

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1417

AN ACT

AMENDING SECTION 45-514, ARIZONA REVISED STATUTES; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 131, SECTION 1; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 131, SECTION 2; AMENDING SECTION 45-852.01, ARIZONA REVISED STATUTES; RELATING TO THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-514, Arizona Revised Statutes, is amended to
3 read:

4 45-514. Mineral extraction and metallurgical processing permit;
5 conditions for issuance; duration of permit

6 A. Except as provided in subsection D of this section, a person who is
7 engaged in or proposes to engage in the extraction and processing of minerals
8 shall be issued a permit to withdraw groundwater in the required amount, if
9 all of the following apply:

10 1. The amount of groundwater available for mineral extraction,
11 metallurgical processing and compliance with applicable environmental
12 controls under a dewatering permit is insufficient.

13 2. Uncommitted municipal and industrial central Arizona project water
14 is not available at the point where the operator's wellhead or distribution
15 system would otherwise be, at a cost which does not exceed the current
16 municipal and industrial central Arizona project delivery rates.

17 3. Other surface water of adequate quality or effluent of adequate
18 quality is not available at the point where the operator's wellhead or
19 distribution system would otherwise be, at a cost, including treatment costs,
20 which does not exceed by twenty-five per cent the cost the operator would
21 otherwise incur in withdrawing groundwater.

22 4. The applicant does not own or lease type 2 non-irrigation
23 grandfathered rights originally based on withdrawals of groundwater for the
24 extraction or processing of minerals that the applicant is not using or
25 leasing and that can be used at the proposed location without imposing an
26 unreasonable economic burden on the applicant.

27 B. A permit issued pursuant to this section shall be granted for a
28 period of up to fifty years, subject to renewal under the same criteria used
29 in granting the original permit.

30 C. If, during the duration of a mineral extraction and metallurgical
31 processing permit, the director determines that uncommitted municipal and
32 industrial central Arizona project water is available or surface water of
33 adequate quality or effluent of adequate quality is available to the
34 permittee at a cost comparable to groundwater, the director may require the
35 permittee to use such water in lieu of groundwater.

36 D. Beginning January 1 of the calendar year following the year in
37 which a groundwater replenishment district is required to submit its
38 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,
39 and except for an application to renew a mineral extraction and metallurgical
40 processing permit, on receiving a permit application the director shall not
41 issue a permit for a well in the district unless at the time the application
42 is filed:

43 1. The director has determined that the district's plan for operation
44 is consistent with achieving the management goal, according to section
45 45-576.03, subsection E, and the designation has not expired.

1 2. The master replenishment account, as established in section
2 45-858.01, does not have a debit balance in an amount in excess of the amount
3 allowed under section 45-576.01, subsection A, paragraph 3.

4 E. IF, DURING THE DURATION OF A MINERAL EXTRACTION AND METALLURGICAL
5 PROCESSING PERMIT ISSUED AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
6 SECTION, THE PERMITTEE EARNS LONG-TERM STORAGE CREDITS UNDER SECTION
7 45-852.01, SUBSECTION B FOR THE STORAGE OF CENTRAL ARIZONA PROJECT WATER IN
8 THE ACTIVE MANAGEMENT AREA IN WHICH THE PERMITTEE HAS THE RIGHT TO WITHDRAW
9 GROUNDWATER PURSUANT TO THE PERMIT, AND THE CENTRAL ARIZONA PROJECT WATER
10 QUALIFIED AS WATER THAT CANNOT REASONABLY BE USED DIRECTLY DUE SOLELY TO THE
11 EXCLUSION OF GROUNDWATER WITHDRAWN BY THE PERMITTEE FOR MINERAL EXTRACTION OR
12 METALLURGICAL PROCESSING PURSUANT TO SECTION 45-802.01, PARAGRAPH 22,
13 SUBDIVISION (c), THE DIRECTOR SHALL ESTABLISH A SEPARATE SUBACCOUNT FOR THOSE
14 CREDITS PURSUANT TO SECTION 45-852.01, SUBSECTION A. AFTER EACH CALENDAR
15 YEAR IN WHICH THE PERMIT IS IN EFFECT, THE DIRECTOR SHALL DEBIT THE
16 SUBACCOUNT BY THE AMOUNT OF GROUNDWATER PUMPED BY THE PERMITTEE IN THE ACTIVE
17 MANAGEMENT AREA DURING THAT CALENDAR YEAR PURSUANT TO THE PERMIT, NOT TO
18 EXCEED THE AMOUNT OF LONG-TERM STORAGE CREDITS IN THE SUBACCOUNT. THIS
19 SUBSECTION SHALL NOT APPLY TO:

20 1. A MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMIT ISSUED ON
21 OR BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, INCLUDING ANY
22 RENEWAL OR MODIFICATION OF THE PERMIT.

