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Arizona Department of Water Resources (I)
Protecting & Enhancing Arizona's Water Supplies For Current And Future Generations.

(I)



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PETITION FOR ELECTION TO DESIGNATE AMA FOR THE WILLCOX BASIN

On March 18, 2022, a petition for an election to designate the Willcox Groundwater Basin located in portions of Cochise County and Graham County as an Active Management Area (AMA) was received by Cochise County. If an election on the question of whether to designate the Willcox Groundwater Basin as an AMA is called by the Board of Supervisors of Cochise County, both Cochise County and Graham County will administer the election in their respective counties. ADWR cannot provide answers to questions about whether an election will be called, or how or when the election will be held, if one is called. However, ADWR has received a number of questions about possible water-related regulations that would be administered by ADWR if the Willcox Groundwater Basin is designated as an AMA. ***The answers to these questions are provided for informational purposes only. They are not intended to provide comprehensive guidance and are not intended to serve as legal advice. If you have legal questions about your specific circumstances, you should consult with an attorney.***

Please note that a separate petition has been or is circulating for an election to designate the Douglas Groundwater Basin as an AMA. ADWR has prepared a separate FAQ regarding that petition. Because the Douglas Groundwater Basin contains an Irrigation Non-Expansion Area and the Willcox Groundwater Basin does not, some of the answers provided in that FAQ differ from the answers provided below.

FAQS

▼ 1. Q: What Is An AMA?

A: Active Management Areas, or AMAs, are areas within the state that are subject to certain statutory and administrative regulations regarding the withdrawal and use of groundwater, or in the case of the Santa Cruz AMA, the withdrawal and use of any water, other than stored water, withdrawn from a well. Currently, there are five AMAs in Arizona – Prescott, Phoenix, Pinal, Tucson, and Santa Cruz. All five AMAs were designated by statute.

Each AMA must have a management goal, which guides water management in the AMA. The management goals for the existing AMAs are set forth in statute. The Director of ADWR is required to adopt a management plan for each AMA that is updated on a periodic basis and that must be designed to assist the AMA in reaching or maintain its management goal. Management plans for existing AMAs can be viewed on ADWR's website.

Another feature of AMAs is that they are subject to assured water supply requirements for new subdivisions. Within an AMA, a developer of a proposed subdivision (six lots or more) must have a 100-year assured water supply in order to obtain plat approval and offer lots for sale. A developer may demonstrate an assured water supply by either (1) obtaining a commitment of water service from a water provider that has been designated by ADWR as having an assured water supply, or (2) obtaining a certificate of assured water supply from ADWR by demonstrating that the subdivision will have a 100-year assured water supply.

▼ 2. Q: What Lands Fall Within The Boundaries Of The New AMA Proposed By The Petition?

A: The petition proposes to designate the Willcox Groundwater Basin as an AMA through election. The Willcox Groundwater Basin is located in portions of Cochise County and Graham County. A map of the boundaries of the basin is provided below.

▼ 3. Q: Are There New Prohibitions On Water Use That Would Become Effective Before The Election?

A: If an election on the question of whether to designate the Willcox Groundwater Basin as an AMA is called by the Board of Supervisors of Cochise County, persons may only irrigate those acres of land within the proposed AMA which were legally irrigated at any time during the five years preceding the call for the election. A.R.S. § 45-416.

"Irrigate" means to apply water to two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry.

The limitation on the acres that may be irrigated within the area would continue until the final results of the election on whether to designate the Willcox Basin as an AMA are certified by the Board of Supervisors of Cochise County and the Board of Supervisors of Graham County. If the election results in the designation of an AMA, this prohibition would remain in effect, as described more fully in the response to Question No. 4 below. If the election does not result in the designation of an AMA, this prohibition would be lifted.

▼ 4. Q: If An AMA Is Designated, What Land May Be Irrigated?

A: In a subsequent AMA (an AMA established after 1980), only acres of land that were legally irrigated at any time prior to the five years preceding the call for an election may be irrigated with any water, except as provided below.

Acres of land that were not irrigated during the relevant five-year time period may be irrigated with a decreed or appropriative (surface) right established before the date of the call for the election.

Acres of land not irrigated during the relevant five-year time period may be irrigated if a substantial capital investment (SCI) has been made to bring the land into irrigation within a particular window time. SCI is discussed below at Question No. 7.

▼ 5. Q: If An AMA Is Designated, Who Would Be Allowed To Withdraw Groundwater?

A: Within an AMA, a person may withdraw groundwater from a well having a pump with a maximum capacity greater than 35 gallons per minute ("non-exempt well") only if the person holds a right or permit to withdraw the groundwater.

Generally, a person may withdraw groundwater for a non-irrigation use from a well having a pump with a maximum pump capacity of 35 gallons per minute or less ("exempt well") without a right or permit. However, there are some limitations on the use of exempt wells within AMAs. Some of these limitations include:

- Only one exempt well may be used to serve the same use at the same location.
- Withdrawals from an exempt well for a commercial purpose are limited to 10 acre-feet per year.

▼ 6. Q: How Does Someone Obtain A Right Or Permit To Withdraw Groundwater If An AMA Is Designated?

