

## ADEQ WATER QUALITY DIVISION SURFACE WATER PROTECTION PROGRAM STAKEHOLDER WEBINAR SUMMARY

**DATE:** Dec. 15, 2020

**TIME:** 1-4 p.m.

**ADEQ STAFF**

Trevor Baggiore  
Justin Bern  
Ben Bryce  
Theresa Gunn  
Erin Jordan  
David Lelsz  
Chris Montague-Breakwell

Krista Osterberg  
Amanda Stone

**STAKEHOLDER ATTENDEES** (Attached)

**ADDITIONAL ATTENDEES**

Kelly Cairo, GCI

**INTRODUCE ADEQ STAFF AND REVIEW AGENDA**

ADEQ Water Quality Division Director Trevor Baggiore welcomed attendees and introduced ADEQ staff. He thanked attendees for joining the webinar.

**WEBINAR INSTRUCTIONS**

Facilitator Theresa Gunn reviewed webinar instructions. She explained that ADEQ is seeking input on the proposed program. Theresa provided instructions regarding submitting questions and comments online. An online survey with the same questions is available at [surveymonkey.com/r/SWPPSurvey](https://surveymonkey.com/r/SWPPSurvey). A total of 558 stakeholders attended the webinar.

**FINAL PROGRAM ELEMENTS**

Ben Bryce explained final program elements. These elements are unchanged from the previous stakeholder presentation. Highlights of the presentation follow:

- Proposed program applies current programs
  - AZPDES Permits
  - Water Quality Standards
  - Impaired Waters and Total Maximum Daily Loads (TMDLs)
- Protected surface waters list includes
  - Defined listing criteria
  - Public listing process
  - Initial list and map of waters
- Defined listing criteria

- **The “Shall List” Waters** include Arizona’s eight major rivers, drinking water sources, public waters used for recreation and fish consumptions, etc.
- **The “Shall Not List” Waters** include swimming pools, stock tanks, stormwater control features, groundwater, ephemeral waters, etc.
- **The “May List” Waters** include any other state waters when the benefits outweigh the costs.

Trevor noted a variety of existing programs that will continue to be used to protect Arizona’s environment:

- Aquifer Protection Program (APP)
- Solid Waste and Hazardous Waste Regulations
- Surface Water Protections for WOTUS
- Surface Water Protections for non-WOTUS Waters (proposed)
- Drinking Water Regulations
- Water Quality Standards

### INITIAL PROTECTED WATERS LIST

Ben reviewed the initial list of protected waters.

- Includes 787 of the 912 perennial and intermittent waters (86%) found in Appendix B
- Does not include ephemeral tributaries
- Includes eight major rivers
- The initial draft map is available on ADEQ’s website at: [azdeq.gov/permittee-meeting-resources](https://www.azdeq.gov/permittee-meeting-resources)
- List will be available on ADEQ’s website
- Listing and delisting decisions are appealable agency actions, not rules
- Any person may nominate a water; public notice is required

Attendees were asked to answer the questions below in the chat window. The questions are also available at [surveymonkey.com/r/SWPPSurvey](https://surveymonkey.com/r/SWPPSurvey). Verbatim results are available at [azdeq.gov/permittee-meeting-resources](https://www.azdeq.gov/permittee-meeting-resources).

- List any “wet” surface waters which should be **added** to the initial list, including the location of the water and why it should be added. The water must meet the “shall” of “may list” criteria.
- List any waters which should be **removed** from the initial list, including the location of the water and why it should be removed.

### DRAFT LEGISLATION

Ben reviewed draft legislation. Presentation highlights and staff responses to questions include:

- Water quality standards
  - Current standards will apply
  - Can be changed through rule
  - Will include protections currently listed in Appendix B and will follow the requirements of ARS 49-221