23 2. A MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMIT UNLESS THE
24 PERMITTEE WAS ENGAGED IN MINERAL EXTRACTION AND METALLURGICAL PROCESSING
25 WITHIN AN INITIAL ACTIVE MANAGEMENT AREA ON OR BEFORE JANUARY 1, 2011.

26 Sec. 2. Section 45-802.01, Arizona Revised Statutes, as amended by
27 Laws 2010, chapter 131, section 1, is amended to read:

28 45-802.01. Definitions

29 Unless the context otherwise requires, the terms defined in section
30 45-402 have the same meanings in this chapter and:

31 1. "Aquifer" means a geologic formation that contains sufficient
32 saturated material to be capable of storing water and transmitting water in
33 usable quantities to a well.

34 2. "Area of impact" means, as projected on the land surface, the area
35 where the stored water has migrated or is located.

36 3. "CERCLA" means the comprehensive environmental response,
37 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
38 2767; 42 United States Code sections 9601 through 9657), commonly known as
39 "superfund".

40 4. "Constructed underground storage facility" means a facility that
41 meets the requirements of section 45-811.01 and that is designed and
42 constructed to store water underground pursuant to permits issued under this
43 chapter.

44 5. "District" means a groundwater replenishment district established
45 under title 48, chapter 27.

1 6. "District member" means a member of the groundwater replenishment
2 district as provided by title 48, chapter 27.

3 7. "Electrical district" means a corporate body established pursuant
4 to title 48, chapter 12.

5 8. "Groundwater savings facility" means a facility that meets the
6 requirements of section 45-812.01 in an active management area or an
7 irrigation non-expansion area at which groundwater withdrawals are eliminated
8 or reduced by recipients who use in lieu water on a gallon-for-gallon
9 substitute basis for groundwater that otherwise would have been pumped from
10 within that active management area or irrigation non-expansion area.

11 9. "In lieu water" means water that is delivered by a storer to a
12 groundwater savings facility pursuant to permits issued under this chapter
13 and that is used in an active management area or an irrigation non-expansion
14 area by the recipient on a gallon-for-gallon substitute basis for groundwater
15 that otherwise would have been pumped from within that active management area
16 or irrigation non-expansion area.

17 10. "Long-term storage account" means an account established pursuant
18 to section 45-852.01.

19 11. "Long-term storage credit" means stored water that meets the
20 requirements of section 45-852.01 and that has been credited to a long-term
21 storage account.

22 12. "Managed underground storage facility" means a facility that meets
23 the requirements of section 45-811.01 and that is designed and managed to
24 utilize the natural channel of a stream to store water underground pursuant
25 to permits issued under this chapter through artificial and controlled
26 releases of water other than surface water naturally present in the stream.
27 Surface water flowing in its natural channel is not a managed underground
28 storage facility.

29 13. "Master replenishment account" means an account established
30 pursuant to section 45-858.01 for a groundwater replenishment district.

31 14. "Recipient" means a person who receives in lieu water for use at a
32 groundwater savings facility.

33 15. "Recoverable amount" means the amount of water, as determined by
34 the director, that will reach the aquifer through water storage.

35 16. "Replenishment" means the storage of water or use of long-term
36 storage credits by a groundwater replenishment district to fulfill its duties
37 under title 48, chapter 27, article 3, by a multi-county water conservation
38 district to fulfill its duties under title 48, chapter 22, article 4 or by an
39 active management area water district to fulfill its duties under title 48,
40 chapter 28, article 7.

41 17. "Reserve target" has the same meaning prescribed in section
42 48-3701.

43 18. "Storage facility" means a groundwater savings facility or an
44 underground storage facility.

1 19. "Stored water" means water that has been stored or saved
2 underground pursuant to a storage permit issued under this chapter.