A: If an election results in the designation of an AMA, individuals and entities seeking to claim a grandfathered right would be required to apply for a certificate of grandfathered right no later than fifteen months after the date of the designation of the AMA, in accordance with A.R.S. § 45-476.

Grandfathered rights are withdrawal rights based on historic pumping (the five-year period preceding the call for the election or the five-year period preceding the designation of the AMA, depending on the type of right).

The three types of grandfathered rights are:

Irrigation Grandfathered Rights, which allows the holder to irrigate acres of land that had been irrigated within the five-year time period preceding the call for the election. Land without an Irrigation Grandfathered Right may not be irrigated with groundwater. An Irrigation Grandfathered Right may not be sold apart from the associated land.

1. Type 1 Non-Irrigation Grandfathered Rights, which is associated with land permanently retired from farming and converted to a non-irrigation use: e.g., building a new industrial plant or a subdivision. This right, like an Irrigation Grandfathered Right, may be conveyed only with the land. The maximum amount of groundwater that may be pumped each year using a Type 1 right is three acre-feet per acre.
1. Type 2 Non-Irrigation Grandfathered Rights, which can only be used for a non-irrigation purpose. The right is based on historical pumping of groundwater for a non-irrigation use and equals the maximum amount pumped in any one year in the five-year period preceding the designation of the AMA. Examples of non-irrigation uses include industry, livestock watering, and golf courses. Type 2 rights are the most flexible because they may be sold separately from the land or well. In addition, the owner of a Type 2 right may, with ADWR approval, withdraw groundwater from a new location within the same AMA. It is possible to lease a portion of a Type 2 right, but if the right is sold, it may not be divided; instead, the entire right must be sold.

Cities, towns, private water companies and irrigation districts would be required to obtain a service area right to withdraw groundwater for delivery to landowners and residents within their service area.

If an AMA is designated, groundwater withdrawal permits may be obtained through application to ADWR if certain criteria are met. Groundwater withdrawal permits allow pumping in specific circumstances, usually for non-irrigation uses, that are set forth in statute. These permits are for a limited period of time. Examples, include the following:

- Hydrologic testing permits
- Poor quality groundwater withdrawal permits
- Temporary permits for electrical energy generation in emergency situations
- Mineral extraction and metallurgical processing permits
- Drainage and dewatering permits
- General industrial use permits

▼ 7. Q: What Happens If Someone Has Made Investments To Begin Irrigation, But Has Not Started Irrigating Before Restrictions Are In Place?

A: Land that was not irrigated during the five years preceding the call for the election “is deemed to have been in irrigation if substantial capital investment has been made for the subjugation of such land for an irrigation use including on-site irrigation distribution facilities and a well or wells the drilling and construction of which were substantially commenced before the date of the ... call for the election.” A.R.S. § 45-452(G)(1).

Substantial capital investment (SCI) must have been made in the five years preceding the call for the election on whether to designate the AMA. If an AMA is created, property owners who believe they qualify for consideration of SCI may apply to ADWR, and ADWR will evaluate each application on a case-by-case basis.

Examples of documentation previously used by ADWR to make determinations on applications for the consideration of substantial capital investment (SCI) in granting a Notice of Groundwater Authority (“60”) in an INA or Certificate of Grandfathered Groundwater Right (“78”) in an AMA can be found on ADWR’s website [here \(\(ama/information-substantial-capital-investment\)\)](#). These examples are being provided for informational purposes only. Please note that the standard for establishing SCI in statute differs depending on the location of the lands associated with the application. Therefore, some or all of these examples may not be relevant to all applications in a future AMA.

Because the inquiry is very fact-specific, ADWR cannot make SCI findings or provide SCI interpretations prior to the designation of an AMA.

▼ 8. Q: If An AMA Is Designated, Will Groundwater Users Be Required To Meter And Report Groundwater Withdrawals?

A: Within AMAs, with a few narrow exceptions, persons withdrawing groundwater from non-exempt wells (wells having a maximum pump capacity greater than 35 gallons per minute) are required to measure their groundwater withdrawals with a measuring device and method that is approved by ADWR and must report the groundwater withdrawals to ADWR.

Persons withdrawing groundwater from exempt wells (wells having a pump with a maximum pump capacity of 35 gallons per minute or less) generally are not required to measure and report the groundwater withdrawals.

▼ 9. Q: If An AMA Is Designated, Will Persons Who Withdraw Groundwater Be Required To Pay A Withdrawal Fee?/H6>

A: Under the current statutes, there is no requirement for persons withdrawing groundwater in a subsequent AMA (an AMA formed after 1980) to pay a groundwater withdrawal fee.

▼ 10. Q: If An AMA Is Designated, How Will The Management Goal And Management Plan Be Established?

A: If a new AMA were designated by election, the Director of ADWR would propose a management goal for the AMA and the number of years in which the goal is to be achieved. A.R.S. § 45-569(A).

