. CVID may request
7 variable amounts per year, but is limited to a total quantity, which, as of the end of 2007,
8 is 20,444 acre-feet. Averaging this remaining obligation over a 100-year period results in
9 a reduction of long-term storage credits available to Prescott in the amount of 204.44
10 acre-feet per year.
- 11 33. Prescott will store and recover outside the area of impact of storage up to 1,733.98 acre-
12 feet per year of effluent for potable use.
- 13 34. In 2023, Prescott will store and recover within the area of impact of storage up to 1,916
14 acre-feet per year of effluent for potable use.
- 15 35. In 2027, Prescott will store and recover within the area of impact of storage up to 1,916
16 acre-feet per year of effluent for potable use.

17 **G. Groundwater Transported From the Big Chino Sub-basin: Physical, Continuous and**
18 **Legal Availability**

- 19 36. Pursuant to A.R.S. § 45-555(E), Prescott has the right to withdraw groundwater from the
20 Big Chino sub-basin and transport it to the Prescott AMA.
- 21 37. Based in part on Prescott's projection that it will deliver 231 acre-feet to the Tribe in
22 2027, for purposes of this Decision and Order, the Department determines that in 2027,
23 Prescott will be authorized to withdraw up to 8,067.4 acre-feet per year of groundwater
24 from the Big Chino sub-basin and transport it to the Prescott AMA pursuant to A.R.S. §
25 45-555(E) ("transportation water"). The calculations for this volume are shown in
26 Attachment C to this Decision and Order.
- 27 38. This Decision and Order does not limit Prescott's right to transport more than 8,067.4
28 acre-feet per year of groundwater from the Big Chino sub-basin to the Prescott AMA
29 pursuant to A.R.S. § 45-555(E) in a year in which Prescott serves more than 231 acre-feet
30 to the Tribe. The volume that Prescott is authorized to transport in a particular year could

1 be more or less than 8,067.4 acre-feet per year, depending on the volume of water that
2 Prescott actually delivers to the Tribe in that year.

3 39. Prescott's application states that after subtracting the amount of water delivered to the
4 Tribe each year, 45.9 % of the remaining transportation water must be available for
5 delivery to Prescott Valley pursuant to an agreement between those parties.

6 40. Based on Prescott's projection of deliveries to the Tribe in 2027 in the amount of 231
7 acre-feet, the maximum annual volume of transportation water that Prescott will be
8 obligated to deliver to Prescott Valley is 3,597 acre-feet per year. This volume is included
9 in Prescott's 2027 projected demand. Inclusion of this volume does not fulfill any
10 requirement to obtain a certificate of assured water supply or a commitment to provide
11 water service from a designated provider for a new subdivision located in Prescott
12 Valley.

13 41. Prescott has demonstrated that after withdrawing 17,768 acre-feet per year of
14 groundwater for 100 years from wells located on the Big Chino Ranch in the Big Chino
15 sub-basin, the depth-to-static water level at the well sites is not expected to exceed 1,000
16 feet below land surface.

17 42. Prescott's Capital Improvement Plan includes funding for construction of wells in the Big
18 Chino sub-basin of sufficient capacity to withdraw more than 8,067.4 acre-feet per year
19 of groundwater.

20 43. The transportation water will be considered continuously available to Prescott when a
21 pipeline to transport the groundwater to Prescott's service area has been constructed and
22 the Arizona Department of Environmental Quality ("ADEQ") has issued an Approval of
23 Construction pursuant to A.A.C. R18-5-507 ("AOC") for the pipeline.

24 44. Prescott has demonstrated that 8,067.4 acre-feet per year of transportation water will be
25 physically, continuously and legally available when ADEQ issues an AOC.

26 **H. Water Quality**

27 45. Prescott will be regulated by ADEQ as a public water system, pursuant to A.R.S. §§ 49-
28 351, *et seq.*

29

30

1 **I. Financial Capability**

2 46. Prescott has constructed the delivery system and storage facilities necessary to satisfy its
3 annual estimated water demand for calendar year 2023.

