

FILED

JUL 18 2023

AMY J. HUNLEY
CLERK OF SUPERIOR COURT
BY: _____

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**IN THE COCHISE COUNTY SUPERIOR COURT
FOR THE STATE OF ARIZONA**

CV202300434

12 ASHLEY DAHLKE, MICHAEL
13 GREGORY, ALICE HAMERS, and the
14 ENVIRONMENTAL DEFENSE
15 ACTION FUND, a nonprofit
16 organization;

17 Plaintiffs,

18 v.

19 DAVID STEVENS, in his capacity as
20 county recorder; BOB
21 BARTELSMEYER, in his capacity as
elections director; TOM CROSBY, in his
capacity as county supervisor; ANN
ENGLISH, in her capacity as county
supervisor; PEGGY JUDD, in her
capacity as county supervisor;

Defendants,

SAVE OUR WATER, an Arizona
political committee,

Real Party in Interest.

Case No. _____

**VERIFIED SPECIAL ACTION
COMPLAINT**

(Special Action Petition for Declaratory
and Injunctive Relief Enjoining the
Placement of IN-2023-01 on the Ballot
per A.R.S. §§ 19-122(C), 12-1801, 12-
1831, and 12-2021)

1 For their Verified Special Action Complaint, Plaintiffs allege as follows:

2 **PRELIMINARY STATEMENT**

3 1. This is a challenge to the determination that IN-2023-01 has qualified to be
4 placed before the voters of the newly created Douglas Active Management Area.

5 2. There are numerous deficiencies on the face of the petition forms and the
6 accompanying title and text sufficient to disqualify every signature gathered in support of the
7 measure.

8 3. Furthermore, the 200-word description is defective because it claims that an
9 active management area can be de-certified by citizen initiative, when it cannot be.

10 4. Finally, the filing officer permitted Save Our Water to submit its signatures in
11 multiple batches, which is prohibited, and based on the signatures initially presented to the
12 filing officer, the measure fails.

13 5. Initiative proponents failed to submit sufficient valid signatures to place IN-
14 2023-01 before the Douglas Active Management Area voters.

15 **JURISDICTION**

16 6. This Court has jurisdiction over this action pursuant to Article VI, § 14 of the
17 Arizona Constitution, and A.R.S. §§ 19-122(C), 12-1801, 12-1831, and 12-2021.

18 7. This Complaint raises a special action pursuant to the Arizona Rules of
19 Procedure for Special Actions, the forebearer to which (writ of mandamus) was authorized to
20 be heard by this Court, pursuant to Article VI, Sec. 18 of the Arizona Constitution and
21 A.R.S. 12-2021.

1 8. Special Action is appropriate because there is no equally plain, speedy, and
2 adequate remedy for the Plaintiff. Ariz. R. Special Action 1(a).

3 9. Special Action is appropriate because A.R.S. § 19-122 specifically authorizes a
4 writ of mandamus to contest the validity of an initiative based on the actions of the filing
5 officer or noncompliance with Chapter 1 of Title 19. Ariz. R. Special Action 1(b).

6 10. Special Action is appropriate because Plaintiff seeks an order from this Court
7 that Defendants perform a duty which the law specially imposes as a duty on Defendants;
8 which Defendants have thus far failed to perform; and about which Defendant has no
9 discretion. Ariz. R. Special Action 3(a).

10 11. Plaintiffs seek injunctive relief, which is authorized by A.R.S. § 12-1801.

11 12. Plaintiffs seek declaratory relief, which is authorized by A.R.S. § 12-1831.

12 13. The provisions of A.R.S. § 12-821.01 do not apply to this action, as Plaintiff
13 raises no claim for monetary damages against Defendants.

14 14. Venue is proper pursuant to A.R.S. § 12-401 and Ariz. R. Special Action 4(b)
15 because all Defendants reside in Cochise County and the officers against whom Plaintiffs
16 seek a Special Action order are in Cochise County.

17 15. Venue lies in Cochise County pursuant to A.R.S. §§ 12-401 and 19-121.03.

18 **PARTIES**

19 16. Plaintiff Ashley Dahlke is a qualified elector and registered voter residing in
20 Cochise County, Arizona and within the boundaries of the Douglas Active Management
21 Area that was designated by local voters in November 2022.

1 17. Plaintiff Michael Gregory is a qualified elector and registered voter residing in
2 Cochise County, Arizona and within the boundaries of the Douglas Active Management
3 Area that was designated by local voters in November 2022.

4 18. Plaintiff Alice Hamers is a qualified elector and registered voter residing in
5 Cochise County, Arizona and within the boundaries of the Douglas Active Management
6 Area that was designated by local voters in November 2022.

7 19. Plaintiff Environmental Defense Action Fund, Inc. (hereafter “EDF Action”) is
8 a nonprofit corporation with tax-exempt status pursuant to Section 501(c)(4) of the Internal
9 Revenue Code.

10 20. EDF Action builds transformative political power to help protect our
11 environment and the health of American families, including Arizona families where it
12 represents 1,117 members throughout the State.

13 21. Defendant Bob Bartelsmeyer is the current Elections Director of Cochise
14 County and served as the county elections director during all relevant times.