- AZPDES will continue to apply to protected surface waters.
- Impaired waters and TMDL programs will apply to protected surface waters.
- Outstanding Arizona Waters (OAWs) were not considered a criterion; rather the criteria is based on whether a water is ephemeral, intermittent or perennial.
- Some ephemeral waters listed in Appendix B have new data available that shows they are intermittent waters. The intent was to ensure that “shall” waters were accurate.
- It is not ADEQ’s intent to establish a 404-like program.
- ADEQ is considering including best management practices for construction activities that would impact water bodies.
- Federal requirements are not triggered in the absence of WOTUS
- In instances where the ephemeral is a channelized conveyance to a protected water, the discharge would need to be permitted. In instances where it is uncertain whether the discharge would reach the protected water, ADEQ can issue a permit.
- Currently, ephemeral waters are not protected by the Clean Water Act (CWA) and are therefore outside the scope of a federal program.
- Construction general permit (CGP) is designed to protect against stormwater pollution.
- Effluent-dependent waters (EDWs) are not their own category of waters within this proposal. The relevant question is whether the water is included on the shall or shall not lists and if the flow regime status is currently intermittent or perennial.
- Regardless of the change in presidential administration, any change to WOTUS would involve a long process. ADEQ wants to establish a baseline in Arizona for protection.
- The state program is designed to not be duplicative of federal regulations.
- Removal or addition of a water would rely on the best evidence that can be obtained. It may be advisable for ADEQ to provide guidance on this concern in the future.
- Determination of economic, social, and other benefits has not been part of past programs. ADEQ may need to provide guidance or perhaps a rule on this issue.
- BMPs, if developed, would apply to protected surface waters.
- Staff is currently clarifying language about adding or removing waters. This process is envisioned as similar to the procedure for appealing TMDLs.
- APP will continue to protect groundwater in mining activities, for example.
- ADEQ has received support from the governor’s office to pursue this program.
- Trevor noted that ADEQ is always committed to meeting with Tribal Nations and conducting Tribal consultation.
- Ben explained the Maui case, in which a discharge to ground water led through fissures to the Pacific Ocean (a WOTUS). The Supreme Court issued a ruling that this discharge functionally resulted in a discharge to a WOTUS and should be treated as such.

Staff members noted appreciation for information about gaps on the map and requested any additional data.

## **FEEDBACK ON DRAFT LEGISLATION**

Attendees were asked to answer the questions below in the chat window. These same questions are also available at [surveymonkey.com/r/SWPPSurvey](https://surveymonkey.com/r/SWPPSurvey). Verbatim results are available at [azdeq.gov/permittee-meeting-resources](https://azdeq.gov/permittee-meeting-resources).

- What do you think about BMPs for construction activities in protected waters?
- What refinements are needed to ensure legislation reflects the program intent?
- Which specific waters should be added or removed from the initial list?

#### **NEXT STEPS**

Theresa requested that stakeholders provide plus/minus/delta feedback via the online chat option. Verbatim results from attendees are available online at [azdeq.gov/permittee-meeting-resources](https://azdeq.gov/permittee-meeting-resources).

Next steps:

- Online feedback via [surveymonkey.com/r/SWPPSurvey](https://surveymonkey.com/r/SWPPSurvey) was requested by Dec. 22.
- The presentation and spreadsheet of verbatim comments will be posted on the website by Dec. 17.
- Final revisions to the draft legislation will be complete by the end of the year, posted on the website, and submitted to Legislature for next session.

**ADJOURN**

Ben noted his appreciation for stakeholders thoughtful, detailed comments.

Trevor said that the goal of meeting was to obtain feedback on the draft legislation provided previously. He expressed his appreciation for the feedback received during the meeting, that to come over the next few days, and for stakeholders' continued engagement in these efforts over the past year-and-a-half.

**ACTION ITEMS**

- ADEQ to follow up regarding percentage change/mileage change to protected waters.
- Ben to review compatibility of programs.

