



Docket Supervisor - ADWR &lt;docketsupervisor@azwater.gov&gt;

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## Douglas AMA Goal Public Hearing 28 June 2023

1 message

**Michael Gregory** Personal Identifying Information  
To: docketsupervisor@azwater.gov

Wed, Jun 28, 2023 at 7:40 PM

These comments are in addition to those I made in person at today's hearing.

At the earlier public meeting I said that the draft goal could be accurately described, in the words of a young acquaintance, as a "nothing burger." The description can as well describe the draft goal before us today which, as I said at today's hearing, would do nothing to protect the groundwater or economic base of the basin.

The goal should not be an aspirational "attempt" but a positive action to effectively prevent further decline of the groundwater in the near and long term, and should do so in a way that protects and preserves the traditional small family farm-and-ranch and rural residential demographic profile of the basin.

The goal should not be to achieve planned depletion of the aquifer or any measures leading to that, but to prevent further decline, which was the stated purpose of those who proposed and campaigned for the Douglas AMA in the first place.

Through fee structures or other means, the goal should facilitate phasing out as quickly as possible the unsustainable overpumping by large industrial agriculture operations in the basin whether those operations are owned locally or are out-of-county, out-of-state or out-of-country businesses.

In my oral comments I requested that my oral and written informal comments to ADWR and written comments in local and statewide print media be included in the hearing record. Here are pdf copies of four such prior written comments:

Michael Gregory  
- [www.michaelgregoryaz.net](http://www.michaelgregoryaz.net)  
- [www.reddragonflypress.org/2020-titles/pound-laundry](http://www.reddragonflypress.org/2020-titles/pound-laundry)

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### 4 attachments

 **The-Law-of-the-Biggest-Straw-Local-Control-Corporate-Control-and-Our-Water (1).pdf**  
48K

 **Douglas-Voters-Didnut-Ask-for-Water-Regulation-to-Die-B (1).pdf**  
45K

 **Goals-and-Planning-for-the-Douglas-AMA-An-Open-Letter-to-ADWR-Bisbee-Observer-2-February-2023 (1).pdf**  
53K

 **Michael Gregory\_Redacted\_0.pdf**  
617K

## **The Law of the Biggest Straw: Local Control, Corporate Control and Our Water**

*Bisbee Observer* (20 October 2022)

Here in Cochise County as elsewhere, the political arena of late has been befuddled by the kind of over-the-top rhetoric, grandstanding and uncivil discourse history tells us was the hallmark of fascists and other agents of authoritarianism.

The political violence here has been particularly noticeable in regard to Propositions 420 and 422, the proposals put on the ballot by Citizen Initiative to protect groundwater in the Sulphur Springs Valley. VOTE YES signs have been routinely torn down, driven over or stolen. Speakers at public meetings trying to express their reasons for support, or even just explain what AMAs are and how they function, have been shouted down in sometimes deliberate attempts to disrupt, in utter disregard for good manners, free speech and citizen right to know. Newspapers and social media have been chock full of emotional outbursts, rudeness, mis- and disinformation, half-truths, outright lies and scare tactics about government control.

Yet the really scary thing is that our water tables keep going down precisely because there hasn't been any effective government control and in its absence local control means corporate control by Big Buck operations that pump as much as they want — which is more than rain, the only source of water in the Valley, can replenish. The only law now is the law of the biggest straw.

Groundwater levels in both the Willcox and Douglas Basins have been going down and wells going dry at an alarming rate. The drawdown in the Willcox Basin is more drastic than in Douglas largely because when the 1980 Groundwater Management Act created AMAs (Active Management Areas) with safe-yield goals for the state's most critical areas, farmer-rancher opposition resulted in only a weaker version, an INA or Irrigation Non-expansion Area, for the Douglas Basin and nothing at all for Willcox. Forty years of INA later, the Douglas aquifer is still declining, wells are going dry and Big Ag is moving in just like it has to the north.

