

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

**CHAPTER 312**  
**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.

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

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

4           21. "Underground storage facility" means a constructed underground  
5 storage facility or a managed underground storage facility.

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

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12 that exceeds the amount of mined groundwater withdrawn during the calendar  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18 mined groundwater withdrawn from the active management area in which the  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22 calculating the amount of mined groundwater withdrawn by the storer from the  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24 exclude any groundwater withdrawn, treated and delivered for direct use as  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

28           (b) If the storer is a municipal provider that has been designated as  
29 having an assured water supply pursuant to section 45-576, the amount of  
30 central Arizona project water that exceeds the amount of deficit groundwater  
31 withdrawn during the calendar year by the storer in the active management  
32 area in which the storer's service area is located. If the storer withdrew  
33 deficit groundwater during a calendar year in which the storer stored central  
34 Arizona project water underground pursuant to the storage permit, the amount  
35 of the central Arizona project water stored underground during that year  
36 equal to the amount of deficit groundwater withdrawn from the active  
37 management area in which the storer's service area is located shall not be  
38 credited to the storer's long-term storage account but may be considered as  
39 being available for recovery by the storer on an annual basis pursuant to  
40 section 45-851.01. In calculating the amount of deficit groundwater  
41 withdrawn by the storer from the active management area, the director, at the  
42 request of the storer, shall exclude any groundwater withdrawn, treated and  
43 delivered for direct use as part of a remedial action undertaken pursuant to  
44 CERCLA or title 49, chapter 2, article 5. For the purposes of this  
45 subdivision, "municipal provider" has the same meaning prescribed in section  
46 45-561 and "deficit groundwater" means that amount of groundwater withdrawn

1 within an active management area for delivery and use within a service area  
2 by a municipal provider in excess of the amount of groundwater that may be  
3 withdrawn by the municipal provider consistent with the achievement of the  
4 active management area's management goals as prescribed by rules adopted by  
5 the director pursuant to section 45-576.

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

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

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

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

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

41 (i) If groundwater was used during a year in an active management area  
42 at those portions of the electrical generating facilities that were owned and  
43 operated by the agricultural improvement district and that were constructed  
44 or expanded after June 12, 1980, the amount of the central Arizona project  
45 water stored during that year equal to the amount of the groundwater  
46 withdrawn during the year for use at those portions of the facilities that

1 were owned and operated by the agricultural improvement district and that  
2 were constructed or expanded after June 12, 1980 shall not be credited to the  
3 agricultural improvement district's long-term storage account but may be  
4 considered as being available for recovery by the agricultural improvement  
5 district on an annual basis under section 45-851.01.

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

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

19 (f) Until the year 2025:

20 (i) Effluent.

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

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

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

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

32 24. "Water storage permit" means a permit issued pursuant to section  
33 45-831.01 to store water at a storage facility.

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

36 45-802.01. Definitions

37 Unless the context otherwise requires, the terms defined in section  
38 45-402 have the same meanings in this chapter and:

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

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

44 3. "CERCLA" means the comprehensive environmental response,  
45 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.

1 2767; 42 United States Code sections 9601 through 9657), commonly known as  
2 "superfund".

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

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

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

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

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

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

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

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

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

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

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

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

43 16. "Replenishment" means the storage of water or use of long-term  
44 storage credits by a groundwater replenishment district to fulfill its duties  
45 under title 48, chapter 27, article 3, by a multi-county water conservation  
46 district to fulfill its duties under title 48, chapter 22, article 4 or by an

1 active management area water district to fulfill its duties under title 48,  
2 chapter 28, article 7.

3 17. "Reserve target" has the same meaning prescribed in section  
4 48-3701.

5 18. "Storage facility" means a groundwater savings facility or an  
6 underground storage facility.

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

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

12 21. "Underground storage facility" means a constructed underground  
13 storage facility or a managed underground storage facility.