3 20. "Storer" means the holder of a water storage permit issued pursuant
4 to section 45-831.01 or a person to whom a water storage permit has been
5 conveyed pursuant to section 45-831.01, subsection F.

6 21. "Underground storage facility" means a constructed underground
7 storage facility or a managed underground storage facility.

8 22. "Water that cannot reasonably be used directly" means water that
9 the storer cannot reasonably put to a direct use during the calendar year,
10 including:

11 (a) Except as provided in subdivision (b) or except for an
12 agricultural improvement district as provided in subdivision (d), if the
13 storer is a municipal provider, the amount of central Arizona project water
14 that exceeds the amount of mined groundwater withdrawn during the calendar
15 year by the storer in the active management area in which the storer's
16 service area is located. If the storer withdrew mined groundwater during a
17 calendar year in which the storer stored central Arizona project water
18 underground pursuant to the storage permit, the amount of central Arizona
19 project water stored underground during that year equal to the amount of
20 mined groundwater withdrawn from the active management area in which the
21 storer's service area is located shall not be credited to the storer's
22 long-term storage account but may be considered as being available for
23 recovery by the storer on an annual basis under section 45-851.01. In
24 calculating the amount of mined groundwater withdrawn by the storer from the
25 active management area, the director, at the request of the storer, shall
26 exclude any groundwater withdrawn, treated and delivered for direct use as
27 part of a remedial action undertaken pursuant to CERCLA or title 49, chapter
28 2, article 5. For the purposes of this subdivision, "mined groundwater" and
29 "municipal provider" have the same meanings prescribed in section 45-561.

30 (b) If the storer is a municipal provider that has been designated as
31 having an assured water supply pursuant to section 45-576, the amount of
32 central Arizona project water that exceeds the amount of deficit groundwater
33 withdrawn during the calendar year by the storer in the active management
34 area in which the storer's service area is located. If the storer withdrew
35 deficit groundwater during a calendar year in which the storer stored central
36 Arizona project water underground pursuant to the storage permit, the amount
37 of the central Arizona project water stored underground during that year
38 equal to the amount of deficit groundwater withdrawn from the active
39 management area in which the storer's service area is located shall not be
40 credited to the storer's long-term storage account but may be considered as
41 being available for recovery by the storer on an annual basis pursuant to
42 section 45-851.01. In calculating the amount of deficit groundwater
43 withdrawn by the storer from the active management area, the director, at the
44 request of the storer, shall exclude any groundwater withdrawn, treated and
45 delivered for direct use as part of a remedial action undertaken pursuant to

1 CERCLA or title 49, chapter 2, article 5. For the purposes of this
2 subdivision, "municipal provider" has the same meaning prescribed in section
3 45-561 and "deficit groundwater" means that amount of groundwater withdrawn
4 within an active management area for delivery and use within a service area
5 by a municipal provider in excess of the amount of groundwater that may be
6 withdrawn by the municipal provider consistent with the achievement of the
7 active management area's management goals as prescribed by rules adopted by
8 the director pursuant to section 45-576.

9 (c) Except as provided in subdivision (d), if the storer is not a
10 municipal provider, the amount of central Arizona project water stored in an
11 active management area that exceeds the amount of groundwater withdrawn
12 during the calendar year by the storer in that active management area. If
13 the storer withdrew groundwater in an active management area during a
14 calendar year in which the storer stored central Arizona project water
15 underground in that active management area pursuant to the storage permit,
16 the amount of central Arizona project water stored underground during that
17 year equal to the amount of groundwater withdrawn from the active management
18 area shall not be credited to the storer's long-term storage account but may
19 be considered as being available for recovery by the storer on an annual
20 basis under section 45-851.01. For the purposes of this subdivision,
21 "municipal provider" has the same meaning prescribed in section 45-561. In
22 calculating the amount of groundwater withdrawn by the storer from the active
23 management area, the director, at the request of the storer, shall exclude:

24 (i) The amount of groundwater withdrawn, treated and delivered for
25 direct use as part of a remedial action undertaken pursuant to CERCLA or
26 title 49, chapter 2, article 5.

