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REFERENCE TITLE: **governor's water management commission amendments**

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

## **SB 1344**

Introduced by  
Senators Guenther, Hamilton, Hellon; Representative O'Halleran; Senators  
Arzberger, Brown

### **AN ACT**

AMENDING SECTIONS 45-133, 45-402, 45-454, 45-464, 45-469, 45-480, 45-492, 45-498, 45-514, 45-515 AND 45-561, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-563.03; AMENDING SECTIONS 45-565.01, 45-566.01 AND 45-567.01, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-569.01; AMENDING SECTIONS 45-576, 45-576.01, 45-576.02, 45-576.03, 45-576.06 AND 45-578, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-579, 45-580 AND 45-581; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 85, SECTION 2; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1994, CHAPTER 291, SECTION 27 AND CHAPTER 300, SECTION 2; AMENDING SECTION 45-599, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-599.01; AMENDING SECTIONS 45-604, 45-611, 45-613, 45-615, 45-632, 45-802.01, 45-832.01 AND 45-834.01, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 3.1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-837.01; AMENDING SECTIONS 45-852.01, 45-854.01 AND 45-859.01, ARIZONA REVISED STATUTES; REPEALING SECTION 45-860.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-871.01 AND 45-877.01, ARIZONA REVISED STATUTES; REPEALING SECTION 45-878.01, ARIZONA REVISED STATUTES; AMENDING

SECTIONS 45-896.01, 45-2104, 45-2113, 45-2114, 45-2427, 45-2457, 48-264, 48-909, 48-2978 AND 48-3701, ARIZONA REVISED STATUTES; AMENDING SECTION 48-3713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 142, SECTION 2; AMENDING SECTION 48-3713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 142, SECTION 3; REPEALING SECTION 48-3713, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 145, SECTION 1; AMENDING SECTIONS 48-3771, 48-3772 AND 48-3774, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 48-3774.01, 48-3774.02 AND 48-3774.03; AMENDING SECTIONS 48-3775, 48-3776, 48-3777, 48-3778 AND 48-3780, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 48-3780.01, 48-3780.02 AND 48-3780.03; AMENDING SECTIONS 48-3781, 48-3782 AND 48-3783, ARIZONA REVISED STATUTES; REPEALING TITLE 48, CHAPTER 28, ARIZONA REVISED STATUTES; PROVIDING FOR CONDITIONAL ENACTMENT; RELATING TO WATERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-133, Arizona Revised Statutes, is amended to  
3 read:

4 45-133. Permit for interim water use; application; fee;  
5 surcharge on use of groundwater

6 A. A person otherwise subject to the prohibitions of section 45-132  
7 may use groundwater withdrawn pursuant to a type 1 or type 2 non-irrigation  
8 grandfathered right or water other than groundwater to fill or refill all or  
9 a portion of a body of water until sufficient effluent is available to fill  
10 or refill the body of water if the person applies for and obtains a permit  
11 for interim water use from the director. The director may issue a permit if  
12 the applicant demonstrates to the satisfaction of the director that all of  
13 the following apply:

14 1. The applicant otherwise has a right to use the water for the  
15 proposed purpose.

16 2. Sufficient effluent to fill or refill the body of water is not  
17 reasonably available but it has been demonstrated by clear and convincing  
18 evidence that sufficient effluent will be available no later than five years  
19 from the date the permit is issued.

20 3. The applicant has:

21 (a) Provided the necessary easements for an on-site treatment facility  
22 or access to an off-site treatment facility and for transportation of a  
23 permanent effluent supply to the body of water.

24 (b) Provided the site location for the facility and received approval  
25 for the facility from the department of environmental quality, if an on-site  
26 treatment facility will be used.

27 (c) Recorded the easements and any site location for an on-site  
28 treatment facility on the plat of record for the subdivision or development  
29 within which the body of water is located.

30 4. The body of water will store effluent that will be applied to grow  
31 landscaping plants on common areas or will be used for other beneficial  
32 purposes that would otherwise require use of surface water or groundwater.

33 5. The development or facility in which the body of water is located  
34 will include an effective water conservation program. The specific  
35 conservation requirements in the water conservation program shall be  
36 consistent with and shall not by this paragraph be required to be more strict  
37 than any specific conservation requirements in the applicable management  
38 plan.