15 22. Defendant Bartelsmeyer is the “county officer in charge of elections” for
16 purposes of A.R.S. §19-141.

17 23. Defendant Bartelsmeyer is the “county election officer” for purposes of
18 A.R.S. § 45-415(B).

19 24. Defendant Bartelsmeyer is the filing officer in Cochise County for initiative
20 petitions filed pursuant A.R.S. § 45-415.
21

1 25. Pursuant to A.R.S. §§ 19-141 and 19-121.01, Defendant Bartelsmeyer has
2 certain statutory duties as it relates to processing initiative petitions.

3 26. Specifically, Defendant Bartelsmeyer is required to review petition sheets
4 turned into him by proponents of an initiative. He is required to treat as invalid any sheet that
5 meets any one of the criteria listed in A.R.S. § 19-121.01(A)(1). Additionally, he is required
6 to treat as invalid any individual signature that meets any one of the criteria listed in A.R.S. §
7 19-121.01(A)(3).

8 27. After having performed the tasks described in the paragraph above related to
9 initiative petitions, Defendant Bartelsmeyer is required to transmit a random sample of the
10 remaining signatures to the County Recorder for a more thorough review.

11 28. Defendant Bartelsmeyer is sued in his official capacity.

12 29. Defendant David Stevens is the current County Recorder of Cochise County
13 and served as the County Recorder during all relevant times.

14 30. Pursuant to A.R.S. §§ 19-121.01(D) and 19-121.02, Defendant Stevens has the
15 statutory duty to verify a random sample of signatures received from the county elections
16 director and to communicate the results to the county elections director.

17 31. Defendant Stevens is sued in his official capacity.

18 32. Defendant Tom Crosby is one of three duly-elected members of the Cochise
19 County Board of Supervisors.

20 33. Defendant Ann English is one of three duly-elected members of the Cochise
21 County Board of Supervisors.

1 34. Defendant Peggy Judd is one of three duly-elected members of the Cochise
2 County Board of Supervisors.

3 35. Defendants Crosby, English, and Judd are each sued in their official capacities.

4 36. Collectively, Defendants Crosby, English, and Judd (acting as a body) exercise
5 both the legislative and executive powers of Cochise County. *See* Article XII, Section 3 of
6 the Arizona Constitution; *see also* A.R.S. § 11-201.

7 37. Pursuant to A.R.S. § 11-251, Defendants Crosby, English, and Judd (acting as
8 a body) are responsible to “supervise the official conduct of all county officers,” including
9 that of the County Recorder. *See, e.g., United States v. Maricopa County*, 151 F. Supp. 3d
10 998, 1015 (D. Ariz. 2015), *aff’d*, 889 F.3d 648 (9th Cir. 2018); *see also Fridena v. Maricopa*
11 *Cnty.*, 504 P.2d 58, 61 (1972).

12 38. Defendants Crosby, English, and Judd (acting as a body) are responsible for
13 the conduct of elections within Cochise County. In April 2023, Defendants Crosby, English,
14 and Judd delegated that authority to Defendant Bartelsmeyer. Despite their decision to
15 delegate that authority, the Board of Supervisors retains the legal duty to ensure that the
16 county’s obligations under Title 19, A.R.S., are properly discharged.

17 39. Real-Party-in-Interest Save Our Water (the “Committee”) is a political
18 committee and unincorporated association that filed its statement of organization with the
19 Cochise County Elections Department on April 25, 2023.

1 **GENERAL ALLEGATIONS**

2 40. In 1980, the legislature enacted a broad set of restrictions on groundwater
3 pumping. Known as the Groundwater Management Act of 1980, the law established three
4 levels of groundwater management throughout the state.

5 41. The lowest level of management includes general provisions that apply
6 statewide. These least onerous regulations apply to those geographic areas that have not been
7 flagged as requiring heightened conservation.

8 42. The intermediate level of management applies to geographic areas of the state
9 designated as Irrigation Non-Expansion Areas (“INA”). Within the boundaries of an INA,
10 state law requires farmers and ranchers to monitor their groundwater pumping, report their
11 pumping to the state agency, and limit how much acreage they actively irrigate. A.R.S. §§
12 45-434 & 45-437. However, state law imposes virtually no limitations on residential and
13 industrial uses of groundwater within INAs. For this reason, INA is widely regarded as an
14 intermediate level of groundwater regulation.

15 43. The highest and most stringent level of management applies to geographic
16 areas of the state designated as Active Management Areas (“AMA”). Within an AMA, the
17 state’s long-term objective is to work toward “safe yield” – groundwater pumping that
18 matches or is less than the rate of water replenishment. To achieve this objective, the state
19 imposes a wide range of groundwater regulations within AMAs that do not exist within
20 INAs.

1 44. In enacting the original Groundwater Management Act of 1980, the legislature
2 established several INAs and AMAs. Known as “initial” INAs and “initial” AMAs, their
3 boundaries are described directly in the statute. *See, e.g.*, A.R.S. §§ 45-411 and 45-431.