The only water in the Valley is groundwater accessed by wells. Certainly, our twenty-year-plus drought is part of the problem, but by far the bigger part is that without state regulation, large-scale industrial agriculture from states and counties that have more protective rules have been moving in to take advantage of our laxity.

In the past decade, thousands of acres have been bought up and irrigated by these corporations. One operation, a mega-dairy, has acquired 50-60,000 acres (over 60% of the Valley's farm land); owns more than 300 wells, some more than 2000 feet deep (three to four times as deep as the norm before they moved in); and now, to feed and water more than 100,000 head of cattle, pumps more water annually than the city of Tucson.

As water tables drop, more small farms are forced to close down and families to move out (sometimes selling at rock-bottom prices — to the dairy) because they can't afford to deepen their wells enough.

What will AMAs do? One important thing they have already done: once the initiative measures were approved for the ballot, new “irrigation wells” were prohibited — not “domestic wells” that irrigate less than two acres, which are largely exempt from AMA requirements, but wells that pump over 35 gallons/minute (i.e., confusingly, the only ones defined by statute as “irrigation wells”).

If the measures pass, that moratorium will remain in effect until goals and rules are set by the Arizona Department of Water Resources (ADWR), a months-long process that includes input from the public and from an Advisory Council appointed by the Governor. Goals and rules may include pumping limits (based, for instance, on amounts of water needed by a given crop), conservation practices (based on industry best management standards), and other options.

If the measures do not pass, more and deeper wells will pump even more while smallholders’ wells go dry. But for now, and for the future if the AMAs go into effect, unregulated expansion of unsustainable pumping will be stopped.

Then, every few years goals and rules will be revisited and can be revised to better fit current needs. In the five AMAs originally established by the 1980 Act, periodic revisions have led to incremental reductions, so even though at first under the new AMAs existing pumping may be “grandfathered in,” over time amounts pumped will very likely be ratcheted down.

AMAs are not a perfect solution but are by far the best first step that has been offered to stop the drain, to prevent more superwells from being dug and more little-guy wells from going dry, while people get to work electing politicians who will enact sustainable use laws to protect our groundwater instead of giving it away.

## **Douglas AMA Voters Didn't Ask for Water Regulation to Die a Slightly Slower Death- Arizona Republic (5 April 2023)**

### **Douglas AMA voters didn't ask for water regulation to die a slightly slower death**

Opinion: The newly created Douglas Active Management Area needs creative water regulation to sustain our community and the farmers who live here.

Michael Gregory, Ben Lepley and Christian Sawyer

Voters agreed this fall to make the Douglas groundwater basin in southeastern Arizona an active management area.

In 2022 the residents of the Douglas Water Basin community voted to designate our basin as an Active Management Area, the first citizen-initiated AMA in Arizona.

The reason for this initiative was simple: Declining water levels are causing earth fissures, dry wells and the loss of local farmers, who feel they have no option but to sell to industrial operations.

While AMA legislation has some hard and fast rules about what can and cannot be done in such a designated area, the law allows for a lot of flexibility in the setting of “management goals” and “management plans,” as there is no one-size-fits-all management plan for all groundwater basins. AMAs without 'safe yield' have struggled

The most common management goal of other AMAs in Arizona is “safe yield,” which means keeping a balanced water budget – you don't take out more than gets put in.

But as the Santa Cruz AMA discovered, this goal can be interpreted in ways that do not stop groundwater decline. They have since updated their goal to include “long-term stabilization of local water tables” – a necessary amendment for a community at risk of losing access to groundwater.

The Pinal AMA, meanwhile, decided to forgo “safe yield” and adopt a “planned depletion” policy, which does not work toward a balanced water budget. Instead, they are anticipating continued water decline and plan to replace agricultural operations with urban expansion.

However, the consequence of “planned depletion” is that Pinal is expected to have a water shortage of 8 million acre-feet (2.6 trillion gallons) over the next 100 years, which has stunted their economic development.

