

Attorney General Candidate Kris Mayes' 16-point Plan to Preserve Water Supplies, Investigate the Saudi Water Grab in the Butler Valley and Combat Water Pollution

2022

This should be viewed as a living document that will be adjusted and modified based on new information that becomes available.

Arizona Water Crisis

Arizona is on the precipice of a water catastrophe that is being exacerbated by our state leaders' inaction to historic drought and climate change. Lake Mead – which feeds water into Arizona's largest cities – is within approximately 150 feet of hitting deadpool status. That would mean drastic water cutbacks to Arizona and likely the elimination of our ability to produce hydroelectricity from the Hoover Dam.

Moreover, today (August 16, 2022), the three Lower Colorado River Basin states (Arizona, California and Nevada) must report to the federal government on their efforts to find areas to cutback on water usage. Early reports are that the leadership of our state have failed to come to agreement. In the meantime, Arizona Republican leaders have failed time and time again to protect, preserve or augment Arizona's water supplies, including most recently allowing an egregious water give-away to a Saudi Arabian company called Fondomonte.

Plan

Attorney General candidate Kris Mayes is releasing the following comprehensive water plan to address Arizona's water crisis when she takes office.



Preventing the Sale of Arizona Water to Industrial Users at Below Market Rates (The Saudi/Butler Valley Case)

Arizona provides sweet deal to Saudi farm to pump water from Phoenix's backup supply

Arizona is leasing farmland to a Saudi company, straining aquifers and threatening future water supplies for Phoenix

The Arizona Republic recently reported that Gov. Ducey's State Land Department leased state trust land to a Saudi-owned Fondomonte corporation for \$25 per acre, so that the Saudi company could grow alfalfa and send it back to Saudi Arabia to feed that country's cows. More unbelievably, the state is allowing this Saudi-based company to pump groundwater at no cost whatsoever. According to several individuals interviewed by the Republic, this \$25/acre land lease is well below market rates, and the water being given away to the Saudis comes from the Butler Valley Basin – an area in La Paz County that Arizona cities may very well need to rely on for their water needs in the near future. According to Former Governor Bruce Babbitt, the actual value of the water being given away to Saudi Arabia could top \$38 million, if you use a market rate of \$242 per acre foot, the amount that the Central Arizona Project charges its customers for water use. And to top off this outrage, money that is generated from state trust land leases must go, pursuant to the Arizona Constitution, to benefit Arizona schools. The Ducey Administration has not only failed our environment and water supplies, it has cheated Arizona school children out of much needed school funding.

Saudi/ButlerValley Cont.

It would appear these failures by the Ducey State Land Department violated several provisions of the Arizona Constitution. Under the Arizona Constitution's Gift Clause, state government may not give anything of value owned by the state to a private entity (Article 9, Section 7). Article 10, section 4 requires that all state lease-holds be "appraised at their true value."

As a result, as Attorney General, Kris Mayes will:

- Investigate the Saudi Fondomente Lease as a potential violation of the Arizona Gift Clause
- Investigate whether the Saudi lease violates Article 10, Section 4 of the Arizona Constitution, which requires that any leases
- Seek to recoup for Arizona schools the approximately \$38 million that Fondomonte should have paid Arizona for the groundwater it has pumped out of the Butler Valley Basin since 2015.



Groundwater is pumped into a canal to irrigate a field, Feb. 25, 2022, at Fondomonte's Butler Valley Ranch near Bouse.

MARK HENLE/THE REPUBLIC

The outrageous situation in the Butler Valley calls for an immediate audit and cessation of industrial leases until the state can determine how many other instances of this kind of abusive water give-aways are occurring. To that end:

- Kris Mayes calls for an Auditor General's Audit of all industrial-scale leases of state trust land where water is being pumped, to determine if the rates are below market and how much school funding has been lost as a result. If such abuses have occurred, Mayes will work as Attorney General to ensure that the companies are required to restore the proper funding to the state and our schools.

The discovery of the Fontomonte lease also calls into question whether the state Land Department is grotesquely undercharging other industrial users for water leases and as such, Mayes is calling for:

- Governor Doug Ducey and the State Land Department to halt the signing of any new industrial lease until an investigation of the current leases is completed.
- Governor Ducey and his State Land Department to renegotiate all leases that are inappropriately low. Once in office, Mayes will investigate whether the leases also violated the Gift Clause of the Constitution.
- As Attorney General, Kris Mayes will advise the Arizona State Land Department on an ongoing basis that leasing water at rates that are significantly below market rates could represent a violation of the state's Gift Clause and that the lease-holders could face efforts to recover undercharges in the future.



