



November 14, 2022

Via email

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**Re: Response to Request for Documentary Evidence for the Proposed Action: October 12, 2022, Hualapai Valley Groundwater Basin INA Director's Order Initiating Proceedings and Order for Public Hearing**

Dear Supervisor Scantlebury:

The Water for Arizona Coalition (WAC) is a collective of five conservation organizations, with 60,000 members in the state, working in the public interest to ensure water security for all people. Most communities in rural Arizona, including those in the Hualapai Valley, are fully dependent on groundwater to meet local needs. Stable and secure groundwater supplies are essential for the state's rural communities if they are to thrive and grow into the future.

WAC respectfully requests that Director Buschatzke designate the Hualapai Valley Groundwater Basin (Hualapai Basin) as a subsequent Irrigation Non-Expansion Area (INA). Under A.R.S. 45-432, the Director may designate the Hualapai Basin as an INA if he determines that: (1) There is insufficient groundwater to provide a reasonably safe supply for irrigation of the cultivated lands in the area at the current rates of withdrawal; and (2) The establishment of an active management area is not necessary.

We assert that an INA is warranted and urgently needed for five reasons: (1) There is insufficient groundwater in the Hualapai Basin to provide a reasonably safe supply for irrigation because of groundwater overdraft and depletion: basin-wide, current rates of withdrawal are 400% of recharge, and groundwater levels are anticipated to continue declining rapidly; (2) Failure to designate the Hualapai Basin as an INA conflicts with the policy of the Groundwater Management Act because it threatens the lives and livelihoods of irrigators and other water users in the area; (3) Rejecting this critical step to protect the Hualapai Basin and its residents from unlimited expansion of groundwater use disincentivizes and undermines opportunities for groundwater recharge and conservation; (4) Establishing an INA in the Hualapai Basin will reduce the need for a Hualapai Active Management Area (AMA); and (5) Failure to designate the Hualapai Basin INA would do serious harm to Arizona's reputation as a state that protects its water supplies.

**1. There is insufficient groundwater in the Hualapai Basin to provide a reasonably safe supply for irrigation of the cultivated lands in the area at the current rates of withdrawal because of groundwater overdraft and depletion: basin-wide current rates of withdrawal are 400% of recharge, and groundwater levels are anticipated to continue declining rapidly.**

Basic financial management says you cannot spend more than you make—at least not for long. Groundwater works the same way. Using more water than recharges to the aquifer puts a catastrophic expiration date on any economic activity that relies on that water. This concept was built into ADWR's designation of the Harquahala INA. There, the Director found that the basin was in "severe overdraft."<sup>1</sup> The Director pointed to declining groundwater levels, the small annual recharge to the basin, and the amount of irrigated acreage and corresponding groundwater use.<sup>2</sup>

Like Harquahala, the Hualapai Basin is in overdraft. ADWR's preliminary data shows current outflows in the Hualapai Basin exceed recharge by 400%.<sup>3</sup> This is a dangerous structural deficit. ADWR's data also shows that the number of agricultural wells with a depth to groundwater over 750 feet will increase more than 4 times at **current rates of withdrawal** over the next 100 years.<sup>4</sup> ADWR's recent graphic depictions of projected groundwater tables in the Hualapai Basin show significant declines in groundwater levels, including some areas where groundwater levels drop hundreds of feet.<sup>5</sup> This analysis necessarily ignores expansions in groundwater use—expansions everyone knows are coming. This means that, even if one pretends current groundwater use will remain static (even though it will not), groundwater levels in the Hualapai Basin will drop. Using more water than is recharged to the aquifer means groundwater supplies will run out or become unreachable for agricultural or other water uses. Overdraft and depletion of this magnitude in the Hualapai Basin is not reasonably safe for anyone—let alone agriculture.

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<sup>1</sup> ADWR Director's Findings and Order in re the Proposed Designation of a Subsequent Irrigation Non-Expansion Areas: Harquahala Basin — Maricopa and Yuma Counties (1982) at 5.

<sup>2</sup> *Id.* at 6.

<sup>3</sup> Slides from the September 20, 2022, PUBLIC MEETING TO RECEIVE COMMENTS REGARDING WHETHER THE DIRECTOR OF THE ARIZONA DEPARTMENT OF WATER RESOURCES SHOULD INITIATE PROCEDURES TO DESIGNATE THE HUALAPAI VALLEY GROUNDWATER BASIN AS AN IRRIGATION NON-EXPANSION AREA at 29.

<sup>4</sup> Slides from the September 20, 2022, Public Meeting at 27.

<sup>5</sup> Some areas show drops from within 500 feet from the surface to over 750 feet. Recording of the September 20, 2022, Public Meeting, available at <https://www.youtube.com/watch?v=SVxu6oeozQQ>, starting at 32:23.

Accepting this magnitude of overdraft is dangerous and hearkens eerily to the Pinal Active Management Area where the consequences of overdraft are just beginning. This means worsening economic and community impacts and increasingly fewer management options over time, until groundwater supplies are either exhausted or no longer feasible to pump. Add now worsening water shortages on the Colorado River and aridification across Arizona—limiting the alternatives when a community’s water supply is depleted or exhausted—and it becomes undeniable that there is nothing “reasonably safe” about continuing to allow expanded and unlimited groundwater pumping in the already overdrawn Hualapai Basin.

