

Honorable Jack Sellers
Honorable Steve Chucri
Honorable Bill Gates
Honorable Clint Hickman
Honorable Steve Gallardo

March 22, 2021

To the Honorable Board of Supervisors of Maricopa County, Arizona;

This letter is a response to the document titled "PETITION AGAINST THE ESTABLISHMENT OF THE RIO VERDE FOOTHILLS DOMESTIC WATER IMPROVEMENT DISTRICT AND PETITION TO DENY EXPENSE" submitted to the Maricopa County Board of Supervisors on an unknown date.

This response aims to address the seven points of opposition presented in that letter.

1. **OPPOSITION:** The Arizona Attorney General Opinion is a stretch of the original intent of the statute, particularly when considering the Opinion noted "Serious Constitutional Consequences". The Domestic Water Improvement District statute was not intended for a small district with non-contiguous borders and the Board should not be the first to form such a District.

RESPONSE: It is the constitutional responsibility of the Arizona Attorney General to provide legal interpretation of State statute when such interpretation is requested by a County Attorney, as it was in this case concerning opinion R19-017 dated August 4, 2020.

In 1997 the legislature amended state statute to allow for the formation of a DWID with noncontiguous boundaries, and it is under this authority that the RVF DWID has proposed its boundaries, not by use of the Attorney General's opinion.

The Arizona Attorney General stated that his interpretation of the term noncontiguous was based on the "plain language of § 48-902 (A), (G), and made clear by the legislative history of the relevant amendment in 1997."

In the opinion authored by the Attorney General he states "in sum, significant constitutional consequences result from establishing such a district." However, this statement refers to the constitutional and statutory background of the powers, purposes, and requirements of all public improvement districts by action of the 1940 constitutional amendment conferring the exemptions granted to municipalities. This statement was not used in a conclusory opinion for the interpretation of the noncontiguous district language previously mentioned.

Contrary to the opposition's petition, if approved, the RVF DWID will not be the first noncontiguous DWID operating within the State. There are already several other DWID's throughout the State that have been approved with noncontiguous boundaries. Some of those Districts that have been approved are: San Pedro DWID, Congress DWID, Badger Creek DWID, American Ranch RD DWID, Wellspring DWID, Thunderbird Farms DWID, Queen Valley DWID, Metropolitan DWID and most recently Blue Ridge DWID.

2. **OPPOSITION:** The DWID petitioners are requesting that you grant the District “excessive powers”. We do not want more hauling stations or commercial wells. We wish to maintain the rural lifestyle. Giving 4 individuals the power to acquire property and drill anywhere is not conducive to community peace.

RESPONSE: The proposal for the formation of the RVF DWID is in strict compliance with § 48-903 and the rights and responsibilities of such district are provided by applicable state statute. The petitioners in no way have requested “excessive powers”. The continuation of hauled water delivery was chosen specifically to create an affordable water source for those that rely on hauled water and preserve and protect the rural nature of the community.

Through formation of the RVF DWID the Board of Supervisors is not granting any specific approval to build infrastructure, and any proposed construction would be subject to current zoning regulations and the building permit approval process.

3. **OPPOSITION:** The Board cannot give the District the powers and rights to drill thereby overruling the majority of residents’ rights before we know what the health and stability of our current system is. Approving the District without this information could cause irreparable harm to well owners.

RESPONSE: The petitioners have never asked for approval to drill a commercial well within the RVF community, nor does the Board of Supervisors have any legal authority to approve such an act. In fact, the petitioners have made it abundantly clear that the RVF DWID’s intent is to acquire an external water source which when brought into the community, would help to sustain the longevity of well water within the community through replenishment of the aquifer.

4. **OPPOSITION:** No District should be approved without a full estimate of costs submitted.

RESPONSE: An estimate of cost is not required pursuant to the statutory guidelines of § 48-903. However, the cost of formation of the RVF DWID has been estimated, and those estimated costs have been shared publicly on the gotwaterrvf.com website, and made available to those persons that signed the petition.

5. **OPPOSITION:** We insist petitioners offer all viable options to solve the perceived water scarcity.

RESPONSE: The petitioners have never precluded any other person or group of persons from exploring, forming, or implementing any other water service entity. The petitioners have researched all available alternatives to the formation of a DWID and agreed in their discretion that the formation of a DWID would be the best solution to the community’s water problem. The proposal to form the RVF DWID is in strict compliance with § 48-903 and the petitioners have met the prescribed statutory burden to petition such an action.