Without a strong direction toward sustainable groundwater use, prevailing economic norms will continue to lead Arizona's basin communities to the dead ends that other groundwater-dependent communities throughout the country and world now face.

## **'Planned depletion' is not in our best interest**

The residents of the Douglas Basin voted for an AMA not because we would like to die a slightly slower death – we want to preserve our rural way of life for our future generations. If we achieve anything less than the stabilization of our water tables, we will have failed.

We need to start the difficult process of developing water management goals and policies that stabilize our water levels within a timeframe that protects residents and gives farmers enough time to adapt to less water use.

## **Another view: Lawmakers can't ignore rural groundwater issues**

If the Douglas Basin adopts a “planned depletion” goal, we are missing our opportunity to start this process.

Arizona law states that our groundwater policies are in service of “protecting and stabilizing the general economy and welfare of this state and its citizens.”

It's not in the interest of our welfare that our valley be sucked dry and, as some would like to see happen, have our agriculture be replaced by thoughtless urban and suburban development. Protect local (not investor-owned) farming

We must make sure that our groundwater is managed in a way which keeps local agriculture sustainable.

This means stable water levels, limits on groundwater extraction for commercial and residential development and priorities of water rights for locals who live and farm here – not for absentee investors and their invasive operations.

Industrial agriculture operations owned by out-of-state investors and shareholders have been pouring into our valley.

These operations have been set up all over Arizona, taking advantage of our largely unregulated and unprotected groundwater supplies.

These entities are extracting our natural resources, converting them into profit and then moving that profit away from Arizona.

Our Douglas AMA policies must uphold the legal mandate (ARS §45-401) to protect our local economy and the welfare of our citizens.

Now is the time to innovate. Work with us

The citizens and policymakers of Arizona have an opportunity to innovate our land and water management policies.

There is nothing in the Legislature that prevents an Active Management Area from favoring locally owned agricultural operations.

There is, however, decades of evidence that our previous policies will not stabilize our groundwater levels.

We hope that the Arizona Department of Water Resources, Gov. Katie Hobbs, the governor's Water Policy Council and the governor's Office of Resiliency will be proactive in working with the residents of the Douglas Basin to design and implement policies that protect our well-being and sustain our rural and agricultural economies.

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Michael Gregory is an author and environmental activist. Ben Lepley is a native of southern Arizona and works in the water and sustainable energy industry. Christian Sawyer is a techno-economic researcher. They all live in the Douglas Basin area in southeastern Arizona. Reach them at **Personal Identifying Information**.

<https://www.azcentral.com/story/opinion/op-ed/2023/04/05/douglas-ama-needs-water-regulation-safe-yield-local-farmers/70066081007/>

## **Goals and Planning for the Douglas AMA: An Open Letter to ADWR Bisbee Observer (2 February 2023)**

*Following the November vote to amend the state's groundwater law by establishing a Douglas Basin Active Management Area (AMA) to replace the basin's forty-year old Irrigation Non-Expansion Area (INA) plan, the Arizona Department of Water Resources (ADWR) began the process of writing the rules for large-scale irrigation in the basin. The following letter was submitted to ADWR as part of the agency's public comment program. Information about the Douglas AMA can be found on ADWR's website at <https://new.azwater.gov/ama/douglas-ama>.*

\*

I am a 50+ year resident of the Douglas Basin. My forty acres, exempt well and small, non-commercial orchard and greenhouses are within the now-superseded INA.

Though I moved here to enjoy the amenities of the rural lifestyle, I have been sensitive to the severe degradation of the Sulphur Springs Valley's natural high desert environment caused largely by over a hundred years of inadequately regulated farming and ranching. In particular, I have been dismayed at the rapid depletion of the Willcox Basin aquifer in the northern end of the valley and the dropping water table here in the Douglas Basin (a condition that, when the INA was first proposed, was predicted by many who observed that the already-apparent depletion might be slowed down but would not be stopped if the same unlimited pumping was allowed to continue).

