



Management Plans - ADWR <managementplans@azwater.gov>

## Fwd: Informal Comment Letter - Douglas AMA Proposed Management Goal

1 message

Natalie Mast <nlmast@azwater.gov>

Mon, Apr 24, 2023 at 10:13 AM

To: Management Plans - ADWR <managementplans@azwater.gov>, Tereza Marks <tmarks@azwater.gov>

### Forwarded Conversation

**Subject: Informal Comment Letter - Douglas AMA Proposed Management Goal**

From: **Billingsley, Rhett** <rbillingsley@fennemorelaw.com>

Date: Fri, Apr 21, 2023 at 5:04 PM

To: Natalie Mast <nlmast@azwater.gov>

Cc: Nav Athwal <nav@trinutfarms.com>

Natalie,

Please find the attached comments regarding ADWR’s proposed management goal for the Douglas AMA. The comments are being submitted by our client, Nav Athwal (TerraAg Farm Management II, LLC), along with other Douglas AMA farmers. Thank you for the Department’s consideration of the attached comments.

Thank you.

Rhett

Rhett A. Billingsley

Director



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From: **Nav Athwal** <nav@trinutfarms.com>  
Date: Fri, Apr 21, 2023 at 5:50 PM  
To: Billingsley, Rhett <rbillingsley@fennemorelaw.com>  
Cc: Natalie Mast <nlmast@azwater.gov>

Thank you Rhett!

Natalie, first and foremost, I just want to say that my fellow farmers and I truly appreciate ADWR's efforts to come up with a goal that is both workable and reasonable.

As you know, in this area of Arizona, agriculture is not only the backbone but the lifeblood of the economy and community. You can't walk into a grocery store, gas station, restaurant or supply store without running into a farmer or rancher who has dedicated his/her life to his/her trade. And a majority of these folks, like myself and my fellow signatories to the letter, are family farmers not large corporate organizations.

As such, we feel specifically emphasizing the agricultural economy in the goal is critical in recognizing just how dependent Douglas is on farmers, ranchers and those that serve this critical demographic.

Thank you for your consideration of our comments and I am available, of course, to answer any questions.

Best,

Nav

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Nav Athwal  
President  
TriNut Farm Management, Inc.  
2561 4th St., Ceres, CA 95307

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 **April 21 Comments Letter.pdf**  
512K

April 21, 2023

*Via Email [nlmast@azwater.gov](mailto:nlmast@azwater.gov)*

Natalie Mast  
AMA Director  
Arizona Department of Water Resources  
1110 W. Washington Street, Suite 310  
Phoenix, Arizona 85007

Re: Comments Regarding Management Goal for the Douglas AMA

Dear Ms. Mast:

On April 11, 2023, the Arizona Department of Water Resources (“ADWR” or “Department”) held a public meeting to discuss the proposed management goal for the recently designated Douglas Active Management Area (“Douglas AMA”). At the workshop, ADWR requested additional informal comments to assist in the development of a proposed management goal for the Douglas AMA. We are writing to provide comments in response to that request. We appreciate the opportunity to provide comments and urge the Department to propose a reasonable and practical management goal that preserves and protects the agricultural economy within the Douglas AMA. In addition to the comments provided below, we are incorporating the comments submitted to you by email on January 20, 2023 (“January 20 Comments”), a copy of which is attached to this letter.

ADWR has proposed the following as the management goal for the Douglas AMA:

The management goal of the Douglas AMA is to support the general economy and welfare of communities in the basin by attempting to reduce the rate of aquifer depletion by 2035 and by further attempting to reduce the rate of aquifer depletion every 10 years thereafter.

We believe the proposed goal is a step in the right direction in that it recognizes long-term depletion of the Douglas groundwater basis and does not seek to impose strict reductions in groundwater use by a date certain or unachievable goals such as “safe yield.” A goal of “safe field” or any other strict limit on groundwater withdrawals is impractical for the Douglas AMA, which unlike the safe-yield AMAs (Phoenix and Tucson) is almost entirely dependent on groundwater. As such, any management goal for the Douglas AMA must recognize the reality that the groundwater basin will continue to be depleted over time.