4 47. Prescott has included in its Capital Improvement Plan for fiscal years 2010 through 2014
5 \$142.6 million for construction of the pipeline and other infrastructure to withdraw
6 groundwater from the Big Chino sub-basin and transport it to the Prescott AMA.
7 Prescott's chief financial officer has certified that finances will be available to implement
8 that portion of the Plan.

9 48. The water system bond capacity spreadsheet provided by RBC Capital Markets to Mr.
10 Mark Woodfill, Budget Finance Director for Prescott, indicates the City has remaining
11 debt capacity for the water enterprise system of approximately \$175 million. This
12 estimated capacity is based on standard assumptions with respect to interest rates, loan
13 term and credit requirements.

14 **III. CONCLUSIONS OF LAW**

15 Having reviewed the Findings of Fact, the Department makes the following Conclusions
16 of Law:

- 17 1. Prescott has demonstrated that without the transportation water, 9,466.02 acre-feet per
18 year of groundwater from the Prescott AMA, 1,391 acre-feet per year of surface water to
19 be stored and recovered within the area of impact, 1,733.98 acre-feet per year of effluent
20 to be stored and recovered outside the area of impact, 1,916 acre-feet per year of effluent
21 to be stored and recovered within the area of impact, 1,796 acre-feet per year of effluent
22 to be treated and directly delivered for non-potable use, and 204.44 acre-feet per year of
23 long-term storage credits to be transferred to CVID will be physically available,
24 continuously available and legally available for at least 100 years and will be consistent
25 with the management goal of the Prescott AMA. *See* A.A.C. R12-15-716; R12-15-717;
26 R12-15-718; R12-15-722. This volume, 16,507.44 acre-feet per year, is sufficient to
27 meet the 2023 annual estimated water demand of 16,397 acre-feet per year. *See*
28 Attachment D to this Decision and Order.
- 29 2. Prescott has demonstrated that with the transportation water, 9,466.02 acre-feet per year
30 of groundwater from the Prescott AMA, 1,391 acre-feet per year of surface water to be

1 stored and recovered within the area of impact, 1,733.98 acre-feet per year of effluent to
2 be stored and recovered outside the area of impact, 1,916 acre-feet per year of effluent to
3 be stored and recovered within the area of impact, 1,796 acre-feet per year of effluent to
4 be treated and directly delivered for non-potable use, 204.44 acre-feet per year of long-
5 term storage credits to be transferred to CVID, and 8,067.4 acre-feet per year of
6 groundwater to be withdrawn from the Big Chino sub-basin and transported to the
7 Prescott AMA will be physically available, continuously available and legally available
8 for at least 100 years and will be consistent with the management goal of the Prescott
9 AMA. *See* A.A.C. R12-15-716; R12-15-717; R12-15-718; R12-15-722. This volume,
10 24,574.84 acre-feet per year, is sufficient to meet the 2027 annual estimated water
11 demand of 20,675.44 acre-feet per year. *See* Attachment D to this Decision and Order
12 3. For purposes of A.A.C. R12-15-716(B)(3)(c)(ii), Prescott's annual estimated water
13 demand that will be met with groundwater from the Prescott AMA is 11,200 acre-feet per
14 year and Prescott's annual estimated water demand that will be met with groundwater
15 from the Big Chino sub-basin is 8,067.4 acre-feet per year.
16 4. In accordance with A.A.C. R12-15-721, Prescott meets the standard established for
17 determining consistency with the Management Plan for the Prescott AMA.
18 5. The water supply served by Prescott will be of adequate quality, pursuant to A.A.C. R12-
19 15-719.
20 6. Prescott has satisfied the financial capability criteria in A.A.C. R12-15-720.
21 7. Prescott has satisfied all requirements for a designation of assured water supply.
22 8. The groundwater allowance set forth in Finding of Fact No. 16 of this Decision and Order
23 may increase following the recording of a final plat for each of the subdivisions listed in
24 Attachment B to this Decision and Order, subject to Condition 8 of this Decision and
25 Order. The groundwater allowance will increase in accordance with Formula 1 in
26 Attachment E to this Decision and Order. However, an increase in groundwater
27 allowance does not affect the volume or term of this designation.
28 9. The groundwater allowance set forth in Finding of Fact No. 16 of this Decision and Order
29 may increase if any residential groundwater use and associated non-residential use in
30 existence on August 21, 1998, is replaced by permanent groundwater service by Prescott.

