

**Program Summary**  
**Arizona Navigable Stream Adjudication Commission**

**Program Overview**

Created in 1992 as a result of several years of litigation, the Arizona Navigable Stream Adjudication Commission (ANSAC) is a 5-member body whose responsibility is to determine the ownership of the beds of each of Arizona's 39,039 streams and rivers. The commission determines ownership by establishing whether or not the watercourses were navigable at the time of statehood on February 14, 1912. If those waterways were navigable at the time of statehood, the land in their beds belongs to the state and would be held in public trust. If the waterways were not navigable, the land belongs to the current title holder.

The state government did not claim or disclaim ownership of any of its watercourses in 1912 when Arizona became a state. In 1985, the Attorney General filed a lawsuit asserting state ownership of the bed of the Verde River and indicated that similar action might be taken regarding the beds of other Arizona watercourses. In 1987, the Legislature responded to the state's lawsuit by passing a statute that disclaimed ownership of all riverbeds in the state with exception of the Colorado, Gila, Verde, and Salt Rivers.

A lawsuit by the Arizona Center for Law in the Public Interest led to a 1991 Arizona Court of Appeals decision that the Legislature's 1987 statute violated the Arizona Constitution and legal precedent set by the United States Supreme Court. Supreme Court precedent held that states were to retain ownership of the beds of streams and rivers that were navigable at the time of statehood and that the land was to be held in public trust and, therefore, could not be conveyed unless such a conveyance promoted a public purpose.

The 1991 ruling led to the 1992 creation by the Legislature of ANSAC (A.R.S. § 37-1121). As an independent agency, ANSAC's charge is to review evidence presented by the State Land Department and other parties regarding the navigability of Arizona watercourses as of February 14, 1912.

After nearly a decade of holding hearings and making determinations, an Arizona Court of Appeals ruling in 2002 determined that the commission's criteria for determining navigability were biased and ANSAC began anew.

Since that court ruling, ANSAC has held additional hearings and reviewed evidence regarding all of Arizona's 39,039 watercourses, determining all of them non-navigable at the time of statehood.

After holding a hearing, ANSAC reviews the evidence presented and later issues a decision regarding the navigability of the watercourses considered in the hearing. The commission also must publish a report regarding each decision. Upon the publication of each report, there is a 180-day period during which the State Land Department may seek judicial review of the decisions of the commission. All other parties have 270 days to seek judicial review. Once the appeal period has expired, ANSAC's decision becomes final.

On June 30, 2006, the State Land Department filed an appeal of ANSAC's decision that the Lower Salt River in Maricopa County was non-navigable at the time of statehood. The department stated that it appealed because there was evidence that the Lower Salt may have been navigable at the time of statehood. The department, therefore, felt it was legally bound to appeal the decision in order to serve as a public trustee for the land.

The case was ruled in favor of ANSAC, upholding the non-navigability of the Lower Salt River. The decision by the Maricopa County Superior Court was further appealed to the Arizona Court of Appeals by the Arizona Center for Law in the Public Interest.

The Arizona Court of Appeals did not issue a ruling but required more work on the period from 1850 to 1900. ANSAC filed a petition to the Arizona Supreme Court to challenge this requirement. The Arizona Supreme Court declined to hear the case. The case was then appealed to the U.S. Supreme Court. The U.S. Supreme Court did not hear the case because it was not filed within the proper timeframe. ANSAC must now determine further action concerning the Lower Salt River case.

Five other appeals have been filed by the Arizona Center for Law in the Public Interest regarding the commission's determinations of non-navigability of the Santa Cruz River, the San Pedro River, the Verde River, the Upper Salt River, and the Gila River. These 5 cases were pending, but the appeals may now move forward.

The commission's statutory authority was set to expire at the end of FY 2008. Due to the pending appeals, the Legislature extended the commission's statutory authority from June 30, 2012 to June 30, 2016.

**Program Funding**

ANSAC receives its funding from the General Fund. The commission is funded at \$129,100 for FY 2012. *Table 1* displays historical funding information for ANSAC using data from FY 2004 through FY 2012.

<b>Table 1</b>	
<b>Arizona Navigable Stream Adjudication Commission</b>	
	<b><u>General Fund</u></b>
FY 2004	\$157,000
FY 2005	159,300
FY 2006	216,700 <sup>1/</sup>
FY 2007	267,800
FY 2008	380,800 <sup>2/</sup>
FY 2009	139,100
FY 2010	136,200
FY 2011	133,500
FY 2012	129,100 <sup>3/</sup>

<sup>1/</sup> Includes a \$50,000 supplemental appropriation.  
<sup>2/</sup> Includes a \$200,000 supplemental appropriation.  
<sup>3/</sup> Includes \$2,200 for costs associated with an additional pay period.