Additionally, Mayes will seek systemic changes to protect against apparent abuses like the Fondomonte lease. As Arizona Attorney General, Mayes will:

- Advise the State Land Department that it should require all lessors of State Trust land to file annual reports with the state reporting how much water is being pumped. It was discovered during The Arizona Republic's investigation that these reports have never been required of Fondomonte and may not be required of other industrial water users on State Trust Land.
- Advise the State Land Department that it must address questions raised in the 2015 Auditor General Report, including:
 - Investigating whether any of the major out of state and foreign lessors of the state Land Department in the Western and Southeastern portions of Arizona have engaged in environmentally hazardous behavior or done environmental damage that violates state law in relation to their leases of state Trust Land.
 - Establish a working group of outside experts, legislators, representatives of the State Land Department and the Attorney General Office's Environmental Division to review the state's industrial water leasing process and recommend improvements to ensure the Fondomonte situation never occurs again.



Water Conservation and Stream and River Preservation



Critical riparian areas, streams and rivers, such as the San Pedro and Verde Rivers, are at risk due to over pumping of groundwater and unrelenting drought conditions.

As Attorney General, Kris will work to protect these water and natural resources by focusing on conservation. Specifically, she will:

- Push the Arizona Department of Environmental Quality to complete an ongoing, but not completed, rulemaking for direct potable reuse of effluent water (both inside and outside residential homes and businesses). The rules have been delayed unnecessarily and as AG Kris will help move them along.
- Aggressively enforce groundwater laws in Arizona. Sprawl and unchecked growth is threatening rural Arizona's ability to remain sustainable. Kris will use all available tools to ensure that consumers are protected from the possibility of growth that lacks available water supplies. This could include the use of consumer fraud laws to protect future and present homeowners and Arizona's water supplies.
- Work with legislators of both parties to strengthen and modernize the 1980 groundwater code to prevent overdraft of groundwater in rural Arizona.
- Become involved in the Colorado River Drought Contingency Planning Process. Kris will push for more aggressive conservation measures by the state in addressing future rounds of this process.

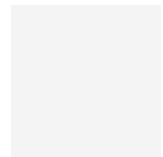


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- Push the Arizona Department of Water Resources (ADWR) and the Arizona Corporation Commission (ACC) to promulgate rules that would incentivize xeriscaping, water catchment systems, and high efficiency farm irrigation systems.
- Push the ADWR to refuse to issue Certificates of Assured Water Supply in the Phoenix, Pinal or Tucson AMA if the potential water user or developer has failed to demonstrate that adequate water supplies to replenish the groundwater that has been pumped or if it cannot locate water supplies in the area that are realistically capable of being brought in for replenishment.
- Utilize Attorney General's Environmental Division to support counties that would like to implement Active Management Areas through citizen initiatives, and push the Arizona Department of Water Resources to do so, as well.
- Work with coal-impacted communities, such as Page, etc., to help determine how the enormous quantities of water that will be saved from the shut-down of Arizona's coal plants can be used for both future economic development but also kept in the ground for replenishment of Arizona's rivers and streams and aquifers.



Water Quality



As Attorney General, Kris will also aggressively protect water supplies from polluters, past and present. Toward this end, she will:

- Combat PFAS groundwater pollution. Arizona has a growing PFAS crisis, a compound used in fire retardants that has seeped into the water table in parts of the state, including around air force bases and airports. As the next AG, Kris will enforce Arizona water quality laws and assist the EPA in this regard as well. Where necessary, Kris will bring civil or criminal actions against bad actors who have contaminated groundwater supplies.
- Utilize ARS §49-262(B), a statute that gives the Attorney General the ability to independently bring actions against any individual or corporation that creates an “an ”imminent and substantial endangerment to the public health or environment” in an effort to protect Arizona’s residents and natural resources.



Background on Kris Mayes

Kris Mayes is running to become the first Attorney General in Arizona history to make preserving Arizona's water resources a top priority. As Attorney General, Kris has vowed to aggressively enforce Arizona's existing groundwater laws and advocate for a new regime focused on conservation, push for new rules that allow for the potable reuse of effluent water and fight for Arizona's rivers and streams, including the Colorado, Verde and San Pedro Rivers.

As an Arizona Corporation Commissioner, Kris developed a national reputation for acting on climate change. As a Commissioner from 2003–2010, Kris wrote and passed Arizona's first Renewable Energy Standard, which has saved Arizona ratepayers hundreds of millions of dollars and spared 23 billion gallons of water. She also co-wrote and passed Arizona's nation-leading energy efficiency standard, at 22 percent by 2020, which has saved Arizona consumers \$1 billion and prevented the need for 15 new fossil-fueled power plants. Finally, Kris oversaw the largest expansion of water conservation programs in Arizona history while regulating the state's 350 private water utilities, pushing them to adopt more conservation measures than the Arizona Department of Water Resources was requiring. She will continue that strong focus on water when she is Attorney General.