6. **OPPOSITION:** The community works in a “Free Market System” finding and supplying water to homes built with hauled water as their only source. The District will cause harm to some of the water haulers by increasing the price of water and impose a level of government control. Water haulers should continue to supply water as they have been doing for years.

RESPONSE: The current water haulers, both commercial and private individuals, acquire the overwhelming majority of water they use through the City of Scottsdale. The City has advised residents of RVF on several occasions to secure their own source of water since 2016. During Scottsdale's Regular Council Meeting on February 2, 2021, Scottsdale's Water Services Director, Brian Biesemeyer, finished his presentation regarding Scottsdale's "consent" to the formation of the Rio Verde Foothills Domestic Water Improvement District with:

"It's very likely that in the year 2022, we will be in a tier one shortage and Scottsdale will experience a cutback to our Colorado River allocation by between 2 to 3,000-acre feet of water. We'll still have sufficient water for our residents but as a consequence of this, we will stop allowing water hauling to anyone who would -- who is not in the City of Scottsdale."

This is why it is imperative the RVF DWID is formed, so that we may secure a long-term source of water and provide for the future water security of our community.

7. **OPPOSITION:** The District, masterminded by only four individuals without transparency, good faith and without community input will create for itself a secure management company with salary and benefits at the expense of a small number of homes scared into acting based on fear tactics.

RESPONSE: It was not four individuals that "masterminded" the formation of the DWID, this was a community effort involving lots of volunteers over the last four years to get this project to this point. The petitioners have not worked in secret and have initiated several attempts to invite residents of the community who wished to volunteer their time. Additionally, the petitioners have made sure to aid in transparency with three community meetings, a public zoom meeting, two signs posted on the communities' main thoroughfare, a mailer to all property owners notifying them of the petition process, and a website where all documents have been made accessible.

Taking into account the input from residents that did not want to be forced into a DWID, have water lines going through their property, or contribute to the costs for others to secure a source of water, it was agreed that a noncontiguous DWID with a stand pipe system would be the best option. The RVF DWID was proposed as a 100% membership noncontiguous district so that those community members who do not wish to be members are not subjected to its governance.

Arizona state law precludes the elected officials of a DWID from receiving a salary for their position. Additionally, all elected officials must reside within the boundaries of and be members of the DWID subjecting them to the same rules as every other member. Furthermore, as elected officials the petitioners may be removed in the future by the DWID members through public elections if they so choose.

The petitioners have never used fear tactics against the community. They have presented the facts shared by relevant government entities showing the importance of securing our own water source.

The opposition to the formation of the RVF DWID has misled members of the community by repeatedly stating that:

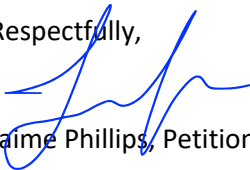
1. Scottsdale will never stop providing water to the community even after direct testimony by the City of Scottsdale stating the opposite.
2. That the RVF DWID is going to condemn the homes of community members.
3. That the RVF DWID will cap the wells of current residents, or that well owners would have to pay the DWID to use their own water.
4. That the petitioners are going to be individually profiting from the DWID.

The opposition has also acted in an unethical manner by:

1. Failing to provide a copy of the submitted opposition "petition" to the signers, or even at a minimum having it available to be read, often just presenting them with a blank signature page.
2. Presenting information known to be false so that a property owner would sign the petition.
3. Presenting signatures to the county in support of their "petition" without verifying identity or land ownership within the proposed service area, and allowing multiple separate people to sign for the same property whether or not they are an owner of the property, or allowing the same person to sign for multiple properties in a manner intentionally designed to show inflated opposition to the petitioners.

The petitioners hereby ask that the Honorable Board of Supervisors approves the formation of the RVF DWID so that a long-term source of water may be secured for its members.

Respectfully,



Jaime Phillips, Petitioner

Per Pro:

- John Jouas, Petitioner
- Karen Nabity, Petitioner
- Jennifer Simpson, Petitioner
- Michelle Jameson, Petitioner

CC:

- Alfred Erives, P.E., Superintendent of Streets
- Simon Edwards, Civil Engineering Associate Sr.
- Andy Linton, Ombudsman Office Director