1 The groundwater allowance will increase in accordance with Formula 2 in Attachment E
2 to this Decision and Order. However, an increase in groundwater allowance does not
3 affect the volume or term of this designation.

4 **IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION**

5 Having reviewed the Findings of Fact and Conclusions of Law, the Director hereby
6 issues this Decision and Order designating Prescott as having an assured water supply, subject to
7 the following conditions:

- 8 1. The Director reserves the right under A.A.C. R12-15-711(C) to periodically review and
9 modify the designation as conditions warrant.
- 10 2. Pursuant to A.A.C. R-12-15-711(F), the Director may revoke this designation if the
11 findings of fact or the conclusions of law upon which the designation is based change or
12 are invalid, or if an assured water supply no longer exists.
- 13 3. The Director's determination that an assured water supply exists for Prescott is based on
14 its review of the water supplies pledged by Prescott.
- 15 4. If Prescott does not submit to the Department on or before December 31, 2019, evidence
16 that ADEQ has issued an AOC for the pipeline, Prescott shall submit an application to
17 modify this decision and order designating Prescott as having an assured water supply
18 when the sum of Prescott's current demand, committed demand and two-year projected
19 demand exceeds 16,397 acre-feet per year, or by December 31, 2021, whichever is
20 earlier.
- 21 5. If Prescott submits to the Department on or before December 31, 2019, evidence that
22 ADEQ has issued an AOC for the pipeline, Prescott shall submit an application to modify
23 this decision and order designating Prescott as having an assured water supply when the
24 sum of Prescott's current demand, committed demand and two-year projected demand
25 exceeds 20,675.44 acre-feet per year, or by December 31, 2025, whichever is earlier.
- 26 6. Pursuant to A.A.C. R12-15-719, Prescott shall satisfy any state water quality
27 requirements established for its proposed use after the date of this designation.
- 28 7. Prescott shall annually provide to the Department the following information in the
29 manner prescribed in A.A.C. R12-15-711(A):
30

- 1 a. An estimate of the demand of platted, undeveloped lots located in Prescott's service
- 2 area.
- 3 b. An estimate of the demand at build-out of customers with which Prescott has entered
- 4 into a notice of intent to serve agreement in the previous calendar year.
- 5 c. A report regarding Prescott's compliance with water quality requirements.
- 6 d. The depth-to-static water level of all wells from which Prescott withdrew water during
- 7 the previous calendar year.
- 8 e. Any other information requested by the Director to determine whether Prescott is
- 9 continuing to meet all the requirements necessary to maintain this designation of
- 10 assured water supply.
- 11 f. If Prescott submits to the Department on or before December 31, 2019, evidence that
- 12 ADEQ has issued an AOC for the pipeline, Prescott shall also include the volume of
- 13 transportation water actually delivered to Prescott Valley in the previous year.
- 14 g. If Prescott submits to the Department on or before December 31, 2019, evidence that
- 15 ADEQ has issued an AOC for the pipeline, Prescott shall also include in its committed
- 16 demand 3,597 acre-feet per year, less any volume of transportation water actually
- 17 delivered to Prescott Valley in the previous year.
- 18 8. To increase the groundwater allowance in accordance with Conclusion of Law No. 8 of
- 19 this Decision and Order, the following shall apply:
- 20 a. Prescott shall submit the following information to the Department for each
- 21 subdivision listed in Attachment B for which a final plat has been approved by
- 22 Prescott:
- 23 i. A request to increase the groundwater allowance and reference to the
- 24 subdivision listed in Attachment B for which the request is made.
- 25 ii. A copy of the preliminary plat approved for the subdivision. The
- 26 preliminary plat must have been approved prior to August 21, 1998.
- 27 iii. A copy of the approved, recorded final plat of the subdivision.
- 28 iv. A copy of the standard report of the Prescott Community Development
- 29 Department to the Prescott City Council on the subdivision explaining any
- 30 changes between the preliminary plat and the final plat, explaining why