## STAKEHOLDER ATTENDEES

Lisa Adams	Scott Bennett	Michael Byrd
Shirley Adams-Lowe	Paul Bergelin	Jarrett Calnimpewa
Thomas Adkins	Kelly Bergin	Steve Camp
Bas Aja	Laura Berglan	Joan Card
Melanie Alvarez	Thomas Besett	Anne Carlton
Richard Anderson	Gary Beverly	Sharon Carpenter
Justin Andrews	Matthew Bilsbarrow	Therese Carpenter
Linda Andrews	Walter Blackman	John Carr
Tony Angueira	Cindy Blackmore	Elias Carrera
Matt Annala	Dorie Blair	Derek Castaneda
Mark Apel	Joshua Blakey	Jeremy Casteel
David Armstrong	Jessica Blaydes	Victoria Casteel
Jeremiah Armstrong	Paula Bluemer	Mikaela Castle
Laurel Arndt	Kevin Boesch	Ryan Cavalier
Katherine Arnold	Alex Bohlman	Eugene Cetwinski
Christopher Avery	Edwin Bone	Jean Charpentier
Jessica Baca	Jeff Bordelon	Kenya Chavez
Joaquin Baca	Rion Bowers	Tawnya Chott
Kimberly Baeza	Shon Brady	Natalie Chrisman Lazarr
Sandy Bahr	Christopher Brandon	Peter Christensen
Amy Baker	Katy Brantingham	Kyle Christiansen
Nicholas Balik	Todd Bremner	Joseph Churby
Brenda Ball	Vanessa Brewer	Alex Clark
Angela Balliet	Ariana Brocius	Robert Clark
Tricia Balluff	Erin Broussard	Regina Cobb
Charles Baltzer	James Brown	Charles Cole
Joy Banks	Keith Brown	Luke Cole
Richard Bark	Paul Brown	Kelly Collins
David Barnes	Seth Brown	Chris Connor
Kevin Barnes	Stephen Brown	Chad Cooper
David Bartholomew	Jeremy Browning	Sarahna Cooper
Bryan Bates	Scott Bryan	Ron Corbin
Tracy Bazelman	Michael Bryce	Kevin Costello
Dinah Bear	Chris Buboltz	C. Ashley Couch
Starr BearCat	Howard Buchanan	Kirk Craig
Anterre Beebe	Wayne Bulsiewicz	Wesley Crane
Charles Behney	Silvana Burgos	George Cranmer
Joy Bell	Greg Burnett	Debra Croft
Richard Bellamy	Rich Burtell	Daniel Cronin
Angela Bellantoni	Susan Butler	Dawn Crook

Clay Crowder  
Mark Cummings  
Patrick Cunningham  
Carl D'Acosta  
Marc Dahlberg  
Mike Dalley  
Paul R. David  
Dawn Davidson  
Erin Davis  
Danny De Hoog  
Lee Decker  
Roxanne Degens  
Charlie DeLuna  
Lauren Dempsey  
Michael Denby  
Jeanette DeRenne  
Krista DeWalt  
Stephen Dey  
Tom Di Domizio  
Jade Dickens  
Sallie Diebolt  
Michael Dieckhaus  
Andrea Driggs  
Jim Dublinski  
James Dubois  
Bob Duennerman  
Jason Dukek  
Eileen Dunn  
Tim Dunn  
Elizabeth Duvall  
Jeff Edmister  
Nnana Edmund  
Lori Ehman  
Paula Eick  
Stephanie Ellis  
Peter Else  
Brent Emmerton  
Mark Endicott  
Nichole Engelmann  
Dennis Erickson  
Barbara Escobar  
Debbie Sue Estrada

Catherine Land Evilsizor  
Lynn Favour  
Kirk Flamm  
Trevor Fleetham  
Sharon Flissar  
Timothy Flood  
Conor Flynn  
Julia Fonseca  
Melanie Ford  
Robert Forrest  
Mary Fosdick  
Paul Friedman  
Lonnie Frost  
Jordy Fuentes  
Baird Fullerton  
Mike Fulton  
Eric Funderburk  
Kim Furphy  
Rosanna Gabaldon  
Kris Gade  
Disha Gadre  
Cynthia Garcia  
Daniel Garcia  
David Garcia  
Israel Garcia  
Teresa Garcia  
Jillian Garman  
Rik Gay  
Ryan Gebman  
Jeremy Gerlach  
Tricia Gerrodette  
Nicole Gillett  
Bradley Glass  
Jake Golden  
Eddie Gonzales  
David Goodrich  
Wendy Gort  
Brenna Goth  
Mark Gramlich  
Jeff Gray  
Bryon Green  
William Greenslade

Randall Gremlich  
Suzanne Grendahl  
Jonathan Griffin  
Richard Grimaldi  
Hannah Griscom  
Andy Groseta  
Elston Grubaugh  
Lynette Guevara  
Ramon Gutierrez  
Theresa Hadley  
Ned Hall  
Sandra Hall  
Jeanmarie Haney  
Teresa Harris  
Jason Hart  
Stanley Hart  
Hilary Hartline  
Mike Hayhurst  
Tim Haynes  
Rory Hays  
Danielle Hazeltine  
Maher Hazine  
EdHenan  
Valerie Herman  
Charles Hernandez  
Joyann Hernandez  
Joy Hernbrode  
Lauren Hertz  
Cheyenne Herzog  
Jennifer Hetherington  
Krystal Heyer  
Herschel Hill  
Joann Hill  
Jill Himes  
Sarah Hinchcliffe  
Robert Hinson  
Glenn Hoeger  
Julie Hoffman  
Sarah Holcomb  
Matthew Holcombe  
Robert Hollander  
Mark Holmes