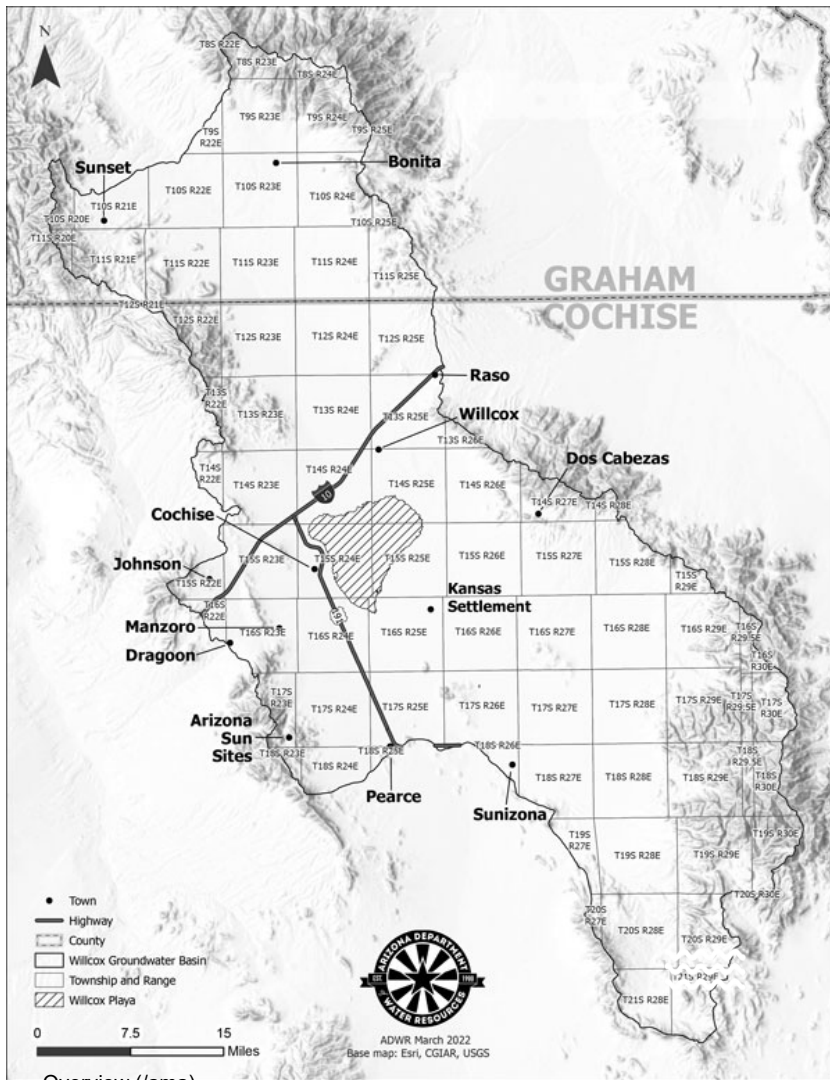
The Director of ADWR would be required to promulgate an initial management plan for the AMA not later than two years after the designation of the AMA. The Director may provide for subsequent management plans to be promulgated during the time set for achieving the management goal. A.R.S. § 45-569(B).

Prior to adopting the management goal and the management plan, the Director would appoint an area director for the AMA, and the Governor would appoint members to a groundwater users advisory council (GUAC) for the AMA. The GUAC would consist of five members chosen to represent users of groundwater in the AMA on the basis of their knowledge of, interest in and experience with problems relating to the development, use and conservation of water. The area director and the GUAC would provide input to the Director regarding the proposed management goal and management plans. A.R.S. § 45-421(1).

Additionally, prior to adopting a management plan, the Director would conduct a public hearing on the proposed goal and proposed management plan in accordance with A.R.S. § 45-570. Local residents would have an opportunity to provide oral or document evidence for or against the adoption of the management plan, including the management goal.

▼ 11. Q: If An AMA Is Designated, How Will Water Duties Be Determined?

A: Within AMAs, the calculation of water duties is made, at least in part, with reference to requirements contained in the management plans for the AMAs. Because ADWR would adopt management plans in accordance with the process described in response to Question No. 10 above, ADWR cannot provide information about how water duties would be determined at this time.



Overview (/ama)

Phoenix AMA (/ama/phoenix)

Pinal AMA (/ama/pinal)

Prescott AMA (/ama/prescott)

Santa Cruz AMA (/ama/santa-cruz)

Tucson AMA (/ama/tucson)

Douglas AMA Election

Petition FAQs (/ama/faqs-douglas-ama)

Willcox AMA Election

Petition FAQs (/ama/faqs-willcox-ama)

Online Annual Reports (/ama/online-annual-reporting)

AMA Conservation (/ama/ama-conservation)

AMA Data (<https://new.azwater.gov/ama/ama-data>)

AMA Queries and Reports (<http://infoshare.azwater.gov/docushare/dsweb/View/Collection-90>)

BMP Advisory Committee Meetings (/ama/bmp/meetings) (<http://infoshare.azwater.gov/docushare/dsweb/View/Collection-90>)

Groundwater Rights Map (<https://azwatermaps.azwater.gov/igfr>)

GUAC Meetings (/ama/guac/meetings)

Management Plans (/ama/management-plans)

Agricultural Program (/ama/agriculture-program)

