

Analysis of Appropriation Chairmen's Options (CO) dated January 15, 2009 and Other Issues– FY 2010

ADEQ has already contributed \$138.5 million (\$41.6 in FY 2008 and \$96.9 million in FY 2009) toward reducing the budget deficit. Further, ADEQ has 66 fewer employees as of December 31, 2008 than it had on December 31, 2002.

Budget Concerns**1. \$3,000,000 Lump Sum General Fund Reduction of Operating Budget (CO, page 100):**

ADEQ opposes the \$3,000,000 in budget authority that would be reduced across ADEQ general funded programs.

Impact: The cut of \$2.0 million from the ADEQ operating budget in January of 2009 required ADEQ to move all employee health and dental insurance costs, rent and computer costs to the Indirect Fund. The additional \$1 million dollar FY 10 reduction will require additional agency-wide furloughs/or reductions of existing staff that are required in many core human health programs which include hazardous waste inspections that protect neighborhoods, landfill inspections, regulation that protects Arizona's groundwater, and drinking water permitting which safeguards the drinking water for 6 million Arizona citizens.

Alternative: ADEQ proposes the \$1 million in General Fund be reduced from the WQARF CIT transfer in FY 2010. A second alternative is a \$1 million permanent, additional appropriation from the Air Quality Fund for ADEQ program operations which will require an increase in the appropriation authority from that fund.

2. \$1,524,700 Elimination of the Arizona Pollution Discharge Elimination System [AZPDES] (CO, page 102):

ADEQ opposes the General Fund reduction of the AZPDES program in FY 2010 as the legislature already implemented this reduction in June of 2008 in HB 2209, Chapter 285, pg 59, line 28. There is no General Fund money left in this program. AZPDES is now funded from the WIFA non-program fees under an Intended Use Plan (IUP) with EPA. The AZPDES surface water permitting program is a delegated program from the United States Environmental Protection Agency in San Francisco California, and has strong support from the Arizona business community.

Impact: This reduction can not be implemented because there is no General Fund to reduce for the AZPDES program for FY 2010.

Alternative: First, the AZPDES program could be funded from fees, but such fees are prohibited by Arizona law. The department would need statutory changes, exempt rulemaking powers to set fees and lead time to collect revenues to implement this alternative for FY 2010. The second alternative would be to continue an appropriation from the WIFA non program fees for \$1,524,700 in FY 2010.

3. \$588,300 Hazardous Waste Program Reduction; Return of Program to EPA San Francisco (CO, page 104):

Impact: A \$588,300 reduction in the Hazardous Waste General Fund allocation will cause the loss of the EPA-delegated RCRA Hazardous Waste Program and approximately \$1.6 million in state matched federal dollars. This \$588,300 is the GF support for the Hazardous Waste match requirement for Arizona's EPA grant which generates \$1.6 million in federal dollars. If the General Fund is cut, Arizona may tender the program to EPA Region 9 in San Francisco.

Alternative: Compensate for the reduction of \$588,300 in General Fund monies as enacted for FY 09 with an additional FY 2010 appropriation of \$588,300 from the Air Quality Fee Fund balance in order to keep the federally delegated Hazardous Waste program which the \$588,300 in General Fund previously supported.

4. Reversal of WIFA Drinking Water and Clean Water Revolving Funds transfers (FY 09 issue, not in CO)

EPA has already advised ADEQ that they believe the \$15.7 M transfer from the state revolving funds for FY 2009, authorized under Ch. 285, 48th Legislature, Second Regular Session, HB 2209, Section 24, A., p 62 lines 37-38, is illegal under the Clean Water Act (CWA) and Safe Drinking Water Act, and federal appropriations law as well.

Impact: Transferring money from the Clean Water and Drinking Water Revolving funds (WIFA) will require Arizona to disclose the transfer to the bond market under the federal securities laws, and that disclosure may bring adverse consequences to Arizona's bonding entities like ADOT or school facilities from the transfer in HB 2209. ADEQ seeks repeal of the transfers and **substitution of a transfer from the SAF of \$15.7 M in FY 2009**. EPA has advised ADEQ that if any monies are transferred from WIFA accounts to the State's General Fund, EPA may immediately stop WIFA from drawing down any further federal grant funds. This would stop Arizona from receiving from EPA any stimulus money grants from the stimulus legislation Congress is assembling; Arizona's share could be up to **\$180 Million**.