39 6. The body of water otherwise complies with this article.

40 B. The director may issue a permit under this section for a period of  
41 up to three years. The director shall specify the amount of water that may  
42 be used each year pursuant to the permit. The director shall determine the  
43 duration of the permit and the amount of water that may be used pursuant to  
44 the permit on the basis of the estimated time until sufficient effluent will  
45 be available to fill and refill the body of water. The director shall

1 monitor the use of water pursuant to the permit and shall modify the terms of  
2 the permit as necessary and terminate the permit if any of the conditions for  
3 issuance of the permit no longer apply. The director may renew a permit for  
4 no more than two successive one-year periods subject to the same criteria  
5 used in granting the original permit.

6 C. An application for a permit under this section shall be made on a  
7 form prescribed and furnished by the director. The director shall levy and  
8 collect a reasonable application fee to cover the costs of administrative  
9 services and expenses, which shall be remitted to the augmentation and  
10 conservation assistance fund described in section 45-615, paragraph 1.

11 D. The director shall levy and collect an annual surcharge from each  
12 holder of a permit for interim groundwater use. The amount of the surcharge  
13 shall be as follows:

14 1. For the first year following issuance of the permit, twenty-five  
15 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

16 2. For the second year following issuance of the permit, fifty dollars  
17 per acre-foot of groundwater withdrawn pursuant to the permit.

18 3. For the third year following issuance of the permit, one hundred  
19 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

20 4. For the fourth year following issuance of the permit, two hundred  
21 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

22 5. For the fifth year following issuance of the permit, four hundred  
23 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

24 E. All monies collected pursuant to subsection D of this section shall  
25 be remitted as follows:

26 1. Fifty per cent to the augmentation and conservation assistance fund  
27 described in section 45-615, paragraph 1, ~~or if a water district is organized~~  
28 ~~in the active management area under title 48, chapter 28, to the general fund~~  
29 ~~of the district.~~

30 2. Fifty per cent to the purchase and retirement fund described in  
31 section 45-615, paragraph 2.

32 F. If the holder of a permit for interim groundwater use fails to pay  
33 the surcharge levied pursuant to subsection D of this section by the date set  
34 by the director, the director shall revoke the permit.

35 Sec. 2. Section 45-402, Arizona Revised Statutes, is amended to read:

36 45-402. Definitions

37 In this chapter, unless the context otherwise requires:

38 1. "Accounting period" means the calendar year, except such other  
39 twelve-month period as may be otherwise agreed upon by the director and the  
40 owner of a farm or a district on behalf of its landowners.

41 2. "Active management area" means a geographical area which has been  
42 designated pursuant to article 2 of this chapter as requiring active  
43 management of groundwater or, in the case of the Santa Cruz active management  
44 area, active management of any water, other than stored water, withdrawn from  
45 a well.

1           3. "Animal industry use" means the production, growing and feeding of  
2 livestock, range livestock or poultry, as such terms are defined in section  
3 3-1201. Animal industry use is included in the term and general treatment of  
4 industry in this chapter, unless specifically provided otherwise.

5           4. "City" or "town" means a city or town incorporated or chartered  
6 under the constitution and laws of this state.

7           5. "Conservation district" means a multi-county water conservation  
8 district established under title 48, chapter 22.

9           6. "Convey" means to transfer the ownership of a grandfathered right  
10 from one person to another.

11           7. "Date of the designation of the active management area" means:

12           (a) With respect to an initial active management area, June 12, 1980.

13           (b) With respect to a subsequent active management area, the date on  
14 which the director's order designating the active management area becomes  
15 effective as provided in section 45-414 or the date on which the final  
16 results of an election approving the establishment of the active management  
17 area pursuant to section 45-415 are certified by the board of supervisors of  
18 the county or counties in which the active management area is located.

19           8. "Exempt well" means a well ~~having a pump with a maximum capacity of~~  
20 ~~not more than thirty-five gallons per minute which is used to withdraw~~  
21 ~~groundwater~~ THAT IS EXEMPT FROM THIS CHAPTER pursuant to section 45-454,  
22 SUBSECTION A OR B.