27 (ii) The amount of groundwater withdrawn by the storer during the year
28 for mineral extraction and metallurgical processing and delivered during that
29 year for direct use to an irrigation district that is established pursuant to
30 title 48, chapter 19 and that is located in the same active management area
31 from which the amount of groundwater was withdrawn to the extent that the
32 irrigation district or its customers demonstrate a reduction in the amount of
33 groundwater that they otherwise would have withdrawn during that year within
34 the irrigation district.

35 (iii) THE AMOUNT OF GROUNDWATER WITHDRAWN BY THE STORER DURING THE
36 YEAR FOR MINERAL EXTRACTION OR METALLURGICAL PROCESSING IF THE STORER WAS
37 ENGAGED IN MINERAL EXTRACTION AND METALLURGICAL PROCESSING WITHIN AN INITIAL
38 ACTIVE MANAGEMENT AREA ON OR BEFORE JANUARY 1, 2011.

39 (d) The amount of central Arizona project water stored in an active
40 management area in any year after 1994 by an agricultural improvement
41 district established pursuant to title 48, chapter 17 for use at those
42 portions of electrical generating facilities that are constructed or expanded
43 after June 12, 1980, subject to both of the following:

44 (i) If groundwater was used during a year in an active management area
45 at those portions of the electrical generating facilities that were owned and

1 operated by the agricultural improvement district and that were constructed
2 or expanded after June 12, 1980, the amount of the central Arizona project
3 water stored during that year equal to the amount of the groundwater
4 withdrawn during the year for use at those portions of the facilities that
5 were owned and operated by the agricultural improvement district and that
6 were constructed or expanded after June 12, 1980 shall not be credited to the
7 agricultural improvement district's long-term storage account but may be
8 considered as being available for recovery by the agricultural improvement
9 district on an annual basis under section 45-851.01.

10 (ii) Long-term storage credits accrued as a result of the storage of
11 the central Arizona project water may be recovered within the active
12 management area by the agricultural improvement district only for the purpose
13 of providing central Arizona project water to electrical generating
14 facilities that were owned and operated by the agricultural improvement
15 district and only pursuant to any water requirement included in a facility's
16 certificate of environmental compatibility. Subject to section 45-854.01,
17 the long-term storage credits may be assigned by the agricultural improvement
18 district only to the owner of an electrical generating facility for use
19 pursuant to any water requirement included in that facility's certificate of
20 environmental compatibility.

21 (e) Surface water made available by dams constructed or modified after
22 August 13, 1986.

23 (f) Until the year 2025:

24 (i) Effluent.

25 (ii) If the storage facility is in an active management area, water
26 from outside the active management area that would not have reached the
27 active management area without the efforts of the storer.

28 (iii) If the storage facility is outside of an active management area,
29 water from outside the groundwater basin in which the storage facility is
30 located that would not have reached the groundwater basin without the efforts
31 of the storer.

32 (g) Water that is delivered through the central Arizona project and
33 that is acquired by the Arizona water banking authority.

34 23. "Water storage" means adding water to an aquifer or saving water in
35 an aquifer pursuant to permits issued under this chapter.

36 24. "Water storage permit" means a permit issued pursuant to section
37 45-831.01 to store water at a storage facility.

38 Sec. 3. Section 45-802.01, Arizona Revised Statutes, as amended by
39 Laws 2010, chapter 131, section 2, is amended to read:

40 45-802.01. Definitions

41 Unless the context otherwise requires, the terms defined in section
42 45-402 have the same meanings in this chapter and:

43 1. "Aquifer" means a geologic formation that contains sufficient
44 saturated material to be capable of storing water and transmitting water in
45 usable quantities to a well.

1 2. "Area of impact" means, as projected on the land surface, the area
2 where the stored water has migrated or is located.

3 3. "CERCLA" means the comprehensive environmental response,
4 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.
5 2767; 42 United States Code sections 9601 through 9657), commonly known as
6 "superfund".

7 4. "Constructed underground storage facility" means a facility that
8 meets the requirements of section 45-811.01 and that is designed and
9 constructed to store water underground pursuant to permits issued under this
10 chapter.

11 5. "District" means a groundwater replenishment district established
12 under title 48, chapter 27.

13 6. "District member" means a member of the groundwater replenishment
14 district as provided by title 48, chapter 27.

15 7. "Electrical district" means a corporate body established pursuant
16 to title 48, chapter 12.