4 45. The legislature left the door open for additional INAs and AMAs to be created
5 at future times. Indeed, the legislature in 1980 established methods for new INAs and AMAs
6 to be designated absent future legislative action. Aside from future action by the legislature,
7 there are two ways that a new INA or AMA can be established. One method is initiated by
8 the Director of the Department of Water Resources (“ADWR”). The second method is the
9 subject of this lawsuit: through citizen initiation.

10 46. Any INA or AMA designated after 1980 is referred to as a “subsequent” INA
11 or “subsequent” AMA.

12 47. From 1980 to 2022, Cochise County had one INA – the Douglas Irrigation
13 Non-Expansion Area. From 1980 to 2022, there was no AMA located within the Cochise
14 County boundaries.

15 48. The Douglas INA encompassed an area along State Route 191, encompassing
16 the incorporated town of Douglas as well as the unincorporated communities of McNeal and
17 Elfrida.

18 49. In 2022, local community members launched an initiative petition intended to
19 designate a portion of Cochise County as an active management area. In July 2022,
20 proponents turned in sufficient numbers of signatures to qualify the measure for the ballot.
21 Known as Proposition 422, the measure asked voters to decide whether to establish the

1 Douglas AMA, which includes the entire Douglas Groundwater Basin, and substantially
2 overlaps with the already-existing INA.

3 50. In November 2022, voters approved Proposition 422. The newly-recognized
4 Douglas Active Management Area now exists and ADWR is currently drafting regulations
5 for the Douglas AMA.

6 51. The Douglas AMA overlaps geographically with the area that previously lay
7 within the Douglas INA. In fact, the Douglas INA was geographically subsumed by the new
8 Douglas AMA. Put differently, no portion of the Douglas INA was situated outside the
9 boundaries of the new Douglas AMA.

10 52. Upon approval of Proposition 422, the Douglas INA effectively ceased to
11 exist. This is because, under Title 45, an active management area contains more restrictive
12 water conservation requirements than an INA. A.R.S. § 45-402(2), (22). The two cannot co-
13 exist in the same geographic space.

14 53. The legislature intended that a given groundwater basin belong to either an
15 active management area or an irrigation non-expansion area, but not both. *Compare* A.R.S. §
16 45-411 *et seq.* (Article 2) and A.R.S. § 45-431 *et seq.* (Article 3).

17 54. In April 2023, the Committee organized itself in Cochise County.

18 55. On May 8, 2023, Defendant Bartelsmeyer issued to the Committee a petition
19 serial number, which authorized them to circulate petition sheets seeking to place an item on
20 the ballot. The Committee described its ballot initiative as seeking to “de-establish the
21

1 Douglas Active Management Area and restore the Douglas Irrigation Non-Expansion Area.”

2 *See Exhibit A.*

3 56. On July 6, 2023, at 3:15 p.m., the Committee submitted to Defendant
4 Bartelsmeyer 634 signatures contained on 52 petition sheets. *See Exhibit B.*

5 57. On July 7, 2023, at 11:50 a.m., the Committee supplemented its original
6 submission with 1,483 signatures contained on 123 petition sheets. *See Exhibit B.*

7 58. Defendant Bartelsmeyer accepted the supplemental signatures.

8 59. Defendant Bartelsmeyer promptly reviewed and determined that, based on the
9 criteria found in A.R.S. § 19-121.01, none of the signatures were invalid.

10 60. A random 5% sample of 106 signatures was generated.

11 61. The County Recorder performed the checks required by A.R.S. § 19-121.02,
12 determining that there was a 21.7% invalidity rate.

13 62. Applying the invalidity rate to the initial submission plus the supplemental
14 submission led the filing officer to conclude that 1,658 signatures, which exceeded the
15 threshold of 1,310 signatures, had been turned in.

16 **COUNT I**
17 **Illegal Supplemental Submission**

18 63. The allegations above are incorporated by reference in this Count.

19 64. Pursuant to A.R.S. § 19-121(B), “For the purposes of this chapter, a petition
20 is filed when the petition sheets are tendered to the [filing officer], who shall issue a receipt
21 based on an estimate made to the [filing office] of the purported number of sheets and

1 signatures filed. A receipt may be electronically issued. After the issuance of the receipt, no
2 additional petition sheets may be accepted for filing.”

3 65. By the Committee’s own representation, the initial batch of petitions tendered
4 to the filing officer in this case contained no more than 634 signatures.

5 66. Thus, the Committee turned in less than the necessary 1,310 signatures and
6 the measure may not be placed on the ballot.

7 **COUNT II**
8 **Deficient Affidavit of Petition Signers**

9 67. Plaintiff incorporates all allegations contained above as if fully set forth
10 herein.

11 68. Pursuant to A.R.S. § 45-415, “[t]he form of the petition shall be the same as
12 for initiative petitions.”

13 69. Pursuant to Art. 4, pt. 1, § 1(9) of the Arizona Constitution every initiative
14 petition sheet must “contain the declaration of each petitioner, for himself, that he is a
15 qualified elector of the state (and in the case of petitions for or on city, town or county
16 measures, of the city, town or county affected).”