23           9. "Expanded animal industry use" means increased water use by an  
24 animal industrial enterprise on the land in use by the enterprise on June 12,  
25 1980 or on immediately adjoining land, excluding irrigation uses.

26           10. "Farm" means an area of irrigated land which is under the same  
27 ownership, which is served by a water distribution system common to the  
28 irrigated land and to which can be applied common conservation, water  
29 measurement and water accounting procedures.

30           11. "Farm unit" means:

31           (a) With respect to areas outside an active management area and with  
32 respect to an active management area other than the Santa Cruz  
33 active management area, one or more farms which are irrigated with  
34 groundwater and which are contiguous or in proximity to each other with  
35 similar soil conditions, crops and cropping patterns.

36           (b) With respect to the Santa Cruz active management area, one or more  
37 farms which are irrigated with water, other than stored water, withdrawn from  
38 a well and which are contiguous or in proximity to each other with similar  
39 soil conditions, crops and cropping patterns.

40           12. "Grandfathered right" means a right to withdraw and use groundwater  
41 pursuant to article 5 of this chapter based on the fact of lawful withdrawals  
42 and use of groundwater prior to the date of the designation of an active  
43 management area.

44           13. "Groundwater basin" means an area which, as nearly as known facts  
45 permit as determined by the director pursuant to this chapter, may be

1 designated so as to enclose a relatively hydrologically distinct body or  
2 related bodies of groundwater, which shall be described horizontally by  
3 surface description.

4 14. "Groundwater replenishment district" or "replenishment district"  
5 means a district that is established pursuant to title 48, chapter 27.

6 15. "Groundwater withdrawal permit" means a permit issued by the  
7 director pursuant to article 7 of this chapter.

8 16. "Initial active management area" means the Phoenix, Prescott or  
9 Pinal active management area established by section 45-411, the Tucson active  
10 management area established by section 45-411 and modified by section  
11 45-411.02 and the Santa Cruz active management area established by section  
12 45-411.03.

13 17. "Integrated farming operation" means:

14 (a) With respect to land within an irrigation non-expansion area, more  
15 than ten acres of land that are contiguous or in close proximity, that may be  
16 irrigated pursuant to section 45-437, that are not under the same ownership  
17 and that are farmed as a single farming operation.

18 (b) With respect to land within an active management area, two or more  
19 farms that are contiguous or in close proximity, that collectively have more  
20 than ten irrigation acres and that are farmed as a single farming operation.

21 18. "Irrigate" means to apply water to two or more acres of land to  
22 produce plants or parts of plants for sale or human consumption, or for use  
23 as feed for livestock, range livestock or poultry, as such terms are defined  
24 in section 3-1201.

25 19. "Irrigation acre" means an acre of land, as determined in section  
26 45-465, subsection B, to which an irrigation grandfathered right is  
27 appurtenant.

28 20. "Irrigation district" means a political subdivision, however  
29 designated, established pursuant to title 48, chapter 17 or 19.

30 21. "Irrigation grandfathered right" means a grandfathered right  
31 determined pursuant to section 45-465.

32 22. "Irrigation non-expansion area" means a geographical area which has  
33 been designated pursuant to article 3 of this chapter as having insufficient  
34 groundwater to provide a reasonably safe supply for the irrigation of the  
35 cultivated lands at the current rate of withdrawal.

36 23. "Irrigation use" means:

37 (a) With respect to areas outside an active management area and with  
38 respect to an active management area other than the Santa Cruz  
39 active management area, the use of groundwater on two or more acres of land  
40 to produce plants or parts of plants for sale or human consumption, or for  
41 use as feed for livestock, range livestock or poultry, as such terms are  
42 defined in section 3-1201.

43 (b) With respect to the Santa Cruz active management area, the use of  
44 water, other than stored water, withdrawn from a well on two or more acres of  
45 land to produce plants or parts of plants for sale or human consumption, or

1 for use as feed for livestock, range livestock or poultry, as such terms are  
2 defined in section 3-1201.

3 24. "Irrigation water duty" or "water duty" means the amount of water  
4 in acre-feet per acre that is reasonable to apply to irrigated land in a farm  
5 unit during the accounting period, as determined by the director pursuant to  
6 sections 45-564 through 45-568.