- 1 the plat is in substantial conformance with the preliminary plat and finding
2 that the original plat was feasible to develop.
- 3 v. A calculation of the difference in projected water use, including
4 groundwater use, between the preliminary plat and the final, recorded plat.
5 The information used in making the calculation shall also be submitted,
6 including, but not limited to, the landscaping plans for the open areas of
7 the subdivision, a copy of any proposed deed restrictions or covenants
8 relating to water use at the subdivision and a projection of the nature and
9 type of any commercial properties included in the subdivision.
- 10 b. The Director shall increase Prescott's groundwater allowance in accordance with
11 Formula 1 on Attachment E if the Director finds that all of the following apply:
- 12 i. Prescott has found that the final plat for the subdivision is in substantial
13 conformance with the preliminary plat approved by Prescott on or before
14 August 21, 1998.
- 15 ii. The total projected water use, including groundwater use, for the
16 subdivision, based on the final plat, is equal to or less than the projected
17 water use based on the approved preliminary plat.
- 18 iii. The total number of residential lots of the final plat is equal to or less than
19 the total number of residential lots of the approved preliminary plat, or if
20 the plat is part of a "master planned community," as defined by A.R.S. §
21 32-2101, the total number of residential lots of the final plats within the
22 master planned community is equal to or less than the total number of
23 residential lots of the approved preliminary plats within the master
24 planned community.
- 25 c. Condition 8(b)(i) of this Decision and Order shall be evaluated in accordance with
26 the current policy of the City of Prescott as expressed in Resolution No. 3213,
27 adopted November 23, 1999. If at any time, the City of Prescott alters the policy
28 expressed in Resolution No. 3213 through amendment, repeal, or adoption of any
29 other policy, ordinance, regulation or enactment, the Department may modify or
30 revoke this Decision and Order.

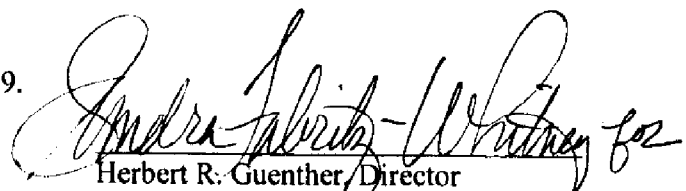
1 d. Within 180 days of receiving the request and information specified in Condition
2 8(a) of this Decision and Order, the Director shall notify Prescott whether the
3 criteria of Condition 8(b) of this Decision and Order have been met, whether the
4 groundwater allowance will be increased and the volume of the increase. If the
5 request is approved, the Director shall add the volume to Prescott's groundwater
6 allowance. However, an increase in the groundwater allowance does not affect the
7 volume or term of this designation.

8 9. To increase the groundwater allowance in accordance with Conclusion of Law No. 9 of
9 this Decision and Order, Prescott shall submit evidence of the number of housing units
10 receiving the replacement water service, evidence that the housing units were receiving
11 water service from a source other than Prescott as of August 21, 1998, and evidence of
12 the permanent replacement groundwater service by Prescott after August 21, 1998. At
13 such time as the Director determines that the requirements of Conclusion of Law No. 9
14 have been met, the Director shall add the volume to Prescott's groundwater allowance.
15 However, an increase in the groundwater allowance does not affect the volume or term of
16 this designation.

17
18 **IT IS HEREBY ORDERED THAT THE CITY OF PRESCOTT BE DESIGNATED AS**
19 **HAVING AN ASSURED WATER SUPPLY UNTIL DECEMBER 31, 2023.**

20
21 **IF THE CITY OF PRESCOTT SUBMITS TO THE DEPARTMENT EVIDENCE OF AN**
22 **APPROVAL OF CONSTRUCTION FROM THE ARIZONA DEPARTMENT OF**
23 **ENVIRONMENTAL QUALITY FOR A PIPELINE TO TRANSPORT GROUNDWATER**
24 **FROM THE BIG CHINO SUB-BASIN TO THE PRESCOTT AMA ON OR BEFORE**
25 **DECEMBER 31, 2019, THE CITY OF PRESCOTT SHALL BE DESIGNATED AS**
26 **HAVING AN ASSURED WATER SUPPLY UNTIL DECEMBER 31, 2027.**

27
28 DATED this 30th day of December, 2009.