17 70. A.R.S. § 19-102 largely tracks the language from the Constitution providing:

18 We, the undersigned, citizens and qualified electors of the state of
19 Arizona, respectfully demand that the following proposed law (or amendment to
20 the constitution, or other initiative measure), shall be submitted to the qualified
21 electors of the state of Arizona (county, city or town of _____) for their
approval or rejection at the next regular general election (or county, city or town
election) and each for himself says: (terminate form same as a referendum
petition.)

1 71. Petition signers are thus swearing to the content of this section of the petition
2 sheet.

3 72. In the instant case, petition signers must be qualified electors of the Douglas
4 Groundwater Basin, the geographic boundary that encloses the Douglas AMA.

5 73. However, every petition circulated by the Committee asked signers to swear,
6 “I am a qualified elector of the state of Arizona, county of Cochise.” *See* Exhibit C. Much of
7 Cochise County is outside of the Douglas Groundwater Basin.

8 74. The petition signers’ affidavits, therefore, failed to state, as both Art. 4, pt. 1, §
9 1(9) and A.R.S. § 19–102 specifically require, that they were a qualified elector of the
10 affected area, the Douglas Groundwater Basin.

11 75. This cannot be remedied after the fact by demonstrating that the signers are or
12 are not residents of the Douglas Groundwater Basin. *W. Devcor, Inc. v. City of Scottsdale*,
13 168 Ariz. 426, 432 (1991).

14 76. Because none of the petitions’ signers swore that they were qualified electors
15 of the Douglas Groundwater Basin or the Douglas AMA, no collected signatures were valid.

16 77. Thus, the total number of valid signatures was less than the 1,310 required.
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1 **COUNT III**
2 **Deficient Affidavit of Petition Circulators**

3 78. Plaintiff incorporates all allegations contained above as if fully set forth
4 herein.

5 79. Pursuant to A.R.S. § 45-415, “[t]he form of the petition shall be the same as
6 for initiative petitions.”

7 80. Pursuant to Art. 4, pt. 1, § 1(9) of the Arizona Constitution “every such petition
8 containing signatures shall be verified by the affidavit of the person who circulated said sheet
9 or petition, setting forth that each of the names on said sheet was signed in the presence of
10 the affiant and that in the belief of the affiant each signer was a qualified elector of the state,
11 or in the case of a city, town or county measure, of the city, town or county affected by the
12 measure so proposed to be initiated or referred to the people.”

13 81. A.R.S. § 19-112 largely tracks the language from the Constitution providing
14 that the circulator’s affidavit must include, “I believe that each signer's name and residence
15 address or post office address are correctly stated and that each signer is a qualified elector of
16 the state of Arizona (or in the case of a city, town or county measure, of the city, town or
17 county affected by the measure proposed to be initiated or referred to the people).”

18 82. Petition circulators swear to the content of this section of the petition sheet.

19 83. In the instant case, circulators must believe that signers are qualified electors
20 of the Douglas Groundwater Basin.
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1 84. However, every petition circulated by the Committee asked circulators to
2 swear, “I believe that each signer’s name and residence address or post office address are
3 correctly stated and that each signer is a qualified elector of the state of Arizona.” See
4 Exhibit C.

5 85. The circulators’ affidavits, therefore, failed to state, as both Art. 4, pt. 1, § 1(9)
6 and A.R.S. § 19–112(B) specifically require, that they believed signers were a qualified
7 elector of *the Douglas Groundwater Basin*.

8 86. Indeed, the circulators were not even checking for the right city, town or
9 county affected by the measure, but for the entire State, which was precisely the basis for
10 invalidating signatures in *Western Devcor*.

11 87. This cannot be remedied after the fact by demonstrating that the signers are or
12 are not residents of the Douglas Groundwater Basin. *W. Devcor, Inc.*, 168 Ariz. 426, 432.

13 88. Because none of the petitions’ signers swore that they were qualified electors
14 of the Douglas Groundwater Basin, no collected signatures were valid.

15 89. Thus, the total number of valid signatures was less than the 1,310 required.

16 **COUNT IV**
17 **200-word Description – Not Official Version**

18 90. Plaintiff incorporates all allegations contained above as if fully set forth
19 herein.

20 91. Pursuant to A.R.S. § 45-415, “[t] he form of the petition shall be the same as
21 for initiative petitions, and the applicant for the petition shall comply with § 19-111.”

1 92. Under A.R.S § 19-111(A), on the form provided to the filing officer certain
2 information must be included.

3 93. This information must be *on* the form, not attached to it. *See Comm. for Pres.*
4 *of Established Neighborhoods v. Riffel*, 213 Ariz. 247, 249 (App. 2006) (holding that
5 attaching a description to petitions did not constitute inserting the description on the petition
6 form as required by Title 19).

7 94. In addition to other information required to be on the application for serial
8 number, the applicant must provide, “a description of not more than two hundred words of
9 the principal provisions of the proposed law, constitutional amendment or measure.” A.R.S §
10 19-111(A).