Alternative: Amend Ch. 285, 48th Legislature, Second Regular Session, HB 2209, Laws 2008, Section 24, A., p 62, by deleting lines 37-38, and substituting at line 37 "\$15.7 million from the Underground Storage Tank Revolving Fund" so that \$15.7 million in UST funds are transferred to the General Fund in FY 09.

5. \$5,000,000 WQARF Reduction (CO, page 103) -The Water Quality Assurance Revolving Fund has already sustained significant cuts for FY 2009 of \$15,109,300 and investigation work has been stopped on many sites to meet enacted reductions. WQARF was reduced from an annual \$15 million transfer from the Corporate Income Tax (CIT) as stipulated in ARS 49-282 to \$11 million in FY 2009. The FY 2010 proposal reduces WQARF by \$5 million, from a \$15 million transfer to a \$10 million transfer.

Impact: Further cuts to WQARF will cause ADEQ to terminate active remediation, meaning cleanup, at some or all of the 13 sites in active cleanup now. Further cuts hamper the agency's mission to clean up all of the 35 sites around the state that continue to threaten our precious ground and surface water resources.

6. \$1,676,900 County Travel Reduction Program Required by Arizona's State Clean Air Plan (CO, page 101):

The Travel Reduction Programs were developed for Maricopa, Pima, and Pinal Counties to reduce automobile emissions from commuting to and from work places and schools. These programs require employers to assist their employees with the use of alternatives to single-occupant-vehicle commuting. The federal court ordered the State of Arizona to write a State Implementation Plan (SIP) to comply with Clean Air Act standards. In response, the Arizona Legislature passed the 1988 Air Quality Bill (ARS 49-581 et seq.) which mandated a Trip Reduction Program (TRP) for employers and schools in affected areas.

Impact: This reduction makes this legal obligation an unfunded mandate. The state or the counties must fund this program under the SIP requirement enforceable by EPA and citizen lawsuits.

Alternative: This program could be funded from the Vehicle Emissions Inspection Fund as a part of the emissions program. ADEQ seeks \$1,676,900 in additional expenditure authority in the Emissions Inspection Fund to pay for the \$1,676,900 county travel reduction program.

Other FY 2010 ADEQ Budget Issues

1. Lump Sum Budget Authority

Lump Sum gives the agency the flexibility it needs to effectively manage its limited resources especially during tight budget times. Allowing ADEQ to have this authority which most state agencies have will permit the agency to allocate diminishing resources in the most effective manner possible in order to protect Arizona's air, water and land.

2. Indirect Cost Recovery Fund Restoration

The Indirect Cost Recovery Fund appropriation authority has been reduced by almost \$3 million in FY 09 and needs to be restored to pay for the \$12 million in indirect costs that the state and federal funding recovered specifically to pay for the ADEQ's administrative indirect costs and that is required as a condition of federal grants administered by ADEQ. In addition to the \$12 million, ADEQ seeks an additional \$2 million in expenditure authority to absorb the costs shifted from the General Fund in FY 2009 (employee health and dental insurance costs, rent and computer costs). The total expenditure authority needs to be \$14 million. ADEQ will not have funding to meet fixed obligations such as payroll, rent, phone, AFIS computer costs, and employee health and dental insurance if the appropriation authority is not restored.

3. Excess Balance Transfers

Excess Balance Transfers of \$14,478,100 for FY 2010 were moved to FY 2009 in the January 2009 appropriations bills. These balances were moved ahead one year to fund the Governor's budget amendment that restored health and welfare funding for behavioral health care, aging services, developmental disabilities, the homeless and Alzheimer's research, among other things.

FY 2010 EBTs estimates are now reduced by the January 2009 appropriations bills for the following funds and are no longer available: Air Quality, \$2,113,100; Emissions Inspection, \$2,800,000; WQARF, \$8,900,000; Water Quality Fee Fund, \$500,000 and Greenfields, \$165,000. These balances will not be available to resolve FY 2010 reduction issues.