29
30 
Herbert R. Guenther, Director
Arizona Department of Water Resources

1 A copy of the foregoing
2 **Decision and Order** mailed
3 by certified mail this 3rd day
of December, 2009, to:

4 Steve Norwood, City Manager
5 City of Prescott
6 P.O. Box 2059
7 Prescott, AZ 86302

Certified Mail No. 7006 0810 0004 6024 1557

8 A copy of the foregoing
9 **Decision and Order** mailed
10 by first class mail this 3rd day
of December, 2009, to:

11 Rita P. Maguire
12 Michael J. Pearce
13 Maguire & Pearce, P.L.L.C.
14 2999 N. 44th St., Suite 630
Phoenix, AZ 85018

15 Arizona's Real Estate Commissioner
16 Arizona Department of Real Estate
17 2910 N. 44th St., Suite 100
Phoenix, AZ 85018

18 Ms. Gerry Wildeman, Area Director
19 Prescott Active Management Area Office
20 2200 East Hillsdale Road
Prescott, Arizona 86301-4941

21
22
23 By Glenda Winton
24
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27
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29
30

1 A copy of the foregoing
2 **Decision and Order** mailed
3 by certified mail this 3rd day
4 of December, 2009, to:

5 Steve Norwood, City Manager
6 City of Prescott
7 P.O. Box 2059
8 Prescott, AZ 86302

Certified Mail No. 7006 0810 0004 6024 1557

9 A copy of the foregoing
10 **Decision and Order** mailed
11 by first class mail this 3rd day
12 of December, 2009, to:

13 Rita P. Maguire
14 Michael J. Pearce
15 Maguire & Pearce, P.L.L.C.
16 2999 N. 44th St., Suite 630
17 Phoenix, AZ 85018

18 Arizona's Real Estate Commissioner
19 Arizona Department of Real Estate
20 2910 N. 44th St., Suite 100
21 Phoenix, AZ 85018

22 Ms. Gerry Wildeman, Area Director
23 Prescott Active Management Area Office
24 2200 East Hillsdale Road
25 Prescott, Arizona 86301-4941

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27
28
29
30
By Glenda Winton

Attachment A: Calculation of Groundwater Allowance

R12-15-726(A). Prescott AMA Calculation of Groundwater Allowance and Extinguishment Credits

The Director shall calculate the groundwater allowance for a certificate or designation in the Prescott AMA as follows:

1. [Not selected by Prescott]
2. If the application is for a designation of assured water supply:
 - a. Except as provided in subsections (A)(3) and (A)(5), if the applicant was in existence as of January 12, 1999, and the application is filed before calendar year 2026, the Director shall:
 - i. Multiply by 100 the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott AMA for use within the applicant's service area in any calendar year from 1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area:

1997 Annual Report shows 6,534.7 withdrawn minus deliveries outside the service area of 26.0 AF yielding a value of 6,508.7. Rounded to 6,509.
 $6,509 * 100 = 650,900$

ii.-v.

This portion of the calculation was replaced with the calculation in (A)(3). See below (shaded).

3. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), at the request of the applicant, the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(ii) through (v) with the amount of groundwater necessary for the applicant to serve the residential lots described in subsection (A)(4):

- a. To compute this amount of groundwater, the Director shall:
 - i. Determine the average dwelling occupancy within the applicant's service area and multiply that average occupancy by an amount of groundwater, calculated by multiplying 150 gallons per capita per day by 365 days; and

2.15 persons per dwelling unit (PPDU) based on 2005 D&O
 $2.15 * 150 * 365 = 117,712.5$ gals per dwelling unit (DU)

- ii. Multiply the product in subsection (A)(3)(a)(i) by the number of residential lots described in subsection (A)(4), and then multiply that product by 100.

