

tion: Rural Perspective

Water Versus Development Put to the Test

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Proposed residential mega-developments in Mohave County form the crucible for converging water versus development issues in northwestern Arizona. Master-planned developments are proposed for the area north of Kingman near the Nevada/Arizona border, to serve as bedroom communities for Las Vegas workers in anticipation of the completion in 2008 of the new Hoover Dam bypass bridge.

As reported in the *Arizona Republic* April 13, developer Leonard Mardian won approval to build 20,000 homes at the Ranch at White Hills on U.S. Highway 93, after scaling back initial plans from 30,000, and receiving a finding from the Arizona Department of Water Resources (ADWR) that the area has sufficient water for the development.

Mardian appears to have won a virtual race with competitor Rhodes Homes, which has proposed to develop five communities in Mohave County within the same basin, and which could add around 127,000 homes, according to the *Republic*. ADWR is considering this proposal, but the April ruling appears to give Mardian prior claim to the water. Mohave County officials have said they will not allow building of additional developments without ADWR's ruling that sufficient water is available, reported the paper.

Mohave County could be considered progressive in this respect, since Arizona law does not prohibit developments to proceed in areas outside the AMAs even if ADWR rules a proposed development lacks sufficient water. Current state law merely requires developers to disclose the state's findings to the initial purchaser of the land. However, this case raises the issue as to whether the first claimant should automatically be awarded an entire watershed's rights.

Sustainable Water Supply Legislation

Shirlee Rhodes – Burgess and Niple

Rural communities throughout the Southwest are growing, some quite rapidly. Many are apprehensive about meeting water demands for an increasing population while facing the effects of drought and apparent climate change. Some communities have already taken the initiative to plan for their future water needs. Others may be forced into action by legislation.

Growing Smarter?

In Arizona, several actions aimed at managing growth and water resources have been taken by state legislators since the 1980 Groundwater Management Act (discussed on previous page). Among them are the Growing Smarter Act of 1998 and its supporting legislation, the Growing Smarter Plus Act of 2000.

Growing Smarter reformed municipal, county, and state land department land use planning and zoning procedures, and enabled the acquisition and preservation of open space. Growing Smarter Plus added water resource considerations to the required planning activities for all communities. In addition to setting requirements for open space, growth area, and environmental planning, water resource "elements" were imposed on smaller communities for the first time, including those communities with populations less than 10,000 whose annual growth rate averages 2 percent or greater over a 10-year period.

The intent of the water resources element of Growing Smarter Plus was to provide an opportunity for local governments to consider their water resources in terms of land use, anticipated growth, and infrastructure needs, reflecting the specific concerns of each community. In particular, the water element requires

that the following items be "addressed," although in an unspecified manner:

- the legal and physical availability of water supplies;
- projected demand; and
- an analysis of how the demand will be met.

Getting Tougher?

In 2005, House Bill 2277 was signed into law, detailing water plan filing requirements for Community Water Systems (CWSs), systems that serve 15 or more service connections or 25 residents year-round for drinking, cooking, bathing, and cleaning. Several

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versions of this bill were reviewed prior to its adoption. It was initially designed to provide clarification and guidance, lacking in Growing Smarter Plus, to assist small communities in developing water resource plans, not to impose a hardship on them. But subsequent iterations added so much detail, including comprehensive hydrology studies, that it was dubbed "the consultants' right-to-work bill."

In the final version of HB2277, conservation and drought preparedness plan requirements were defined, and water plan requirements were reduced to a brief analysis of projected water supply demands and descriptions of lands,

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of an adequate water supply before subdivided lands outside AMAs could be recorded or sold, thereby eliminating the option to sell land with an “inadequate water supply” disclaimer. In addition, some local government agencies have adopted policies or regulations to deal with the shortcoming of the state Adequate Water Supply Program. For example, Mohave and Cochise counties have begun to deny approval to subdivisions with “inadequate” water supply findings. Other counties may follow suit. In Payson, water shortages have become so acute that the town has adopted a policy requiring developers to secure and provide their own source of water.

