

ARIZONA DEPARTMENT OF WATER RESOURCES

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FIFE SYMINGTON
Governor

RITA P. PEARSON
Director

September 29, 1993

William P. Sullivan
Martinez & Curtis, P.C.
2712 North 7th Street
Phoenix, Arizona 85006-1003

Dear Mr. Sullivan:

This letter is the Department's response to your July 19, 1993 and August 10, 1993 letters regarding water supply adequacy for the Sierra Vista area. You expressed an opinion that the Department appeared to be inconsistent in its policy in Sierra Vista when compared to other areas of the state.

In a letter to you dated July 29, 1993, I indicated that we believe we have had a consistent policy statewide but because of the recent Arizona Supreme Court decision, we would revisit the matter as it relates to the Sierra Vista area.

The Department has reevaluated the situation regarding the legal availability of groundwater supplies in the Upper San Pedro basin. This reevaluation has led us to conclude that the cloud of uncertainty regarding the rights of groundwater pumpers in the basin has been lifted sufficiently to allow a finding that water supplies for future subdivisions are legally available.

In 1984, when the Department first expressed uncertainty about the legal availability of groundwater in the San Pedro basin, the situation was different. Pumping for agricultural purposes was continuing adjacent to the river and there were plans for large scale development in the area. Today, most of the agricultural uses have been retired and the focus of development appears to be concentrated in the Sierra Vista/Ft. Huachuca area.

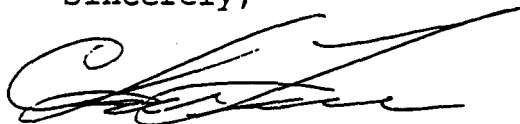
Current groundwater modeling studies indicate that with continued pumping at the current rate of withdrawal for 100 years, the cone of depression in the groundwater aquifer will not directly or appreciably affect the San Pedro River. While the criteria to interpret the recent Arizona Supreme Court decision is not in place, we currently believe that groundwater pumped in the Sierra Vista/Ft. Huachuca area is not appropriable surface water.

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There still remains uncertainty related to the adjudication of groundwater uses that may impact federal reserved rights. The Arizona Supreme Court still must decide this issue. Until the Court decides this issue, a decision that there is an inadequate supply of groundwater available for subdivisions because of the impact of federal reserved rights would be speculation on our part.

Each future request for a statement of adequacy will be evaluated on the proposed source of supply, the quality of the supply, the amount needed and the current uses of groundwater in the area. New groundwater models are being developed for the area. Also, the courts will be making decisions that relate to future uses. As conditions and laws change, we may have to reconsider the adequacy issue once again.

Sincerely,



C. Laurence Linser
Deputy Director
Engineering & Adjudications

CLL/jlc

cc: Roy Tanney