7 25. "LIMITED GROUNDWATER RIGHT" MEANS A RIGHT TO WITHDRAW AND USE  
8 GROUNDWATER UNDER THIS CHAPTER AS DESCRIBED IN SECTION 45-464, SUBSECTION J,  
9 SECTION 45-480, SUBSECTION H, SECTION 45-514, SUBSECTION E AND SECTION  
10 45-515, SUBSECTION E. THE RIGHTS TO WITHDRAW AND USE GROUNDWATER UNDER THIS  
11 CHAPTER BY CITIES, TOWNS AND PRIVATE WATER COMPANIES THAT HAVE BEEN  
12 DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER SECTION 45-576 BY LARGE  
13 UNTREATED WATER PROVIDERS, BY PERSONS WHOSE USE OF WATER IS FOR METAL MINING  
14 AND METALLURGICAL RECOVERY PURPOSES AND BY PERSONS WHOSE USE OF WATER IS FOR  
15 IRRIGATION PURPOSES ARE NOT LIMITED GROUNDWATER RIGHTS.

16 26. "LIMITED MEMBER LAND" MEANS REAL PROPERTY THAT QUALIFIES AS A  
17 LIMITED MEMBER LAND OF A CONSERVATION DISTRICT AS PROVIDED BY TITLE 48,  
18 CHAPTER 22.

19 27. "LIMITED MEMBER SERVICE AREA" MEANS THE LIMITED SERVICE AREA OF A  
20 MUNICIPAL PROVIDER THAT QUALIFIES AS A LIMITED MEMBER SERVICE AREA OF A  
21 CONSERVATION DISTRICT AS PROVIDED BY TITLE 48, CHAPTER 22.

22 28. "LIMITED SERVICE AREA" MEANS AN AREA TO WHICH BOTH OF THE FOLLOWING  
23 APPLY:

24 (a) A MUNICIPAL PROVIDER THAT HAS NOT BEEN DESIGNATED AS HAVING AN  
25 ASSURED WATER SUPPLY UNDER SECTION 45-576 HAS SUBMITTED A MAP TO THE DIRECTOR  
26 IDENTIFYING THE AREA AS AN AREA THAT IS OR IS FORESEEABLY LIKELY TO BECOME  
27 PART OF THE MUNICIPAL PROVIDER'S SERVICE AREA.

28 (b) ONE OF THE FOLLOWING APPLIES:

29 (i) WITH RESPECT TO A CITY OR TOWN THAT SUPPLIES WATER FOR  
30 NON-IRRIGATION USE, AN AREA OUTSIDE THE CITY OR TOWN'S CORPORATE BOUNDARIES  
31 AS THOSE BOUNDARIES EXISTED ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
32 SECTION OR OUTSIDE THE SERVICE AREA OF THE CITY OR TOWN AS THE SERVICE AREA  
33 EXISTED ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, IF THE  
34 SERVICE AREA ON THAT DATE EXTENDS BEYOND THE CORPORATE BOUNDARIES OF THE CITY  
35 OR TOWN.

36 (ii) WITH RESPECT TO A PRIVATE WATER COMPANY THAT IS REGULATED BY THE  
37 CORPORATION COMMISSION, ANY AREA INCLUDED IN AN EXTENSION OF ITS CERTIFICATE  
38 OF CONVENIENCE AND NECESSITY THAT IS GRANTED BY THE CORPORATION COMMISSION  
39 PURSUANT TO AN APPLICATION FILED WITH THE CORPORATION COMMISSION ON OR AFTER  
40 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

41 (iii) WITH RESPECT TO A MUNICIPAL PROVIDER THAT IS NOT A CITY, TOWN OR  
42 PRIVATE WATER COMPANY REGULATED BY THE CORPORATION COMMISSION, AN AREA  
43 OUTSIDE THE MUNICIPAL PROVIDER'S SERVICE AREA AS THE SERVICE AREA EXISTED ON  
44 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

1           ~~25-~~ 29. "Member land" means real property that qualifies as a member  
2 land of a conservation district as provided by title 48, chapter 22.