17 8. "Groundwater savings facility" means a facility that meets the
18 requirements of section 45-812.01 in an active management area or an
19 irrigation non-expansion area at which groundwater withdrawals are eliminated
20 or reduced by recipients who use in lieu water on a gallon-for-gallon
21 substitute basis for groundwater that otherwise would have been pumped from
22 within that active management area or irrigation non-expansion area.

23 9. "In lieu water" means water that is delivered by a storer to a
24 groundwater savings facility pursuant to permits issued under this chapter
25 and that is used in an active management area or an irrigation non-expansion
26 area by the recipient on a gallon-for-gallon substitute basis for groundwater
27 that otherwise would have been pumped from within that active management area
28 or irrigation non-expansion area.

29 10. "Long-term storage account" means an account established pursuant
30 to section 45-852.01.

31 11. "Long-term storage credit" means stored water that meets the
32 requirements of section 45-852.01 and that has been credited to a long-term
33 storage account.

34 12. "Managed underground storage facility" means a facility that meets
35 the requirements of section 45-811.01 and that is designed and managed to
36 utilize the natural channel of a stream to store water underground pursuant
37 to permits issued under this chapter through artificial and controlled
38 releases of water other than surface water naturally present in the stream.
39 Surface water flowing in its natural channel is not a managed underground
40 storage facility.

41 13. "Master replenishment account" means an account established
42 pursuant to section 45-858.01 for a groundwater replenishment district.

43 14. "Recipient" means a person who receives in lieu water for use at a
44 groundwater savings facility.

1 15. "Recoverable amount" means the amount of water, as determined by
2 the director, that will reach the aquifer through water storage.

3 16. "Replenishment" means the storage of water or use of long-term
4 storage credits by a groundwater replenishment district to fulfill its duties
5 under title 48, chapter 27, article 3, by a multi-county water conservation
6 district to fulfill its duties under title 48, chapter 22, article 4 or by an
7 active management area water district to fulfill its duties under title 48,
8 chapter 28, article 7.

9 17. "Reserve target" has the same meaning prescribed in section
10 48-3701.

11 18. "Storage facility" means a groundwater savings facility or an
12 underground storage facility.

13 19. "Stored water" means water that has been stored or saved
14 underground pursuant to a storage permit issued under this chapter.

15 20. "Storer" means the holder of a water storage permit issued pursuant
16 to section 45-831.01 or a person to whom a water storage permit has been
17 conveyed pursuant to section 45-831.01, subsection F.

18 21. "Underground storage facility" means a constructed underground
19 storage facility or a managed underground storage facility.

20 22. "Water that cannot reasonably be used directly" means water that
21 the storer cannot reasonably put to a direct use during the calendar year,
22 including:

23 (a) Except as provided in subdivision (b) or except for an
24 agricultural improvement district as provided in subdivision (d), if the
25 storer is a municipal provider, the amount of central Arizona project water
26 that exceeds the amount of mined groundwater withdrawn during the calendar
27 year by the storer in the active management area in which the storer's
28 service area is located. If the storer withdrew mined groundwater during a
29 calendar year in which the storer stored central Arizona project water
30 underground pursuant to the storage permit, the amount of central Arizona
31 project water stored underground during that year equal to the amount of
32 mined groundwater withdrawn from the active management area in which the
33 storer's service area is located shall not be credited to the storer's
34 long-term storage account but may be considered as being available for
35 recovery by the storer on an annual basis under section 45-851.01. In
36 calculating the amount of mined groundwater withdrawn by the storer from the
37 active management area, the director, at the request of the storer, shall
38 exclude any groundwater withdrawn, treated and delivered for direct use as
39 part of a remedial action undertaken pursuant to CERCLA or title 49, chapter
40 2, article 5. For the purposes of this subdivision, "mined groundwater" and
41 "municipal provider" have the same meanings prescribed in section 45-561.