Furthermore, the available data regarding groundwater within the Douglas basin and complications resulting from the basin spanning an international border do not support a strict groundwater management goal. The Douglas AMA was designated as a result of a local election, not because of hydrological factors motivating the Department to initiate action to designate the Douglas groundwater basins as an AMA. As noted in our January 20 Comments, groundwater levels are stable and even rising in many areas of the basin. As the Department acknowledged at the April 11 meeting, there is currently not a functional groundwater model for the Douglas groundwater basin and significant hydrological data is needed to complete that model and understand groundwater issues within the basin. The hydrological uncertainty within the basin is exacerbated by the fact that the basin spans the United States-Mexico border. In addition to this limiting data available to develop a model for the portions of the basin within the United States, the Department does not have regulatory jurisdiction over groundwater uses in Mexico that could potentially influence water users in the United States. For these reasons, the Department should avoid setting a management goal with strict hydrological requirements.

We believe the appropriate approach for the Douglas AMA is to base the goal on protecting the existing agricultural economy and communities within the basin. The goal proposed by ADWR appears to presume that reducing the rate of aquifer depletion will support the general economy and welfare of communities in the basin, which may not be the case. Rather, continued reductions in the rate of aquifer decline may not be sustainable and could harm the economy and communities in the basin. Accordingly, we suggest revising the proposed management goal as follows:

The management goal of the Douglas AMA is to attempt to reduce the rate of aquifer depletion by 2035 and every 10 years thereafter to the extent consistent with preservation of the existing agricultural economy and the welfare of communities within the AMA.

Thank you again for the opportunity to provide these comments. As noted above, we encourage the Department to continue its outreach and education efforts to ensure adequate public input in developing the management goal and future management plan for the Douglas AMA.

Sincerely,

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*Nav Athwal*  
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TerraAg Farm Management II, LLC

DocuSigned by:  
*Rocky Dhaliwal*  
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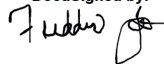
Rocky Dhaliwal  
Moga Agri Industries Holdings

(Signatures Continued on Next Page)

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Local Farmer

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Freddie Zamora  
Local Farmer



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John Mundt  
H&M Farming, LLC

**January 20, 2023 Comment Letter**

January 20, 2023

*Via Email [nmast@azwater.gov](mailto:nmast@azwater.gov)*

Natalie Mast  
AMA Director  
Arizona Department of Water Resources  
1110 W. Washington Street, Suite 310  
Phoenix, Arizona 85007

Re: Comments Regarding Management Goal for the Douglas AMA

Dear Ms. Mast:

On January 5, 2023, the Arizona Department of Water Resources (“ADWR” or “Department”) held a Management Goal Workshop regarding the recently designated Douglas Active Management Area (“AMA”). At the workshop, ADWR requested informal comments to assist in the development of a proposed management goal for the Douglas AMA. We are writing to provide comments in response to that request. We appreciate the opportunity to provide comments and urge the Department to propose a reasonable and practical management goal that preserves and protects the agricultural economy within the Douglas AMA.

In addition to being the first AMA designated in over 40 years, the Douglas AMA is the first AMA to be designated by local election. As the Department acknowledged at the January 5 workshop, all of Arizona’s other AMAs were established by the State Legislature. This is important because the State Legislature benefitted from study and deliberation regarding the hydrological, economic, and public policy impacts of designating those AMAs. In contrast, the local election process forced the decision to designate the Douglas AMA upon an unprepared and uninformed electorate that had less than three months from the call for the AMA election to educate themselves regarding groundwater conditions, the need for additional groundwater use restrictions, and the impacts that formation of an AMA would have on future access to water, property values, and the economy within the Douglas groundwater basin.

An unfortunate result of the local election process is that the Department is now required to develop a management goal and management plan for the AMA without statutory guidance and adequate time to properly study groundwater conditions within the basin. That being the case, it

is vitally important that ADWR provide a robust process to educate the public and solicit and evaluate comments from water users regarding an appropriate management goal for the Douglas AMA. While we appreciate the Department's request for comments at the January 5 workshop, the Department needs to increase its public outreach and education efforts to ensure that water users and landowners in the Douglas AMA are informed and are provided a meaningful opportunity to help shape the management goal for the AMA.

In developing a proposed management goal for the Douglas AMA, the Department should be mindful of the reality that groundwater conditions within the AMA likely would not have supported an AMA designation if ADWR would have been forced to make that decision. Some rate of groundwater decline within the Douglas basin is to be expected given that, unlike some of the other AMAs, the Douglas AMA does not have access to significant supplies of water other than groundwater. However, the rates of decline previously measured by ADWR do not merit the additional groundwater management restrictions that will come with the AMA.