11 95. The 200-word description of this measure is as follows: DE-ESTABLISH THE
12 DOUGLAS ACTIVE MANAGEMENT AREA AND RESTORE THE DOUGLAS
13 IRRIGATION NON-EXPANSION AREA. This initiative intends to repeal Proposition 422
14 as approved on November 8, 2022, by electors residing within the DOUGLAS
15 ACTIVEMANAGEMENT AREA (AMA) in Cochise County, Arizona. Pursuant to
16 ARIZONA REVISED STATUTE TITLE 45, SECTION 45-415, Proposition 422 established
17 the DOUGLAS AMA. This initiative intends to de-establish the DOUGLAS AMA and
18 restore the DOUGLAS IRRIGATION

19 96. Here is a clip of the application itself.
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1 DE-ESTABLISH THE DOUGLAS ACTIVE MANAGEMENT AREA AND RESTORE THE DOUGLAS
2 IRRIGATION NON-EXPANSION AREA.
3 This initiative intends to repeal Proposition 422 as approved on November 8, 2022, by electors residing
4 within the DOUGLAS ACTIVE MANAGEMENT AREA (AMA) in Cochise County, Arizona. Pursuant to
5 ARIZONA REVISED STATUTE TITLE 45, SECTION 45-415, Proposition 422 established the DOUGLAS
6 AMA. This initiative intends to de-establish the DOUGLAS AMA and restore the DOUGLAS IRRIGATION
7 NON-EXPANSION AREA (NNA).

8 97. Every petition circulated by the Committee contained a different, albeit more
9 complete, 200-word description.

10 98. Because none of the petitions contained the 200-word description provided on
11 the application for serial number, none of the signatures gathered were valid.

12 99. Thus, the total number of valid signatures was less than the 1,310 required.

13 **COUNT V**
14 **Deceptive 200-word Description – Repeal of Initiative**

15 100. Plaintiff incorporates all allegations contained above as if fully set forth
16 herein.

17 101. Pursuant to A.R.S. § 45-415, “[t]he form of the petition shall be the same as
18 for initiative petitions.”

19 102. Pursuant to A.R.S. § 19-102, proponents must insert a 200-word summary of
20 the principal provisions of the measure.

21 103. The summary description provided on IN-2023-01 is deceptive, and therefore,
does not satisfy the requirements of A.R.S. § 19-102.

104. The summary states that the measure will have the effect of repealing
Proposition 422. A proposition is not subject to repeal. There is no authority for one
proposition to repeal another.

1 105. Nor is there is any authority to “de-establish” an AMA by way of local
2 initiative.

3 106. Thus, the measure cannot do what the proponents claimed it would do in the
4 200-word summary.

5 107. Because all of the petitions contained deceptive and misleading 200-word
6 summaries, none of the signatures gathered were valid.

7 108. Thus, the total number of valid signatures was less than the 1,310 required.

8 **Count VI**
9 **Misleading 200-word description – Restoration of the Douglas INA**

10 109. The Committee – in its 200-word description – explains that the proposed
11 initiative petition will “restore” the Douglas INA.

12 110. State statute allows both AMAs and INAs to be created in regions of the state
13 where an “initial” area was not designated by the legislature in 1980. These so-called
14 “subsequent” INAs and AMAs may be created without an enactment by the legislature.

15 111. The legislature provided one set of procedures for the designation of
16 subsequent AMAs and a separate set of procedures for the designation of subsequent INAs.
17 The two sets of procedures are distinct. *Compare* A.R.S. §§ 45-432, 433, & 435 (creation of
18 subsequent irrigation non-expansion areas) *with* A.R.S. §§ 45-412, 413, 414, & 415 (creation
19 of subsequent active management areas).

20 112. Most notably, the legislature created a method by which a groundwater basin
21 can be designated as an active management area “on petition by ten percent of the registered

1 voters residing within the boundaries of the proposed active management area.” A.R.S. § 45-
2 415. The legislature did not create a similar method for the designation of subsequent
3 irrigation non-expansion areas. *See* A.R.S. § 45-433.

4 113. The process for designating a subsequent irrigation non-expansion area shares
5 certain characteristics with the initiative process found in Title 19 and in A.R.S. § 45-415,
6 but it is not a citizen initiative in the true sense.

7 114. Unlike the citizen-led process for designating a subsequent AMA, the citizen-
8 led process for designating a subsequent INA does not require that an election be held.
9 Instead, a subsequent INA may be initiated with the submission of a requisite number of
10 signatures “to the director” of the Department of Water Resources. Unlike A.R.S. § 45-415
11 (applicable to active management areas), the procedure found in A.R.S. § 45-433 provides
12 no role for the county Board of Supervisors and no role for the county elections officer. And
13 with good reason: the citizen-led process for the creation of an INA does not require that any
14 election be held.

15 115. Real-party-in-Interest the Committee seeks to “restore” (i.e., designate) an
16 INA. Real-Party-in-Interest could have achieved this result by following the procedures
17 found in A.R.S. § 45-433. It did not. Consequently, Real-Party-in-Interest should be
18 restrained from seeking to create the Douglas Irrigation Non-Expansion Area by means of
19 A.R.S. § 45-415.
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1 116. Because Real-Party-in-Interest provided a 200-word description advertising
2 that the initiative would achieve a thing that can only be achieved through the distinct
3 procedure found in A.R.S. § 45-433, the description is misleading.