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- b. The Director shall not include the amount computed in subsection (A)(3)(a) within the amount of groundwater that the applicant may use under subsection (A)(2)(a) until a final plat for the lots has been recorded.

$$117,713 * 7,924 / 325,851 * 100 = 286,253$$

- vi. If any residential groundwater uses, including residential groundwater uses served by any exempt well, in existence on August 21, 1998, have been replaced by permanent water service from the applicant after August 21, 1998, multiply one-half acre-foot of groundwater by the number of housing units receiving the service and then multiply that product by 100;

Per discussions with Prescott and per application, this volume is 0 AF.

- vii. Determine the volume of groundwater withdrawn by the applicant from within the Prescott active management area during the period beginning January 1, 1999 and ending December 31 of the calendar year before the date of the application;

Year	Groundwater Withdrawn (AF)
1999	6704
2000	6642
2001	6808
2002	8214
2003	7009
2004	7236
2005	6337
2006	7979
Total	56,929

- viii.

This portion of the calculation was replaced with the calculation in (A)(5). See below (shaded).

5. For the purpose of determining the groundwater allowance under subsection (A)(2)(a), if the applicant makes the request described in subsection (A)(3), the Director shall replace the volume of groundwater calculated in subsection (A)(2)(a)(viii) with an amount of groundwater calculated as follows. The Director shall:

- a. Determine the number of calendar years in the period beginning with 1999 and ending with the calendar year before the date of application and multiply that number of years by the largest volume of groundwater determined by the Director to have been withdrawn by the applicant from within the Prescott active management area for use within the applicant's service area in any calendar year from

1995 through 1998, consistent with the municipal conservation requirements applicable under the second management plan for the Prescott active management area;

Number of Calendar years = 8
1997 Annual Report Amount = 6,509
 $6,509 * 8 = 52,072 \text{ AF}$

b. Determine the average dwelling occupancy within the applicant's service area and multiply that average dwelling occupancy by an amount of groundwater calculated by multiplying 150 gallons per capita per day by 365 days;

2.15 PPDU based on 2005 D&O
 $2.15 * 150 * 365 = 117,712.5 \text{ gals per DU}$

c. For each year in the period beginning with 1999 and ending with the calendar year before the date of application, determine the number of the residential lots that meet the criteria in subsection (A)(4) and were served water by the applicant as of July 1 of the relevant year and add the number of these residential lots determined for each year;

This number is cumulative.

1999	$345 * 8 = 2,760$	2003	$589 * 4 = 2,356$
2000	$438 * 7 = 3,066$	2004	$536 * 3 = 1,608$
2001	$430 * 6 = 2,580$	2005	$491 * 2 = 982$
2002	$580 * 5 = 2,900$	2006	$404 * 1 = 404$
		TOTAL	16,656

d. Multiply the volume of groundwater calculated in subsection (A)(5)(b) by the number of residential lots in subsection (A)(5)(c); and

With corrected lot number is
 $16,656 \text{ du} * 117,713 \text{ gals / DU} = 325,851$
 $= 6,017 \text{ AF}$

e. Add the volumes of groundwater from subsections (A)(5)(a) and (A)(5)(d).

$52,072 + 6,017 = 58,089 \text{ AF}$

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- ix. Subtract from the volume calculated in subsection (A)(2)(a)(vii) the volume calculated in subsection (A)(2)(a)(viii). The volume calculated in this subsection shall not be less than zero, and;

$$56,929 - 58,089 = -1,160 = 0$$

- x. Add the volumes calculated in subsections (A)(2)(a)(i), (A)(2)(a)(v), and (A)(2)(a)(vi), and then subtract from the sum the volume calculated in subsection (A)(2)(a)(ix).

$$650,900 + 286,253 + 0 - 0 = \underline{937,153}$$

The final groundwater allowance = 937,153 acre-feet or 9,371.53 acre-feet per year for 100 years.