For example, in a recent study, the Department found that groundwater levels within the Douglas basin declined at a median rate of only 1.0 foot per year between 2005 to 2015.<sup>1</sup> Moreover, during the same period, ADWR found that the overall median depth to groundwater in the Douglas basin actually decreased from 158.9 feet below land surface (flbs) to 141.1 flbs (i.e., median groundwater levels increased during that period).<sup>2</sup> While there are localized areas in which groundwater levels have declined at rates greater than 1.0 foot per year, groundwater levels have either remained steady or increased in many areas of the basin.

Furthermore, it is unlikely that most areas of the Douglas basin would have experienced substantial increases in the rate of groundwater level decline in future years. This is due to the fact that the vast majority of the Douglas basin has been regulated as an irrigation non-expansion area ("INA") since the enactment of the Groundwater Management Act of 1980. The formation of the Douglas INA prevented any new lands from being irrigated within the INA boundaries. Although the past two decades have seen historically irrigated acreage throughout the former Douglas INA being brought back into production, the INA placed an upper limit on the amount of acreage that could have been irrigated.

Given the generally stable groundwater conditions and the lack of alternative water resources within the Douglas basin, the Department should avoid adopting an overly aggressive management goal that would unnecessarily restrict access to groundwater and damage the regional economy within the Douglas AMA. Rather, as ADWR found in 2014, "in order to prevent economic disruption in both the agricultural and municipal sector ... [ADWR should adopt] a

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<sup>1</sup> ADWR, *Douglas and Willcox Basins and San Simon Valley Sub-basin, South Eastern Arizona - Hydrologic Monitoring Report No. 9*, May 2016, pp. 14-15.

<sup>2</sup> *Id.* at 9-11.



water management strategy that allows continued groundwater mining for agricultural activities, while protecting municipal water supplies for current uses and limited growth should be adopted.”<sup>3</sup>

More specifically, any management goal adopted by ADWR must expressly preserve and protect continued access to groundwater for irrigation and other agricultural uses. The primary groundwater use and economic driver for most the Douglas basin is agriculture.<sup>4</sup> This has been the case since before the formation of the Douglas INA in 1980. As is the case with the remainder of Cochise County, the agricultural is a major employer and large component of the economic base within the Douglas basin.<sup>5</sup> In particular, the economies within Sunizona, Elfrida, McNeal, and Douglas areas are heavily dependent on continued access to groundwater for agricultural production. A management goal that fails to protect long-term access to adequate supplies of groundwater for irrigation and other agricultural uses would have a devastating impact on the economies in these areas.

Accordingly, we strongly encourage the Department to adopt a management goal that preserves the agricultural economy and continued irrigation of land within the AMA for as long as feasible, consistent with the necessity to preserve water supplies for municipal and other non-irrigation uses. Given the lack of alternative water supplies within the Douglas AMA, the management goal and any future conservation measures adopted by ADWR should explicitly allow for continued groundwater mining (i.e., groundwater level declines) at rates consistent with the stated management goals.

We also urge the Department to coordinate with state and local elected representatives regarding potential economic impacts of actions to be taken by the Department in administering the Douglas AMA. It is possible the State Legislature could enact changes in law that would provide guidance to ADWR and permit the Department to better tailor groundwater management within the Douglas AMA.

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<sup>3</sup> ADWR, *Arizona’s Next Century, A Strategic Vision for Water Supply Sustainability, Cochise Planning Area*, January 2014, p. P.A. 6-7.

<sup>4</sup> In 2014, the estimated groundwater use in the Douglas basin for agriculture was 45,500 acre-feet, compared to municipal groundwater use of 4,800 acre-feet. See ADWR, *Douglas and Willcox Basins and San Simon Valley Sub-basin, South Eastern Arizona - Hydrologic Monitoring Report No. 9*, May 2016, p. 16.

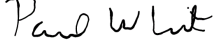
<sup>5</sup> See e.g., University of Arizona Cooperative Extension, *Arizona County Agricultural Economy Profile, Cochise County, AZ*, July 1, 2020, available at <https://economics.arizona.edu/arizona-county-agricultural-economy-profiles>.

Thank you again for the opportunity to provide these comments. As noted above, we encourage the Department to increase its outreach and education efforts to ensure adequate public input in developing the management goal and future management plan for the Douglas AMA.


Sincerely,

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