4 **Count VII:**
5 **Facial Deficiency of Title and Text**

6 117. Plaintiff incorporates all allegations contained above as if fully set forth
7 herein.

8 118. Pursuant to A.R.S. § 45-415, “[t]he form of the petition shall be the same as
9 for initiative petitions.”

10 119. Pursuant to A.R.S. § 19-122(B) requires: “The text shall indicate material
11 deleted, if any, by printing the material with a line drawn through the center of the letters of
12 the material and shall indicate material added or new material by printing the letters of the
13 material in capital letters.”

14 120. The title and text attached to the application for serial number and to every
15 petition does not comply with this requirement.

16 121. Specifically, if they are “repealing” Proposition 422, they could have lined out
17 the text of Proposition 422; if they were creating a new district, the new text could have been
18 capitalized; the Committee did not make any effort to comply with this requirement.

19 122. Because none of the petitions were attached to a title and text that complied
20 with A.R.S. § 19-122(B), no collected signatures were valid.

21 123. Thus, the total number of valid signatures was less than the 1,310 required.

1 **DEMAND FOR RELIEF**

2 WHEREFORE, the Plaintiff requests that this Court grant the following relief:

3 A. Accept special action (mandamus) jurisdiction over this matter;

4 B. Make the following findings of fact:

5 1. The Committee failed to strictly comply with the requirements of A.R.S.

6 § § 19-102, and -112, as to the form of the petition and the form of the

7 Title & Text, as such no signatures were validly gathered;

8 2. The Committee’s 200-word description was other than that provided on

9 the application for serial number and was deceptive and misleading, thus

10 the Committee failed to strictly comply with the requirements of A.R.S.

11 § 19-102;

12 3. The Filing Officer wrongly accepted a supplement filing of signature,

13 and based on the initial submission, the Committee failed to submit

14 sufficient signatures for the measure to be placed on the ballot;

15 C. Permanently enjoin Defendants from placing IN-2023-01 on a ballot to be

16 voted on by the voters of the Douglas AMA and/or residents of the Douglas

17 Groundwater Basin;

18 D. Award Plaintiffs costs pursuant to A.R.S. §§ 12-346 and 1840;

19 E. Award Plaintiffs reasonable attorney’s fees pursuant to A.R.S. § 12-2030 and

20 under the private attorney general doctrine enunciated in *Arnold v. Department*

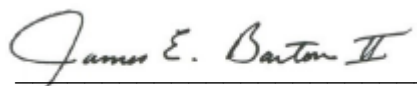
21 *of Health Services*, 160 Ariz. 593 (1989);

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F. Such other relief as the Court deems necessary, equitable, proper, or just.

Respectfully submitted this 18th day of July 2023.

BARTON MENDEZ SOTO PLLC

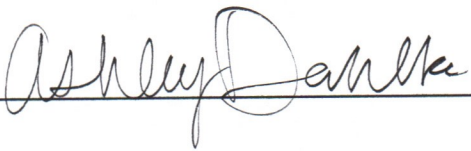


James E. Barton II
Attorney for Plaintiffs/Petitioners

VERIFICATION

I, Ashley Dahlke, a Plaintiff in the foregoing action, have read the foregoing Verified Complaint for Special Action and know the contents thereof by personal knowledge. I know the allegations in the Verified Complaint to be true, except the matters stated therein on information and belief, which I believe to be true.

Executed under penalty of perjury this 18th of July 2023.



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EXHIBIT A



**Cochise County,
STATE OF ARIZONA**
Amended
**Application for Serial Number
Initiative Petition
A.R.S. § 19-111**

FOR OFFICE USE ONLY

RECEIVED

2023 MAY -9 P 2:15

<p>The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight point type, of the measure or constitutional amendment intended to be initiated at the next general election.</p>	<input checked="" type="checkbox"/> Statutory Measure	<input type="checkbox"/> Constitutional Amendment
	Date of Application	<u>5/8/2023</u>
	Signatures Required	<u>1310</u>
	Deadline for Filing	<u>7/7/2023 5:00 P.M.</u>
	Serial Number Issued	<u>IN-2023-1</u>

DE-ESTABLISH THE DOUGLAS ACTIVE MANAGEMENT AREA AND RESTORE THE DOUGLAS IRRIGATION NON-EXPANSION AREA.

This initiative intends to repeal Proposition 422 as approved on November 8, 2022, by electors residing within the DOUGLAS ACTIVE MANAGEMENT AREA (AMA) in Cochise County, Arizona. Pursuant to ARIZONA REVISED STATUTE TITLE 45, SECTION 45-415, Proposition 422 established the DOUGLAS AMA. This initiative intends to de-establish the DOUGLAS AMA and restore the DOUGLAS IRRIGATION NON-EXPANSION AREA (INA).

Ann Waters

Name of Applicant
9133 N. Frontier Road
Address
McNeal AZ 85617
City State Zip
520-642-1594
Telephone Number
clearh2os@gmail.com
E-mail Address

Save Our Water

Committee Name
2023-2
Committee ID No.
Ann Waters
Chairperson
Ann Waters
Treasurer
P.O Box 213
Committee Address
McNeal AZ 85617
City State Zip
520-642-1594
Committee Telephone Number
skybluwater23@gmail.com
Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:

- That I have received and will review the accompanying Instructions for Statewide Initiatives, including the Secretary of State's recommended best practices for printing copies of the Statewide Initiative Petition to be circulated.
- That at the time of filing, I was provided instructions regarding accurate completion of the Statewide Initiative Petition form.