Consequently, I have focused my own small operation on conservation of water, soil and wildlife habitat with a long-term vision of native high desert grassland restoration, and have advocated for adoption of those values in the valley at large. It was with those values in mind that I campaigned for drafting and passing of the AMA ballot measures and now participate in ADWR's development of the AMA's enactment.

The goal of the Douglas AMA should be straightforward: to assure the long-term sustainability of the aquifer for the long-term viability of the rural, small farm and ranch economy and lifestyle.

In other words, the goal must be: no more water out than goes in. "Planned depletion," "slower rate of withdrawal" or other halfway (or greenwash) measures are not acceptable. No more out than in, and planning measures to achieve that goal in as short a time as feasible.

Which is to say, caps on withdrawal from non-exempt wells, especially those of mega operations, must be stringent; a significant number of conservation plans must be put in place in the first planning cycle, not just after 2027; etc.

Two other issues raised at the recent ADWR meeting in Douglas which may be seen more as matters of planning rather than goal-setting are in fact salient to the goal-setting process: 1) the issue of fees, and 2) the issue of criteria for granting of grandfathered water rights. How these

issues are resolved will clearly affect the goal "to assure the long-term sustainability of the aquifer for the long-term viability of the rural, small farm and ranch economy and lifestyle."

The fee structure and criteria for grandfathering eligibility adopted by ADWR must be equitable and not unfairly burden smallholders. The fees mentioned at the recent ADWR meeting in Douglas suggested that they might be so high as to preclude some small farmers from even being able to apply for permits. Rather than a rigid fee schedule, fees should be set on a sliding scale that recognizes differing economic capabilities of small operations and mega corporations.

Similarly, in regard to the grandfathering issue, the criteria for what constitutes "substantial capital investment" must be flexible and equitable, recognizing that unlike large operations, small farmer investment is not always easily accounted for in terms of purchase and tax receipts, but instead may be embedded in non-cash expenditures of time and sweat invested over long periods, not just within the arbitrary five-year cut-off before AMA certification.

Without such provisions for equity and flexibility the goal of sustaining the nature of the Douglas Basin rural community cannot be achieved.

Thanks for your consideration

Sincerely,





Management Plans - ADWR &lt;managementplans@azwater.gov&gt;

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**Fwd: Goals and planning for Douglas AMA**

1 message

**EARP - ADWR** <earp@azwater.gov>

Mon, Jan 23, 2023 at 9:30 AM

To: Management Plans - ADWR &lt;managementplans@azwater.gov&gt;

----- Forwarded message -----

From: **Michael Gregory** Personal Identifying Information

Date: Sun, Jan 22, 2023 at 1:25 PM

Subject: Goals and planning for Douglas AMA

To: EARP - ADWR &lt;earp@azwater.gov&gt;

I note that it's two days past the deadline for the first round of comments on goals for the Douglas AMA, but presumably my comments will not be ignored and will be considered in the second round if not now.

I am a 50+ year resident of the Douglas Basin. My forty acres, exempt well and small, non-commercial orchard and greenhouses are within the now-superseded INA.

Though I moved here to enjoy the amenities of the rural lifestyle, I have been sensitive to the severe degradation of the Sulphur Springs Valley's natural high desert environment caused largely by over a hundred years of inadequately regulated farming and ranching. In particular, I have been dismayed at the rapid depletion of the Willcox Basin aquifer in the northern end of the valley and the dropping water table here in the Douglas Basin (a condition that, when the INA was first proposed, was predicted by many who observed that the already-apparent depletion might be slowed down but would not be stopped if the same unlimited pumping was allowed to continue).

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Thanks for your consideration

Sincerely,

Michael Gregory

**Personal Identifying Information**

McNeal, Arizona 85617

Michael Gregory

- [www.michaelgregoryaz.net](http://www.michaelgregoryaz.net)

- [www.reddragonflypress.org/2020-titles/pound-laundry](http://www.reddragonflypress.org/2020-titles/pound-laundry)