**2. Failure to designate the Hualapai Basin as an INA conflicts with the policy of the Groundwater Management Act because it threatens the lives and livelihoods of irrigators and other water users in the area.**

The Legislature expressly created the Groundwater Management Act (GMA) to protect and stabilize the economy.<sup>6</sup> At the time, groundwater overuse threatened to “destroy the economy of certain areas of the state” and “do substantial injury to the general economy and welfare of this state and its citizens.”<sup>7</sup> The GMA’s protections are precisely what the Hualapai Basin needs. The Hualapai Basin is already in danger because of groundwater overuse. That danger only compounds with time. Indeed, Director Buschatzke acknowledged as much when he promised to factor relevant data “including current and projected drought conditions” into his decision regarding the Hualapai Basin INA petition. The problem is clear: ADWR must address it.

People within and reliant on the Hualapai Basin cannot afford to wait any longer for action to protect their only water supply. The dangers to both irrigated agriculture and the community will continue to grow. Groundwater use *already* surpasses the level at which a reasonably safe supply can be assured or sustained. Waiting to designate an INA compounds the harm to residents, the economy, and by extension the state. Failure to protect the economy of this area contravenes the purpose and intention of the GMA.

**3. Failure to designate the Hualapai Basin as an INA disincentivizes and undermines groundwater recharge and conservation.**

Groundwater recharge and conservation are vital tools to help ensure water resilience and promote healthy economies in Arizona communities as the state looks to address the impacts of aridification. But these tools do not make financial sense when one person can spend money to conserve groundwater and someone else can pump that water out from under them. Without designating the Hualapai Basin INA, local irrigators and communities are disincentivized from investing in groundwater recharge and conservation efforts. Without an INA designation, anyone can simply drill a new well and take as much groundwater as they like, even when that means taking water conserved or recharged by others.

**4. Establishing an INA in the Hualapai Basin may reduce the need for a Hualapai AMA.**

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<sup>6</sup> A.R.S. 45-401. Additionally, the Legislature required the Director to remain ever vigilant to the need for groundwater protections in new areas. A.R.S. 45-412(C).

<sup>7</sup> *Id.*

Bankruptcy, whether in finance or in groundwater management, happens gradually and then suddenly. Arizona can take proactive steps now while we still have choices or drastic steps later when we have few or no good choices (or much water) left.

The GMA requires ADWR to periodically review groundwater basins to determine if they should be designated as AMAs.<sup>8</sup> The Director can establish an AMA to protect future water uses, protect against subsidence and fissuring, or to protect groundwater quality.<sup>9</sup> Importantly, the law requires ADWR to examine future groundwater uses before designating an INA in case an AMA is necessary.<sup>10</sup> Make no mistake: An INA is the *minimum* protection available under the GMA.

WAC believes that an INA is an essential step to address overdraft in the Hualapai Basin. But we also recognize that groundwater use in the Hualapai Basin will likely continue to expand in ways that endanger future groundwater uses—beyond just agriculture. These dangers could justify a Hualapai AMA. Designation of an INA *might* help delay or prevent the consequences that would mean an AMA *is* “necessary to preserve the existing supply of groundwater for future needs”<sup>11</sup>; an AMA must surely come soon if ADWR does not create a Hualapai Basin INA now.

#### **5. Failure to designate the Hualapai Basin INA would do serious harm to Arizona’s reputation as a state that protects its water supplies.**

Arizona has reached a perilous crossroads when it comes to the management of our state’s water. The Colorado River is shrinking and in unprecedented crisis. Groundwater pumping is still unlimited across most of the state and represents a growing threat for nearly 1.5 million rural residents. People and businesses are paying close attention—[water is now a solid top three issue](#) among voters in the state. Rural communities and leaders are increasingly vocal about the need to protect rural groundwater, often their only water supply. Specifically, community leaders from the Hualapai Basin have tirelessly advocated for groundwater protections for years. At a time of heightened awareness and concern over water, a failure to designate the Hualapai Basin INA would reverberate throughout Arizona and its communities, businesses, and beyond. We cannot afford such a message to Arizonans, the people or businesses who want to come here, or to other Colorado River states, the Federal Government, or Mexico. Arizona must demonstrate that it is willing and able to protect its water supplies, especially the groundwater on which rural economies and communities depend.

For these reasons, WAC respectfully requests that Director Buschatzke designate the Hualapai Basin INA pursuant to his authority to do so under ARS 45-432.

Sincerely,

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<sup>8</sup> A.R.S. 45-412.

<sup>9</sup> *Id.*

<sup>10</sup> A.R.S. 45-412; 45-432(A)(2).

<sup>11</sup> *Id.*



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*The Water for Arizona Coalition is a group of five conservation organizations – American Rivers, National Audubon Society, Business for Water Stewardship, Environmental Defense Action Fund, and Western Resource Advocates – that supports policies and innovative practices to ensure a reliable water supply to meet the state’s needs. Collectively, we have over 60,000 Arizona members, as well as hundreds of hunter, angler, business, and outdoor recreation partners around the state. The coalition was recognized as an Arizona Capitol Times “2020 Leader of the Year” for our efforts to protect Arizona’s most valuable resource. Learn more at [waterforarizona.com](http://waterforarizona.com)*