Ann Waters
Applicant Signature

5-9-2023
Date

DE-ESTABLISH THE DOUGLAS ACTIVE MANAGEMENT AREA AND RESTORE THE DOUGLAS IRRIGATION NON-EXPANSION AREA.

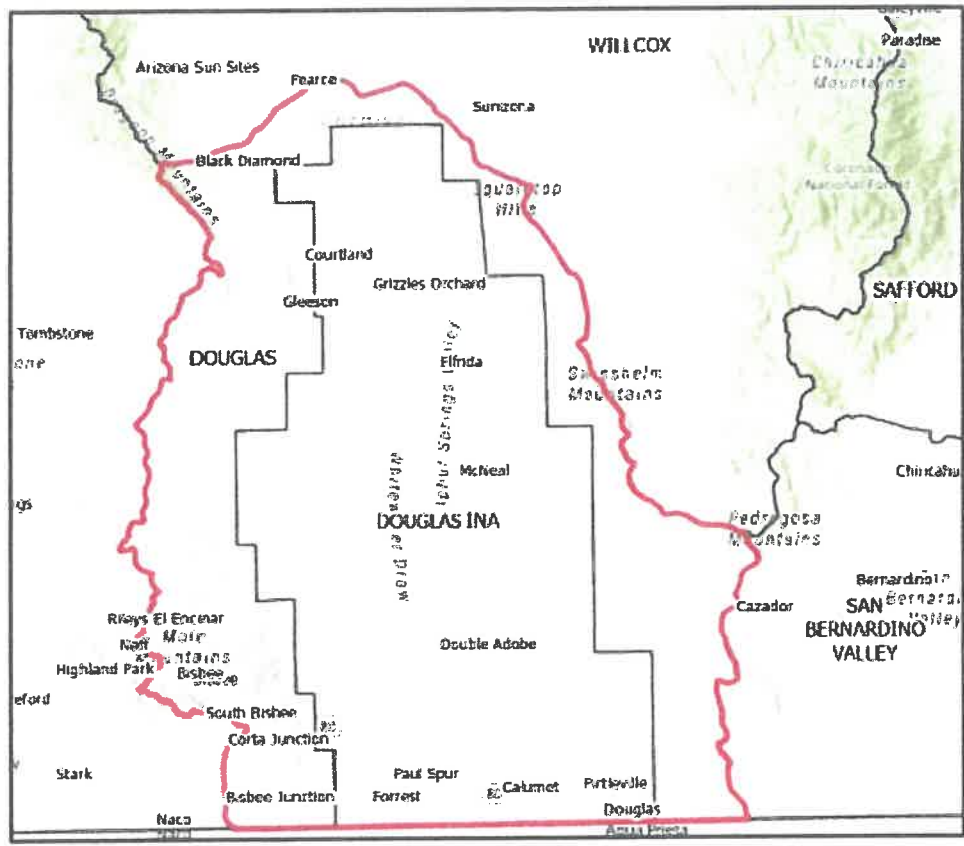
This initiative intends to repeal Proposition 422 as approved on November 8, 2022, by electors residing within the DOUGLAS ACTIVE MANAGEMENT AREA (AMA) in Cochise County, Arizona. Pursuant to ARIZONA REVISED STATUTE TITLE 45, SECTION 45-415, Proposition 422 established the DOUGLAS AMA. This initiative intends to de-establish the DOUGLAS AMA and restore the DOUGLAS IRRIGATION NON-EXPANSION AREA (INA) exactly as it previously existed, including all prior irrigation rights and restrictions against irrigation on unirrigated land as described in the original terms and conditions governing the DOUGLAS INA.

Spanish Translation

DESESTABLECER EL ÁREA DE ADMINISTRACIÓN ACTIVA DE DOUGLAS Y RESTAURAR EL ÁREA DE NO EXPANSIÓN DE RIEGO DE DOUGLAS.

Esta iniciativa tiene la intención de derogar la Proposición 422 aprobada el 8 de noviembre de 2022 por los electores que residen dentro del ÁREA DE ADMINISTRACIÓN ACTIVA (AMA) DE DOUGLAS en el condado de Cochise, Arizona. De conformidad con el ESTATUTO REVISADO DE ARIZONA, TÍTULO 45, SECCIÓN 45-415, la Proposición 422 estableció DOUGLAS

The attached map of the Douglas Groundwater Basin, as prepared by the Director of the Arizona Department of Resources, designates the area of the Douglas Active Management Area (AMA) and also includes the area of the Douglas Irrigation Non-Expansion (INA).



January 5, 2023

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EXHIBIT B



**Cochise County
Elections Department**

Public Programs...Personal Service
www.cochise.az.gov

**Bob Bartelsmeyer
Elections Director**

Initiative Petition Receipt

Date: 7-6-23

Time: 3:15 pm

Received this date from Ann Waters

52 sheet(s) of initiative petitions containing an estimated 634 signatures.