42 (b) If the storer is a municipal provider that has been designated as
43 having an assured water supply pursuant to section 45-576, the amount of
44 central Arizona project water that exceeds the amount of deficit groundwater
45 withdrawn during the calendar year by the storer in the active management

1 area in which the storer's service area is located. If the storer withdrew
2 deficit groundwater during a calendar year in which the storer stored central
3 Arizona project water underground pursuant to the storage permit, the amount
4 of the central Arizona project water stored underground during that year
5 equal to the amount of deficit groundwater withdrawn from the active
6 management area in which the storer's service area is located shall not be
7 credited to the storer's long-term storage account but may be considered as
8 being available for recovery by the storer on an annual basis pursuant to
9 section 45-851.01. In calculating the amount of deficit groundwater
10 withdrawn by the storer from the active management area, the director, at the
11 request of the storer, shall exclude any groundwater withdrawn, treated and
12 delivered for direct use as part of a remedial action undertaken pursuant to
13 CERCLA or title 49, chapter 2, article 5. For the purposes of this
14 subdivision, "municipal provider" has the same meaning prescribed in section
15 45-561 and "deficit groundwater" means that amount of groundwater withdrawn
16 within an active management area for delivery and use within a service area
17 by a municipal provider in excess of the amount of groundwater that may be
18 withdrawn by the municipal provider consistent with the achievement of the
19 active management area's management goals as prescribed by rules adopted by
20 the director pursuant to section 45-576.

21 (c) Except as provided in subdivision (d), if the storer is not a
22 municipal provider, the amount of central Arizona project water stored in an
23 active management area that exceeds the amount of groundwater withdrawn
24 during the calendar year by the storer in that active management area. If
25 the storer withdrew groundwater in an active management area during a
26 calendar year in which the storer stored central Arizona project water
27 underground in that active management area pursuant to the storage permit,
28 the amount of central Arizona project water stored underground during that
29 year equal to the amount of groundwater withdrawn from the active management
30 area shall not be credited to the storer's long-term storage account but may
31 be considered as being available for recovery by the storer on an annual
32 basis under section 45-851.01. FOR THE PURPOSES OF THIS SUBDIVISION,
33 "MUNICIPAL PROVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-561. In
34 calculating the amount of groundwater withdrawn by the storer from the active
35 management area, the director, at the request of the storer, shall exclude:

36 (i) THE AMOUNT OF any groundwater withdrawn, treated and delivered for
37 direct use as part of a remedial action undertaken pursuant to CERCLA or
38 title 49, chapter 2, article 5. ~~For the purposes of this subdivision,~~
39 ~~"municipal provider" has the same meaning prescribed in section 45-561.~~

40 (ii) THE AMOUNT OF GROUNDWATER WITHDRAWN BY THE STORER DURING THE YEAR
41 FOR MINERAL EXTRACTION OR METALLURGICAL PROCESSING IF THE STORER WAS ENGAGED
42 IN MINERAL EXTRACTION AND METALLURGICAL PROCESSING WITHIN AN INITIAL ACTIVE
43 MANAGEMENT AREA ON OR BEFORE JANUARY 1, 2011.

1 (d) The amount of central Arizona project water stored in an active
2 management area in any year after 1994 by an agricultural improvement
3 district established pursuant to title 48, chapter 17 for use at those
4 portions of electrical generating facilities that are constructed or expanded
5 after June 12, 1980, subject to both of the following:

6 (i) If groundwater was used during a year in an active management area
7 at those portions of the electrical generating facilities that were owned and
8 operated by the agricultural improvement district and that were constructed
9 or expanded after June 12, 1980, the amount of the central Arizona project
10 water stored during that year equal to the amount of the groundwater
11 withdrawn during the year for use at those portions of the facilities that
12 were owned and operated by the agricultural improvement district and that
13 were constructed or expanded after June 12, 1980 shall not be credited to the
14 agricultural improvement district's long-term storage account but may be
15 considered as being available for recovery by the agricultural improvement
16 district on an annual basis under section 45-851.01.

17 (ii) Long-term storage credits accrued as a result of the storage of
18 the central Arizona project water may be recovered within the active
19 management area by the agricultural improvement district only for the purpose
20 of providing central Arizona project water to electrical generating
21 facilities that were owned and operated by the agricultural improvement
22 district and only pursuant to any water requirement included in a facility's
23 certificate of environmental compatibility. Subject to section 45-854.01,
24 the long-term storage credits may be assigned by the agricultural improvement
25 district only to the owner of an electrical generating facility for use
26 pursuant to any water requirement included in that facility's certificate of
27 environmental compatibility.

28 (e) Surface water made available by dams constructed or modified after
29 August 13, 1986.