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

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

36 (b) If the storer is a municipal provider that has been designated as  
37 having an assured water supply pursuant to section 45-576, the amount of  
38 central Arizona project water that exceeds the amount of deficit groundwater  
39 withdrawn during the calendar year by the storer in the active management  
40 area in which the storer's service area is located. If the storer withdrew  
41 deficit groundwater during a calendar year in which the storer stored central  
42 Arizona project water underground pursuant to the storage permit, the amount  
43 of the central Arizona project water stored underground during that year  
44 equal to the amount of deficit groundwater withdrawn from the active  
45 management area in which the storer's service area is located shall not be  
46 credited to the storer's long-term storage account but may be considered as

1 being available for recovery by the storer on an annual basis pursuant to  
2 section 45-851.01. In calculating the amount of deficit groundwater  
3 withdrawn by the storer from the active management area, the director, at the  
4 request of the storer, shall exclude any groundwater withdrawn, treated and  
5 delivered for direct use as part of a remedial action undertaken pursuant to  
6 CERCLA or title 49, chapter 2, article 5. For the purposes of this  
7 subdivision, "municipal provider" has the same meaning prescribed in section  
8 45-561 and "deficit groundwater" means that amount of groundwater withdrawn  
9 within an active management area for delivery and use within a service area  
10 by a municipal provider in excess of the amount of groundwater that may be  
11 withdrawn by the municipal provider consistent with the achievement of the  
12 active management area's management goals as prescribed by rules adopted by  
13 the director pursuant to section 45-576.

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

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

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

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

42 (i) If groundwater was used during a year in an active management area  
43 at those portions of the electrical generating facilities that were owned and  
44 operated by the agricultural improvement district and that were constructed  
45 or expanded after June 12, 1980, the amount of the central Arizona project  
46 water stored during that year equal to the amount of the groundwater

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

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

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

20 (f) Until the year 2025:

21 (i) Effluent.

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

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

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

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

33 24. "Water storage permit" means a permit issued pursuant to section  
34 45-831.01 to store water at a storage facility.

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

37 45-852.01. Long-term storage accounts

38 A. The director shall establish one long-term storage account for each  
39 person holding long-term storage credits. The director shall establish  
40 subaccounts within the long-term storage account according to each active  
41 management area, irrigation non-expansion area, groundwater basin or  
42 groundwater subbasin in which the person's stored water is located. The  
43 long-term storage account shall be further subdivided by type of water, if  
44 the person holds long-term storage credits for more than one type of water.

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

4           1. The water that was stored was water that cannot reasonably be used  
5 directly.

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

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

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

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

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

20           1. If the water was stored at a managed underground storage facility  
21 that had not been designated at the time of storage as a facility that could  
22 add value to a national park, national monument or state park and the water  
23 stored is effluent, the director shall credit to the storer's long-term  
24 storage account fifty per cent of the recoverable amount of water that meets  
25 the requirements of subsection B of this section. For storage of effluent in  
26 a managed underground storage facility that is located in a recreational  
27 corridor channelization district established pursuant to title 48, chapter  
28 35, the director may increase the storage credits earned from fifty per cent  
29 to ninety-five per cent if both of the following apply:

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

32           (b) The director determines that the storage of effluent in the  
33 facility will provide a greater benefit to aquifer conditions in the active  
34 management area or, if outside an active management area, to the groundwater  
35 basin than would accrue to the active management area or groundwater basin if  
36 the effluent is used or disposed of in another manner.

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

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

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

6 (b) THE STORER WAS ENGAGED IN MINERAL EXTRACTION AND METALLURGICAL  
7 PROCESSING WITHIN AN INITIAL ACTIVE MANAGEMENT AREA ON OR BEFORE JANUARY 1,  
8 2011.

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

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

15 (ii) THE DEPARTMENT HAS ISSUED A PERMIT FOR THE WELL UNDER SECTION  
16 45-599, SUBSECTION C.

17 (iii) THE WELL WAS DRILLED PURSUANT TO A MINERAL EXTRACTION AND  
18 METALLURGICAL PROCESSING PERMIT ISSUED BY THE DEPARTMENT UNDER SECTION  
19 45-514.

20 ~~3-~~ 4. Except as otherwise provided in paragraphs 1, ~~and~~ 2 AND 3 of  
21 this subsection, the director shall credit to the storer's long-term storage  
22 account or conservation district account one hundred per cent of the  
23 recoverable amount of water that meets the requirements of subsection B of  
24 this section if any of the following ~~apply~~ APPLIES:

25 (a) The water stored was effluent.

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

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

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

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

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

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

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

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

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

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

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

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

22           F. To the extent the total amount of water withdrawn by a person from  
23 wells designated as recovery wells pursuant to section 45-834.01 during a  
24 calendar year exceeds the amount of stored water recovered by the person on  
25 an annual basis pursuant to section 45-851.01 and the amount of long-term  
26 storage credits recovered by the person, the excess amount of water recovered  
27 shall be considered groundwater withdrawn pursuant to chapter 2 of this  
28 title.

APPROVED BY THE GOVERNOR MAY 9, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2012.