

May 18, 2015

Richard G. Parks
P.O. Box 2831
Arizona City, AZ 85123

Thomas Buschatzke
Director
Arizona Department of Water Resources (ADWR)
3550 North Central Avenue
Phoenix, AZ 85012

RE: Petition for Irrigation Non-expansion Area (INA) in the San Simon Sub-Basin

Dear Mr. Buschatzke:

I am an Arizona resident and own 480 acres of land that is within the boundaries of the INA requested by the petition of the above reference. As a consequence of this I am vitally interested in the outcome of your decision on this matter. I make no apologies for my self-interest. As one of the stakeholders I have a lot to lose if the ADWR grants the INA petition. As will become clear below, I strongly oppose approval of the petition.

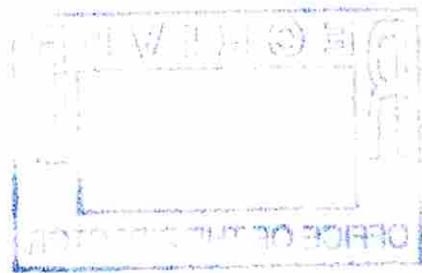
I want to inform you that I have already submitted written and oral comments at the public hearing, which occurred at Bowie on Saturday, May 16, 2015. I have been critical of the ADWR's notification procedures in connection with this hearing, especially due to the very short period for preparing and submitting public comments. As a result I have also drafted commentary on that issue and have already submitted all these comments to Ms. Sharon Scantlebury, the Docket Supervisor for that matter.

This letter concerns what came to light in the public hearing at Bowie. First, I was appalled when the chairperson announced that the public comment from each individual was limited to 3 minutes.

We were all there to give the department information that was CRITICAL to the decision-making process. That decision affects the lives and livelihoods of everyone who was at the hearing as well as many others all over the state and in regions beyond. The decision that will be made based on this information will govern water use in the area into perpetuity.

As you can well imagine, we were all outraged at this unacceptable suppression of public comment in such an important matter. People who had traveled long distances, some as far as 800 miles just to attend this hearing and give public comment were not allowed to fully present their information.

Investigators who had researched important background information, experts in hydrology and legal professionals experienced in water law were likewise limited to 3 minutes, which



made it virtually impossible to provide any information to the ADWR on such a complex subject.

Although the chairperson allowed individuals to donate their time to these experts, they were not permitted to speak for more than 10 minutes, regardless of how many people offered to give up their time to hear them.

The reason given for this flagrant suppression of public comment was that it was done in order for the ADWR to cram all public comment into the time allocated for the hearing, which was insufficient to begin with. This is bad policy at best and quite possibly illegal at worst. It also gives additional grounds for challenging the ADWR decision, whatever its outcome.

While people were allowed to enter their comments into the record by giving them to the Docket Supervisor, this was a completely unsatisfactory solution since many people came to the hearing expecting to be allowed to speak freely and therefore had no written comments.

And many there said that this onerous limitation on speaking showed that their comments were going to be disregarded by the ADWR anyway. Other individuals made it clear that if they couldn't speak at the hearing that they were not going to submit any written comments because the time for doing so was too short or they felt unable to adequately express themselves using written statements.

An even more unsettling result of this suppression of public comment was that those who attended the meeting were not permitted to hear all the information that was presented. Comments that were not given at the hearing were, in effect, kept from the public because very few would have the opportunity to read written transcripts of the process and any visual presentations would simply not be effective in written form.

Worse still, as will become apparent below, it was impossible to fully present information about the hydrology in the sub-basin, the INA petition, the petitioners and related activities that are going to be central issues in this process.

I find it difficult to accept any of the excuses that were given for the suppression of public speech in what is supposed to be an open and democratic process. This is plainly and simply bad management of the public comment process by the ADWR.

Even with the suppression of public comment it became apparent as the hearing progressed that there was a lot of information that the ADWR simply did not have that absolutely would affect the decision-making process.

For example, the number of petitioners does not meet the statutory requirements of 25% of those conducting irrigation operations. A number of people, some of whom spoke and some who did not, were running irrigation activities that could not be detected by satellite or remote sensing technology. One such operation involves growing crops under cover to protect them from harsh conditions.

Another operator hadn't been contacted by anybody or counted in the process at all and was probably misclassified because of the type of crop he was growing and his proximity to other operations that were counted. Still others had operations that were intermittent due to personal circumstances and were missed because they were not irrigating when ADWR did its review in response to the petition.

And there was testimony by some people who told of clandestine meetings with some of the petitioners who stated that they were submitting this INA to enlist the ADWR to help them eliminate competition by abusing the INA process to monopolize the water supply. These individuals made it clear that the INA petition was never about hydrology in the first place.

An independent investigator not on anybody's payroll, who is a former police officer, testified that at least one of the individuals associated with the petition has a history of racketeering.

And he was corroborated by a local farmer in presenting evidence that some of the petitioners were engaging in sham irrigation activities such as using undeveloped desert land to "game" the system. Aerial and ground level photographs were produced that show a blatant attempt to pass off fake irrigation operations as the real thing in order to increase the number of acres the petitioners would be allowed to irrigate after the INA was instituted.

