

ARIZONA DEPARTMENT OF WATER RESOURCES
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February 25, 2008

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Dear Directors:

I am writing in response to various news articles and public statements made by individuals regarding Empirita Water Company's application for modification of the Designation of Adequate Water Supply. Over the past six months there has been an unfortunate focus on a statement made in an ADWR staff memo (modified August 28, 2006) regarding possible impacts to approximately 75 wells in the area where this application was made. Specifically, the statement was made by ADWR Hydrologist, Andy Kurtz, that, "Impacts to the domestic wells (upwards of 75 wells) found in the vicinity (about 1 mile) of the Empirita Water Company will likely experience large impacts due to declines in the groundwater table. Many deep wells will probably need to be deepened, or will go dry". As you may be aware this statement has generated considerable controversy and concern, and I am writing to clear up any questions that the Planning and Zoning Commissions of Pima and Cochise County, or the Arizona Corporation Commission may have related to the statement.

To preface my comments, I feel it is important to set the record straight that Andy Kurtz is considered by me, his supervisors and co-workers, to be a well-qualified and highly respected hydrologist in the Department of Water Resources. It is also important to let you know that the Department stands behind its analysis for the Empirita Water Company. However, with that said, I must acknowledge that the statements made concerning the potential impacts to nearby domestic wells are not criteria that can be considered for an application for Adequate Water Supply and should not have been included in the staff memo regarding the physical availability of the groundwater supply for this application.

I think it is important to note that the observation that the wells in the area may need to be deepened was based on many factors that staff has considered and discussed with interested individuals, but unfortunately this information has not been conveyed to the public, which is the purpose of this letter. These factors included the combined, projected withdrawal of groundwater in the area from previously approved sub-divisions and the applicant's planned withdrawals. Additionally, the observation that nearby domestic wells may need to be deepened also took into consideration the on-going regional decline of groundwater levels caused by current pumping. Considering the projected effects of all current and proposed future pumping in the area, over a 100-year projection period, in relation to the current depths to water and total depths of nearby wells led to the opinion that nearby domestic wells may need to be deepened. However, it is important to state that this opinion was not based on a formal analysis of well impacts at locations of the nearby domestic wells. More importantly, the observation is clearly based on the assumption that future impacts to nearby wells will be caused by the combined effects of all pumping in the area, not just the pumping of Empirita Water Company.

The Department has attempted to convey the same message to all individuals and community leaders in regards to this matter. The Department follows a strict procedure when analyzing applications for Assured or Adequate Water Supply. Every applicant is required to demonstrate that water of adequate quality is physically, continuously, and legally availability for 100 years. Every applicant must also demonstrate the financial capability to deliver the water. For applicants proposing to use groundwater, the Department reviews the physical availability of groundwater only on the basis of depth of water below land surface. In the case of areas located outside of the Active Management Areas, the depth limitation is generally 1200 feet below land surface (unless the applicant requests a consideration of a deeper level and that is usually only allowed in the regional aquifer system of the northeastern part of the state). In some areas, the aquifer may not extend to 1200 feet below land surface. In these areas, the depth limitation is restricted to the depth of the aquifer. In order to determine the physical availability, the Department must first consider the demands in the area. This includes the 100-year water demand for the application plus the existing water demands in the area including the demands of existing subdivisions and other water uses (not just residential) as well as known demands of future subdivisions that have been previously approved. Putting all this together, the Department then identifies only whether or not the pumping of the proposed application will be above the depth limitation after 100 years. As you may be aware, under existing State law if the Department determines that there is an inadequate water supply for the applicant, the lands may still be subdivided and offered for sale. The developer must advise the first home buyer of the Department's determination of an inadequate water supply. There is also a possibility that in a situation where the Department issues an adequate or inadequate water supply, that other wells in the area may be negatively impacted. However, the Department has no authority to consider impacts to other wells that do not reach the depth limitation when making the determination of water supply adequacy or inadequacy.

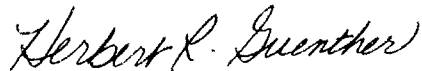
I understand that there has been a lot of misunderstanding that has resulted from the statement in the staff memo and I feel it is important to make you aware of the facts surrounding the review of the application for the Empirita Water Company. The results of the physical availability study that was submitted on behalf of this application demonstrated that there is a

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100-year water supply physically available for the Empirita Water Company. That is the only conclusion that can be made at this time based on the information provided to the Department. If you or the members of the Commission have any questions regarding the hydrologic study and review or need technical assistance or review of the hydrologic conditions for this applicant, please call our Chief Hydrologist, Frank Corkhill, at 602-771-8537.

Sincerely,



Herbert R. Guenther *c*

HRG:TGC:ckl

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