Jeff Homer  
Dave Hopper  
Christina Hoppes  
Janet Howe  
Yu-Chu Hsu  
Glen Huddleston  
Rebecca Hudson-Nunez  
Chip Hughes  
Mike Hulst  
Sandra Hurlbut  
Ann Hutchinson  
Laura Hyneman  
Donald Isaacson  
Gary Isaacson  
Marie Isaacson  
Pat Jacobs  
Ian James  
Lacey James  
Joe Jarvis  
Ann Jefferson  
Roy Jemison  
Justine Jimmie  
Janet Johnson  
Lindsey Jones  
Scott Jones  
Tim Jordan  
Adam Jorge  
Sirisha Kalluri  
Michelle Kamikawa  
Robert Kammerle  
Spencer Kamps  
Karen Kanouff  
Salam Kareem  
Melinda Kassen  
Brian Kehoe  
Colleen Kelley  
Darrell Kennedy  
Brian Kerkman  
Sine Kerr  
Matt Killeen  
Berai Kimball  
Major Kindsfater

Bryce Kirkpatrick  
Lisa Kirschner  
Caroline Klebacha  
Maribeth Klein  
Gary Knight  
Keith Knutson  
Darcy Kober  
Anton Koch  
Jessica Kohls  
John Kolanz  
Scott Kozakiewicz  
Anthony Kozlowski  
John Kraft  
Jim Kudlinski  
Blaine Kussatz  
Laurel Lacher  
London Lacy  
Tom Lamkin  
Domonic Lees  
Peter Leiterman  
Jeff Lemley  
Diana LeSaar  
Marie Light  
Michael Lightfoot  
Brian Lindenlaub  
Brett Lindsay  
Robert Linsell  
Dave Lipinski  
Julie Lishner  
Tim Little  
Sheila Logan  
Jason Long  
Anthony Lopez  
Andrea Love  
Shawn Lowery  
Jing Luo  
Clayton Lupe  
Ben Lynch  
Craig Lynch  
Francis Mabier  
David Mack  
John Maisch

Kathleen Malloy-Bradley  
Marisa Manheim  
Jordan Mann  
Greg Maro  
James Marshall  
Andres Martin  
Jennifer Martin  
Megan Martin  
Andrea Martinez  
Autumn Martinez  
Gina Mason  
Eric Matson  
April Mattox  
Rolanda Mazeika  
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Lori McCallum  
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Michael Ming  
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Dwain Nagel  
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Albert Nelson  
Karis Nelson  
Ursula Nelson  
Marcia Nesby  
Syd Nichols  
Dave Nigh  
Wade Noble  
Laura Nordan  
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Christine Nunez  
Rick Obley  
Melinda O'Daniel  
Arri Odom  
Matt Oller  
Lawrence Ornellas  
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Carlos Rascon  
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Lillian Reeves  
Karla Reeve-Wise  
Chris Reichard  
Chelsi Remme  
Vicente Reyna  
Emily Rice  
Marc Richardson  
Jean Marie Rieck  
DeAnne Rietz  
Michael Righi  
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Ginger Ritter  
Lisa Rivera  
Carrie Roberts  
Joanne Roberts  
Ron Robinson  
Carol Rogers  
Andrew Roth  
Cyndi Ruehl

Jessica Rybczynski  
Judd Sampson  
Ed Sanchez  
Jeff Sandquist  
Marie Sansone  
Tom Savage  
David Scalero  
Adam Schwartz  
Meghan Scott  
Laura Seidman  
Ed Shadrick  
Carolyn Shafer  
Malik Shakur  
Doyel Shamley  
Rachel Shauger  
Megan Sheldon  
Jon Sherrill  
Gary Sheth  
Suzanne Shields  
James Silversmith  
Chris Simko  
Jennifer Simpkins  
Ramona Simpsom  
Nancy Sipe  
Amanda Smith  
Natalia Smith  
Anna Sofia  
Marcia Sorensen  
Ted Sosnicki  
Alfredo Sotomayor  
Kim Steffen  
Tracy Stephens  
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Kristen Wolfe  
John Woods  
Wesley Word  
Jerry Worsham  
Lavinia Wright  
Todd Wynn  
Duane Yantorno  
Sam Ziegler  
Jeffrey Zimmerman  
Lori Zito  
Megan Zivic