Attachment B: Subdivisions Eligible to Receive the Groundwater Allowance

Subdivision Name	Number of Lots on Preliminary Plat	Number of Lots on Final Plats Submitted to ADWR	Remaining Lots that Can Receive Groundwater Allowance Increase
Cliff Rose, Unit 3	21	0	21
Dells at Prescott Lakes	167	101	66
Lakeside@ Prescott Lakes	240	35	205
Mason Ridge	14	0	14
Peaks Unit I @ Prescott Lakes	665	0	665
Peaks Unit II @ Prescott Lakes	150	124	26
Prescott Lakes: Estates Unit 2	239	163	76
Prescott Lakes: Estates Unit 3	12	0	12
Prescott Lakes: Pines	231	216	15
Prescott Lakes: Pinnacle Unit 1	62	0	62
Prescott Lakes: Pinnacle Unit 2	340	0	340
Summit Unit 2	227	133	94
The Club at Forest Trails	49	0	49
Yavapai Hills	1,632	239	1,393
Yavapai Hills in Prescott Valley	489	0	489
Total	4,538	1,011	3,527

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Attachment C: Calculations Pursuant to A.R.S. § 45-555(E)

1. Replacement of Prescott's CAP Allocation—A.R.S. § 45-555(E)(1) (6,885.7 acre-feet per year)

If Prescott had retained its 7,127 AFY CAP allocation that it sold to Scottsdale in 1995, the entire amount would have been physically, legally and continuously available for its designation of assured water supply. A.A.C. R12-15-716, 717 and 718. A.R.S. § 45-555(E)(1) authorizes Prescott to transport an amount of groundwater from the Big Chino sub-basin to replace its CAP allocation, to the extent Prescott has not already replaced the CAP allocation. In 1998, Prescott replaced a portion of the CAP allocation by purchasing water rights from the Chino Valley Irrigation District ("CVID"). However, only 17.35% of the water rights were purchased with the proceeds of the sale of Prescott's CAP allocation. In 2005, the Department determined that 1,391 acre-feet per year of the water rights purchased from CVID are physically, continuously and legally available for its designation of assured water supply. Therefore, the Department has determined that 17.35% of 1,391 acre-feet per year is the volume of CAP water that Prescott has already replaced. The volume of groundwater that Prescott is authorized to transport from the Big Chino sub-basin to the Prescott AMA to replace its CAP allocation is calculated as follows:

$$\begin{aligned} &7,127 \text{ acre-feet per year} - (1,391 \text{ acre-feet per year} \times 17.35\% = 241.3) \\ &= 6,885.7 \text{ acre-feet per year} \end{aligned}$$

2. Loss of Potential Extinguishment Credits Due to Pledge of Type 2 Non-Irrigation Grandfathered Groundwater Right ("Type 2 Right") to Facilitate Settlement—A.R.S. § 45-555(E)(2) (950.7 acre-feet per year)

By pledging its 3,169 AFY Type 2 Right to guarantee water service to the Yavapai-Prescott Indian Tribe ("Tribe") in facilitation of the Yavapai-Prescott Indian Tribe Settlement ("YPIT Settlement"), Prescott lost potential assured water supply extinguishment credits it otherwise could have earned by extinguishing the right in 1995. The volume of extinguishment credits is determined pursuant to the formula provided in A.A.C. R12-15-726(B)(1). The volume of groundwater that Prescott is authorized to transport from the Big Chino sub-basin to the Prescott AMA under A.R.S. § 45-555(E)(2) due to the pledging of its Type 2 Right is calculated as follows:

$$\begin{aligned} &3,169 \text{ acre-feet per year} \times 30 \text{ years} = 95,070 \text{ acre-feet for 100 years, or} \\ &950.7 \text{ acre-feet per year for 100 years} \end{aligned}$$

3. Water Deliveries to the Tribe to Facilitate Settlement—A.R.S. § 45-555(E)(2) (231 acre-feet per year)

By extending water service to the Tribe in perpetuity and giving priority to the Tribe in its Water Service Agreement with the Tribe as part of the YPIT Settlement, Prescott directly or indirectly facilitated the YPIT Settlement and therefore is authorized to transport from the Big Chino sub-

basin an amount equal to the amount of water it serves to the Tribe each year pursuant to A.R.S. § 45-555(E)(2). Prescott projects that the Tribe's water demand in 2027 will be **231 acre-feet**.