30 (f) Until the year 2025:

31 (i) Effluent.

32 (ii) If the storage facility is in an active management area, water
33 from outside the active management area that would not have reached the
34 active management area without the efforts of the storer.

35 (iii) If the storage facility is outside of an active management area,
36 water from outside the groundwater basin in which the storage facility is
37 located that would not have reached the groundwater basin without the efforts
38 of the storer.

39 (g) Water that is delivered through the central Arizona project and
40 that is acquired by the Arizona water banking authority.

41 23. "Water storage" means adding water to an aquifer or saving water in
42 an aquifer pursuant to permits issued under this chapter.

43 24. "Water storage permit" means a permit issued pursuant to section
44 45-831.01 to store water at a storage facility.

1 Sec. 4. Section 45-852.01, Arizona Revised Statutes, is amended to
2 read:

3 45-852.01. Long-term storage accounts

4 A. The director shall establish one long-term storage account for each
5 person holding long-term storage credits. The director shall establish
6 subaccounts within the long-term storage account according to each active
7 management area, irrigation non-expansion area, groundwater basin or
8 groundwater subbasin in which the person's stored water is located. The
9 long-term storage account shall be further subdivided by type of water, if
10 the person holds long-term storage credits for more than one type of water.

11 B. Water stored pursuant to a water storage permit at a storage
12 facility may be credited to a long-term storage account if the director
13 determines that all of the following apply:

14 1. The water that was stored was water that cannot reasonably be used
15 directly.

16 2. If the stored water was stored at a storage facility within an
17 active management area, either:

18 (a) The water would not have been naturally recharged within the
19 active management area.

20 (b) If the water was stored at a managed underground storage facility
21 that has been designated as a facility that could add value to a national
22 park, national monument or state park and the water stored is effluent, the
23 water stored is water that could have been used or disposed of by the storer
24 by means other than discharging the effluent into the stream.

25 3. The stored water was not recovered on an annual basis pursuant to
26 section 45-851.01.

27 C. The director shall credit ninety-five per cent of the recoverable
28 amount of stored water that meets the requirements of subsection B of this
29 section to the storer's long-term storage account, except that:

30 1. If the water was stored at a managed underground storage facility
31 that had not been designated at the time of storage as a facility that could
32 add value to a national park, national monument or state park and the water
33 stored is effluent, the director shall credit to the storer's long-term
34 storage account fifty per cent of the recoverable amount of water that meets
35 the requirements of subsection B of this section. For storage of effluent in
36 a managed underground storage facility that is located in a recreational
37 corridor channelization district established pursuant to title 48, chapter
38 35, the director may increase the storage credits earned from fifty per cent
39 to ninety-five per cent if both of the following apply:

40 (a) The effluent was not discharged into the stream where the facility
41 is located before the permit application for that facility was filed.

42 (b) The director determines that the storage of effluent in the
43 facility will provide a greater benefit to aquifer conditions in the active
44 management area or, if outside an active management area, to the groundwater

1 basin than would accrue to the active management area or groundwater basin if
2 the effluent is used or disposed of in another manner.

3 2. If the water was stored at a groundwater savings facility and the
4 storer has not met the burden of proving that one hundred per cent of the in
5 lieu water was used on a gallon-for-gallon substitute basis for groundwater,
6 the director shall credit to the storer's long-term storage account only the
7 percentage of the in lieu water that meets the requirements of subsection B
8 of this section and that was proven to the director's satisfaction as being
9 used on a gallon-for-gallon substitute basis for groundwater.

10 3. THE DIRECTOR SHALL CREDIT TO THE STORER'S LONG-TERM STORAGE ACCOUNT
11 NINETY PER CENT OF THE RECOVERABLE AMOUNT OF THE WATER THAT MEETS THE
12 REQUIREMENTS OF SUBSECTION B OF THIS SECTION IF ALL OF THE FOLLOWING APPLY:

13 (a) THE STORED WATER WAS CENTRAL ARIZONA PROJECT WATER THAT QUALIFIES
14 AS WATER THAT CANNOT REASONABLY BE USED DIRECTLY DUE SOLELY TO THE EXCLUSION
15 OF GROUNDWATER WITHDRAWN BY THE STORER FOR MINERAL EXTRACTION OR
16 METALLURGICAL PROCESSING UNDER SECTION 45-802.01, PARAGRAPH 22,
17 SUBDIVISION (c).