A visual presentation by this investigator, which was cut short by aggressive intervention by the ADWR panel, showed documents that some of the petitioners were giving to foreign investors bragging that they "had the water" in their effort to raise about \$100 million in development funds. Before he was cut off in his presentation, this investigator showed that some of the petitioners were in fact planning to leverage their water monopoly granted under the INA to generate hundreds of millions of dollars in profits.

Hydrology experts presented evidence that conclusively proved that there was no problem with long-term water supplies in the San Simon sub-basin. Current use is only resulting in a miniscule average annual 1½-foot drop in water levels. They showed that, contrary to the assertions of the petitioners, the water levels in the sub-basin are stable. Their ultra-conservative estimates are that the current water supply in the basin is adequate and sustainable for at least 1000 years.

Reports from both the ADWR and USGS were cited in testimony that shows the depth of the sub-basin bedrock in most areas ranges from 1600 feet to over 8000 feet. And the ADWR's own reports show that the aquifer extends to at least 7000 feet.

This is far below the 1200-foot convention used by all the experts, including the ADWR's hydrologist, to quantify the recoverable water reserves in the sub-basin. This convention is not based on any evidence that there is no water below that level. It is simply a convention adopted to eliminate the need to know how deep the reserves actually go.

Given these facts, the 25 million acre-feet reserve cited by the ADWR, USGS and most experts for the amount of water in the sub-basin is clearly shown to be a very significant underestimation. It is apparent that none of the experts, including those in the ADWR,

know the full extent of water reserves in the San Simon sub-basin. It begs the question of how one can consider restricting something when the full extent of what is being regulated is unknown.

Legal experts who attended the hearing also called this lack of evidence into question. The petitioners never presented any hydrological evidence of a water crisis in the San Simon sub-basin that supported their petition for an INA.

They are apparently relying on the ADWR to provide support for their petition. As one legal expert put it, that is like expecting a trial judge to present evidence for one side or the other in a legal case.

That is just not how the system works. The burden of proof is on the INA petitioners and they quite simply have not proven their case. Moreover, the legal experts as well as some of the local farmers and ranchers pointed out that imposition of an INA is, for all intents and purposes in this case, a regulatory taking. The State of Arizona can expect to be asked to compensate those who suffer losses if the ADWR approves the petition.

One lawyer noted that the ADWR also has an evidentiary problem in that it has not completed the necessary background report. And there were also those who noted that the customary evidence that would ordinarily support an INA is conspicuously lacking in this case.

Ordinarily there are years of developments and hearings leading up to AMA and INA designations. Excessive numbers of wells going dry or being deepened, low well productivity and growing local recognition of a water supply problem are all signs that would indicate the need for an INA.

Testimony at the hearing showed that this is simply not the case in the San Simon sub-basin. In fact, the ADWR's own reports, number 12 and number 19, effectively show that there is no water crisis in the San Simon sub-basin. Other records available to the ADWR show that only 2 local wells have been deepened and those were for well problems like casing deterioration and so forth. In fact, much of the recent well permitting activity has been by the petitioners themselves.

Local farmers and ranchers, who would be the first to notice a growing water problem, have testified that no such signs have been observed. Both experts and local farmers stated at the hearing that the decline in farming activities from the 1970's onward was due exclusively to the loss of subsidies for crops like cotton farming and simple economics due to skyrocketing energy costs.

Some landowners also testified to the damage they would suffer to their livelihoods if the INA petition were approved. One particularly poignant example was a family who support themselves and their invalid son by irrigated farming. These people also operate the covered irrigation operation noted earlier.

Another was an old World War II veteran who has been unable to continue his alfalfa irrigation operation due to advancing age. If the INA petition is granted, his farming operation would essentially be worthless and a lifetime investment will be destroyed.

Many local farmers, ranchers and landowners also testified that an INA would be extremely damaging to them. A local real estate agent testified that land values could be expected to drop by about 50% if the INA petition is approved. They all pleaded with the ADWR to deny the petition.

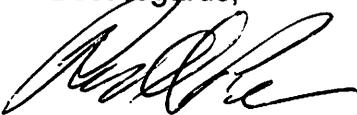
In my opinion, what we have here is an abuse of the INA process by wealthy individuals and corporations who are trying to line their own pockets at the expense of everyone else. They have not provided any evidence of the need for an INA and they have already inflicted damage.

The moratorium on irrigation put in place by the ADWR during early phases in the planting season will have an effect. Some land sales that are underway are also on hold pending the ADWR decision.

A few people may even face bankruptcy over losses sustained because of the actions of the petitioners and the ADWR. While only about 40-odd people offered testimony at the hearing, there were many more in attendance. It was abundantly clear to anyone at the meeting that virtually all of them did not approve of the INA petition or the actions being taken by the ADWR.

And there are a lot of people who want the State Attorney General and other agencies to investigate both the petitioners and the ADWR after the revelations at the hearing. From my perspective the ADWR has stepped into a hornets nest over this matter and for hydrological, statutory, legal and regulatory reasons should deny this INA petition.

Best regards,

A handwritten signature in black ink, appearing to read 'Richard G. Parks', written in a cursive style.

Richard G. Parks