4. Total

The total volume of groundwater that Prescott is authorized to withdraw from the Big Chino sub-basin and transport to the Prescott AMA pursuant to A.R.S. § 45-555(E) for purposes of this Decision and Order:

$$\begin{aligned} &6,885.70 \text{ acre-feet per year} + 950.70 \text{ acre-feet per year} + 231 \text{ acre-feet per year} \\ &= \mathbf{8,067.40 \text{ acre-feet per year}} \end{aligned}$$

ATTACHMENT D
CITY OF PRESCOTT MODIFICATION OF DESIGNATION APPLICATION
WATER SOURCES AND SUPPLY

Source	AF/year	Treatment Options	Recharge Options	Legal Authority	Comments
Big Chino Groundwater*	8,067.4 af/yr*	Well Head Treatment Well capacity: 17,768 AF/YR (Future wells, as included in Capital Improvement Plan)		A.R.S § 45-555(E)*	17,768 AF/YR Physically Demonstrated; limited by legal availability
Groundwater Allowance	9,371.53 af/yr	Well Head Treatment Permitted well volume: 13,229.63 af/yr		Service Area Right	
Groundwater Extinguishment Credits	94.49 af/yr				
Total AMA Groundwater	9,466.02 af/yr				
Existing LTSC	162.82 af/yr	Well Head Treatment	(See Effluent Recovery below) Presumed to transfer to CVID	USF # 71-519567	(See Effluent Recovery below) Presumed to transfer to CVID
Effluent Direct Deliveries	1,796 af/yr	Sun Dog WWTP Capacity = 6,888.88 af/yr			
Effluent Storage & Recovery	41.62 acre-feet per year accrued as long-term storage credits and transferred to CVID	Airport WTF Capacity = 2,464.31 af/yr Total Treatment Capacity = 9,353.19 af/yr Available Effluent (based on 2023 Potable Demands, minus YPIT, CV, and Prop 400) = 10,919 * 0.5446 (Effluent production factor) = 5,946.49 af/yr	Water Storage Permitted Volume: 6,721 af/yr Current Recovery Well Capacity: 8,313 af/yr Pending Capacity: 1,694 af/yr Recovery within are of impact of storage (AOI), with pending: 3,307 af/yr Recovery outside AOI: 6,700 af/yr	USF # 71-519567	Recovery outside the area of impact of storage limited to 1,733.98 acre-feet per year, due to overall physical availability
	1,733.98 af/yr recovered outside area of impact of storage				

ATTACHMENT D
CITY OF PRESCOTT MODIFICATION OF DESIGNATION APPLICATION
WATER SOURCES AND SUPPLY

	1,916 af/yr recovered within area of impact	Available Effluent (based on 2027 Potable Demands, minus YPIT, CV, and Prop 400) = 11,259 * 0.5446 (Effluent production factor) = 6,131.65 af/yr			
Surface Water delivered through Annual Storage and Recovery within the area of impact	1,391.00 af/yr	Well Head Treatment	(See recovery options on previous page)	SOC: 36-40234, 36-102689 CWR: 593,594,1674 D&O ST 98-001 USF# 71-519567	From 2005 Decision and Order
Total Supplies in 2023:	16,507.44 af/yr				
Total Supplies in 2027:*	24,574.84 af/yr*				

* See Conditions 4 and 5 of the Decision and Order.

Attachment E

Formula 1:

The groundwater allowance will increase following the recording of a final plat for each of the subdivisions listed in Attachment B, so long as the conditions of this Decision and Order are met. The groundwater allowance will increase in accordance with the following formula:

The number of lots in the subdivision x 2.15 (average dwelling occupancy) x 150 gallons per capita per day x 365 days x 100

Divide product by 325,851 gallons/acre-foot to convert to acre-feet.

Formula 2:

The groundwater allowance will increase if Prescott replaces any residential groundwater use, including any non-residential use associated with the residential use, in existence on August 21, 1998, with permanent groundwater service by Prescott. The groundwater allowance will increase in accordance with the following formula:

0.5 acre-foot x the number of housing units receiving replacement water service x 100