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Talk of the Town: Arizona water law needs fixin'

By Gary Beverly
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Arizona water law rests on a foundation of state and federal court decisions dating from before statehood, the 1980 Groundwater Management Act (GMA), and the 1993 Groundwater Transportation Act. Together, these laws and decisions guide the use of our state water resources: surface water, groundwater, and effluent. Although the GMA was initially recognized as the most progressive groundwater law in the western United States, after 31 years many flaws are apparent - too many for one essay to explore. Lets start with groundwater.

Within the five Active Management Areas (AMA), groundwater use receives greater regulation, but 87 percent of Arizona is not in an AMA. Outside of an AMA, "beneficial use" rules apply; a property owner does not own groundwater but does have the right to pump groundwater for beneficial uses on that property with no quantity limit. There is no consideration of how that pumping might influence neighboring wells or natural seeps, springs, lakes, or rivers. Inadequate control of non-AMA groundwater is now threatening valuable natural resources statewide.

Tusayan is the gateway community to the south rim of Grand Canyon National Park. An Italian developer, the Stilo Group, has joined with the local helicopter tour company to develop a large destination resort with hundreds of homes, over three million square feet of commercial space, five-star hotels, spas, and a dude ranch on three private parcels surrounded by Kaibab National Forest, which borders the national park. A decade ago Coconino County voted to stop the development. Now the Stilo Group is trying again after financing the incorporation of the Town of Tusayan and employing the Town Council. Stilo hasn't described its water source, but using groundwater is legally possible. Arizona water law would allow 3,000-foot deep wells to diminish both the springs in the Grand Canyon and the water supply for the Havasupai tribe. Arizona water law does not consider neighboring effects, thereby endangering the crown jewel of the national park system and the Havasupai tribe.

A few miles north of Camp Verde, Montezuma's Well National Monument is a limestone sinkhole filled with a spring-fed lake that drains into Wet Beaver Creek. Humans have lived in this desert oasis, a spiritual site for the Yavapai-Apache Nation, for more than 11,000 years. To supply water for the neighboring community of Rimrock, a private water company has drilled a deep well only 300 feet from the Monument boundary. The National Park Service, the tribe, and many others have strong and justifiable concerns that the well will diminish the flow of water to this ancient site. Again, state water law permits damaging a national monument and threatening the spiritual values of local tribes.

The Verde and San Pedro rivers are the lengthiest surviving rivers in Arizona. Both have tremendous ecological value to the Southwest. Both are now diminished by groundwater overdrafts on the aquifers that provide the baseflow. Neither aquifer is in an AMA. In each case, Arizona water law permits new wells despite the certain eventual result: drying up these rivers.

Friends of the San Pedro River used a 2007 USGS groundwater model to foresee that river's future. Using a projected water use scenario, the model predicts that the San Pedro will be dry in a century.

Groundwater from the Big Chino subbasin emerges at Verde Springs, supplying more than 80 percent of the 17,700 acre-feet/year baseflow of the upper Verde River. Verde Springs is the only water source for the next 25 river miles. Arizona water law now permits 18,000 acre-feet/year to be transferred out of the subbasin for use by the tri-cities, enough to severely diminish the upper Verde. Worse, this is a fraction of the likely future groundwater demand. The science tells us that unmitigated groundwater pumping in the Big Chino will eventually reduce the upper Verde River to a dry wash and reduce streamflow in the Verde Valley. The only question is when, not if.

Arizona water law now permits and facilitates these unfolding threats to our magnificent natural resources by failing to recognize that groundwater and surface water are connected, by failing to manage non-AMA groundwater, and by failing to respect the rights of neighboring property owners.

We love our Arizona landscape. Our legislators need to ensure that our natural water resources survive for our children to enjoy. Tell your legislators: Fix these laws!

Please submit your comments and questions to info@cwagaz.org.

[University of Arizona](#) professor Connie Woodhouse will discuss "Tree-Ring Reconstructions of Southwestern Climate: Lessons from the Past with Implications for the Future" at the March 10 CWAG meeting. Details at www.cwagaz.org.

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