Ann Waters

Received from/Signature

Bob Bartelsmeyer

Received by/Signature



**Cochise County
Elections Department**

Public Programs...Personal Service
www.cochise.az.gov

Bob Bartelsmeyer
Elections Director

Initiative Petition Receipt

Date: 7-7-23

Time: 11:50 am

Received this date from Ruth Cowan, Naomi Velasquez,
Chris Upchurch, Vincent Wheeler

123 sheet(s) of initiative petitions containing an estimated 1483 signatures.

Ruth Evelyn Cowan Naomi Amigdal Velasquez
Chris Upchurch Vincent Wheeler

Received from/Signature

Bob Bartelsmeyer
Received by/Signature

EXHIBIT C

000052 Initiative Measure to be Submitted Directly to Electors

It is unlawful to sign this petition before it has a serial number.

We, the undersigned, citizens and qualified electors of the state of Arizona, respectfully demand that the following proposed Initiative [] shall be submitted to the qualified electors of the state of Arizona for their approval or rejection at the next regular general election and each for himself says: I have personally signed this petition with my first and last names. I have not signed any other petition for the same measure. I am a qualified elector of the state of Arizona, county of [Cochise]

PAID CIRCULATOR VOLUNTEER
 COUNTY []

RECEIVED
 2023 JUL -6 P 3:15

Initiative description: Insert a description of not more than 200 words of the principal provisions of the proposed measure. **Notice:** This is only a description of the proposed measure (or constitutional amendment) prepared by the sponsor of the measure. It may not include every provision contained in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing.

DE-ESTABLISH THE DOUGLAS ACTIVE MANAGEMENT AREA AND RESTORE THE DOUGLAS IRRIGATION NON-EXPANSION AREA
 This initiative intends to repeal Proposition 422 as approved on November 8, 2022, by electors residing within the DOUGLAS ACTIVE MANAGEMENT AREA (AMA) in Cochise County, Arizona. Pursuant to ARIZONA CONSTITUTIONAL STATUTE TITLE 45, SECTION 45-415, Proposition 422 established the DOUGLAS AMA. This initiative intends to de-establish the DOUGLAS AMA and restore the DOUGLAS IRRIGATION NON-EXPANSION AREA (INA) as it previously existed, including all prior irrigation rights and restrictions against irrigation on unirrigated land as described in the original terms and conditions governing the DOUGLAS INA.

Warning: It is a class 1 misdemeanor for any person to knowingly sign a recall petition with a name other than his own except in a circumstance where he signs for a person in the presence of and at the specific request of such person who is incapable of signing his own name because of physical infirmity, or to knowingly sign his name more than once for the same measure, or to knowingly sign such petition when he is not a qualified elector.

Signature	Printed Name			Actual address (street & no. and if no street address, describe residence location)	Arizona post office address & zip code	City or Town (if any)	Date signed
	First	MI	Last				
<i>[Signature]</i>	Robert	W	ALCORN	8128 N Central Hwy	McNeal 85617	McNeal	7/1/23
<i>[Signature]</i>	Teresa	K	DIVIS. ALCORN	8128 N Central Hwy	McNeal 85617	McNeal	7/1/23

STATEWIDE ONLY: Revised 09/29/2021 The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet. Registered Circulator ID [] Number IN-2023-1

- Instructions for Circulators**
- All circulators shall sign the Affidavit of Circulator.
 - All non-resident circulators, whether paid or volunteer, must register with the Secretary of State's office before circulating petitions. Circulators who are Arizona residents must register with the Secretary of State's office before circulating petitions if they are both (i) paid, and (ii) circulating for a statewide initiative or referendum. Circulators who are required to register should print their Circulator ID number in the space provided on the front and back side of each petition sheet.
 - Circulators are not required to be a resident of this state but otherwise must be qualified to vote in this state.
 - Circulators shall include their actual residence address or, if no street address, a description of their residence location.

Affidavit of Circulator

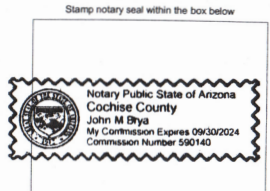
State of Arizona []
 County of Cochise
(Where notarized)

I, Ann Waters, a person who is not required to be a resident of this state but who is otherwise qualified to register to vote in the county of

Cochise, in the state of Arizona at all times during my circulation of this petition sheet, and under the penalty of a class 1 misdemeanor, depose and say that subject to section 19-115, Arizona Revised Statutes, each individual printed the individual's own name and address and signed this sheet of the foregoing petition in my presence on the date indicated and I believe that each signer's name and residence address or post office address are correctly stated and that each signer is a qualified elector of the state of Arizona and that at all times during circulation of this signature sheet a copy of the title and text was attached to the signature sheet.

(Signature of affiant) Ann Waters
 (Residence address, street and number of affiant, or if no street address, a description of residence location) 9133 W. Frontier Road
 McNeal, AZ 85617

(date) 07/06/2023



(Notary Signature) John M Dwyer
 Notary Public