18 (b) THE STORER WAS ENGAGED IN MINERAL EXTRACTION AND METALLURGICAL
19 PROCESSING WITHIN AN INITIAL ACTIVE MANAGEMENT AREA ON OR BEFORE JANUARY 1,
20 2011.

21 (c) ALL EXTERIOR BOUNDARIES OF THE STORAGE FACILITY THAT IS USED TO
22 STORE THE STORED WATER ARE MORE THAN TWENTY MILES FROM A WELL OWNED BY THE
23 STORER ON JANUARY 1, 2012 AND THAT WELL IS NOT AN EXEMPT WELL AND ANY ONE OR
24 MORE OF THE FOLLOWING APPLY:

25 (i) THE WELL IS AN EXISTING WELL AS DEFINED IN SECTION 45-591,
26 PARAGRAPH 1.

27 (ii) THE DEPARTMENT HAS ISSUED A PERMIT FOR THE WELL UNDER SECTION
28 45-599, SUBSECTION C.

29 (iii) THE WELL WAS DRILLED PURSUANT TO A MINERAL EXTRACTION AND
30 METALLURGICAL PROCESSING PERMIT ISSUED BY THE DEPARTMENT UNDER SECTION
31 45-514.

32 ~~3.~~ 4. Except as otherwise provided in paragraphs 1, ~~and~~ 2 AND 3 of
33 this subsection, the director shall credit to the storer's long-term storage
34 account or conservation district account one hundred per cent of the
35 recoverable amount of water that meets the requirements of subsection B of
36 this section if any of the following ~~apply~~ APPLIES:

37 (a) The water stored was effluent.

38 (b) The water was stored in an active management area and the stored
39 water is water from outside the active management area that would not have
40 reached the active management area without the efforts of the holder of the
41 long-term storage credits.

42 (c) The water was stored outside an active management area and the
43 stored water is water from outside the groundwater basin in which the water
44 was stored that would not have reached the groundwater basin without the
45 efforts of the holder of the long-term storage credits.

1 (d) The water was stored for purposes of establishing and maintaining
2 a replenishment reserve pursuant to section 48-3772, subsection E.

3 (e) The water was stored for replenishment purposes pursuant to
4 section 48-3771 and credited directly to a conservation district account
5 pursuant to section 45-859.01, subsection E.

6 D. The director shall credit a person's long-term storage account by
7 the amount of long-term storage credits assigned to that person by another
8 holder of long-term storage credits pursuant to section 45-854.01.

9 E. The director shall debit the appropriate subaccount of a person's
10 long-term storage account:

11 1. One hundred per cent of the amount of stored water that the holder
12 of the long-term storage credits has recovered during the calendar year
13 pursuant to the permit.

14 2. The amount of long-term storage credits that the person has
15 assigned to another person or transferred to a master replenishment account,
16 conservation district account or water district account.

17 3. If the water was stored in an active management area, the amount of
18 water during the calendar year that migrates to a location outside the active
19 management area or to a location within the active management area where it
20 cannot be beneficially used within a reasonable period of time by persons
21 other than the storer with rights to withdraw and use groundwater.

22 4. If the water was stored outside of an active management area, the
23 amount of water during the calendar year that migrates to a location outside
24 the groundwater basin in which the storage facility is located or to a
25 location in the groundwater basin where it cannot be beneficially used within
26 a reasonable period of time by persons other than the storer with rights to
27 withdraw and use groundwater.

28 5. The amount of long-term storage credits that the storer, pursuant
29 to section 45-853.01, subsection B, has applied to offset groundwater
30 withdrawn or used in excess of the storer's per capita municipal conservation
31 requirements under the second management plan.

32 6. The amount of long-term storage credits that are held by the
33 Arizona water banking authority and that the authority has chosen to
34 extinguish.

35 F. To the extent the total amount of water withdrawn by a person from
36 wells designated as recovery wells pursuant to section 45-834.01 during a
37 calendar year exceeds the amount of stored water recovered by the person on
38 an annual basis pursuant to section 45-851.01 and the amount of long-term
39 storage credits recovered by the person, the excess amount of water recovered
40 shall be considered groundwater withdrawn pursuant to chapter 2 of this
41 title.