

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.