While these actions at the local level are providing a form of groundwater management, they control only groundwater use for subdivisions without placing any restrictions on new industrial, recreational, or agricultural groundwater users. Without a comprehensive groundwater management program that regulates all groundwater use in designated areas, such as is currently applied in the state’s AMAs, a finding of an adequate water supply is of limited and uncertain value since it cannot guarantee a sustainable water supply.

Arizona has a legal provision within its GMA that allows ADWR to designate new AMAs for purposes of implementing needed groundwater management. In fact, ADWR is required by statute to periodically review areas located outside AMAs to determine if creation of a new AMA is justified. Whether Arizona solves its emerging groundwater management challenges at the state or local level, or as a cooperative interagency effort, remains to be seen. But it is becoming increasingly obvious that water providers, managers, and other water officials throughout Arizona are taking action to change the Adequate Water Supply Program. Thus, developers of future subdivisions in the rural areas of Arizona may soon need to reconsider their options.

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water supply sources, and infrastructure. For large CWSs (those serving more than 1,850 persons), first plans are due early next year. For small CWSs, initial plans are due in 2008. However, aside from limited filing requirements, there appear to be few, if any, regulatory consequences for not meeting the conditions outlined in HB2277.

Communities Respond Anyway

Despite the lack of enforcement mechanisms, most CWSs recognize the need to protect their own futures and are making every attempt to comply with HB2277. CWSs that have demonstrated an assured or adequate water supply (see page 20) already have the data they need to address portions of the new requirements. But for others, particularly in rural areas experiencing rapid growth, meeting the requirements of HB2277 poses challenges.

Many Arizona communities are currently working on water planning reports. According to City Manager Scott Garms, Springerville is considering a joint study with nearby Eager to conduct a regional hydrological assessment for water planning, an effort beyond the scope of HB2277. Payson already has an aggressive growth management plan and the most aggressive conservation program, by ADWR standards, of any rural community in the state. Public Works Director Buzz Walker said Payson developed its water plan early, incorporating conservation and drought management before they were mandated. Flagstaff leads many rural communities in the development of conservation and drought planning and is now assisting other communities with the process.

In many communities, water conservation programs are implemented to save water. Conservation requirements, however, cannot be imposed upon private water utilities, as they are in business to provide water and by law cannot limit their customers. This restriction presents a challenge both to communities served by such utilities and to the utilities themselves, who must maintain a

sufficient water supply to meet demand. These communities are realistically limited to such conservation measures as education and local ordinances.

Jay Howe, utilities director for the city of Safford, said that newly anticipated growth will require an update to his city’s water plan. But he said Safford will make the regulatory deadline, because “We take this seriously ... we want to be a good neighbor, set a good example.”

Help from ADWR

The Arizona Department of Water Resources (ADWR) is attempting to help CWSs meet the new requirements through several actions. Rodney Held, section manager for the Drought, Conservation and Riparian Protection Planning Division, said the agency is developing a guidance document for the required planning report as well as a template to simplify the water planning report process. In addition, because the technical aspects of drought forecasting are frequently beyond the resources of small CWSs, ADWR provides technical assistance for that component of the water planning report. The agency also has initiated hydrologic studies to assist rural communities in Mohave and Cochise counties, two of the highest growth areas of the state.

In support of rural communities statewide, ADWR began collecting information on water issues in 2003, and developed a report on rural water resources based on a survey of water providers, including jurisdictional, county, and tribal providers outside of the state’s Active Management Areas. According to Tom Whitmer, ADWR Section Manager for Regional Water Resources Division, these data, along with information from a follow-up survey in 2004, will be used to support the new, comprehensive seven-volume *Rural Water Atlas*, projected to be available this fall. The atlas promises to be a valuable tool to aid planners, water providers, technical assistants, and others attempting to manage water resources throughout rural Arizona.

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