3           ~~26-~~ 30. "Member service area" means the service area of a city, town  
4 or private water company that qualifies as a member service area of a  
5 conservation district as provided by title 48, chapter 22.

6           ~~27-~~ 31. "Non-irrigation grandfathered right" means a grandfathered  
7 right determined pursuant to section 45-463, 45-464, 45-469 or 45-472.

8           ~~28-~~ 32. "Non-irrigation use" means:  
9           (a) With respect to areas outside an active management area and with  
10 respect to an active management area other than the Santa Cruz  
11 active management area, a use of groundwater other than an irrigation use.

12           (b) With respect to the Santa Cruz active management area, a use of  
13 water, other than stored water, withdrawn from a well, other than an  
14 irrigation use.

15           ~~29-~~ 33. "Person" means an individual, public or private corporation,  
16 company, partnership, firm, association, society, estate or trust, any other  
17 private organization or enterprise, the United States, any state, territory  
18 or country or a governmental entity, political subdivision or municipal  
19 corporation organized under or subject to the constitution and laws of this  
20 state.

21           ~~30-~~ 34. "Private water company" means:  
22           (a) With respect to areas outside an active management area and with  
23 respect to an active management area other than the Santa Cruz  
24 active management area, any entity which distributes or sells groundwater,  
25 except a political subdivision or an entity which is established pursuant to  
26 title 48 and which is not regulated as a public service corporation by the  
27 Arizona corporation commission under a certificate of public convenience and  
28 necessity. A city or town is not a private water company.

29           (b) With respect to the Santa Cruz active management area, any entity  
30 which distributes or sells water, other than stored water, withdrawn from a  
31 well, except a political subdivision or an entity which is established  
32 pursuant to title 48 and which is not regulated as a public service  
33 corporation by the Arizona corporation commission under a certificate of  
34 public convenience and necessity. A city or town is not a private water  
35 company.

36           ~~31-~~ 35. "Service area" means:  
37           (a) With respect to a city or town, the area of land actually being  
38 served water, for a non-irrigation use, by the city or town plus:  
39           (i) Additions to such area which contain an operating distribution  
40 system owned by the city or town primarily for the delivery of water for a  
41 non-irrigation use.

42           (ii) The service area of a city, town or private water company that  
43 obtains its water from the city pursuant to a contract entered into prior to  
44 the date of the designation of the active management area.



1 (b) With respect to a private water company, the area of land of the  
2 private water company actually being served water, for a non-irrigation use,  
3 by the private water company plus additions to such area which contain an  
4 operating distribution system owned by the private water company primarily  
5 for the delivery of water for a non-irrigation use.

6 ~~32-~~ 36. "Service area of an irrigation district" means:

7 (a) With respect to an irrigation district which was engaged in the  
8 withdrawal, delivery and distribution of groundwater as of the date of the  
9 designation of the active management area, the area of land within the  
10 boundaries of the irrigation district actually being served water by the  
11 irrigation district at any time during the five years preceding the date of  
12 the designation of the active management area plus any areas as of the date  
13 of the designation of the active management area within the boundaries of the  
14 irrigation district which contain an operating system of canals, flumes,  
15 ditches and other works owned or operated by the irrigation district. The  
16 service area may be modified pursuant to section 45-494.01.

17 (b) With respect to an irrigation district which was not engaged in  
18 the withdrawal, delivery and distribution of groundwater as of the date of  
19 the designation of the active management area:

20 (i) The acres of member lands within the boundaries of the irrigation  
21 district which were legally irrigated at any time from January 1, 1975  
22 through January 1, 1980 for initial active management areas or during the  
23 five years preceding the date of the designation of the active management  
24 area for subsequent active management areas.

25 (ii) Any areas as of the date of the designation of the active  
26 management area within the boundaries of the irrigation district which  
27 contain an operating system of canals, flumes, ditches and other works for  
28 the withdrawal, delivery and distribution of water.

29 ~~33-~~ 37. "Stored water" means water that is stored underground for the  
30 purpose of recovery pursuant to a permit issued under chapter 3.1 of this  
31 title.

32 ~~34-~~ 38. "Sub-basin" means an area which, as nearly as known facts  
33 permit as determined by the director pursuant to this chapter, may be  
34 designated so as to enclose a relatively hydrologically distinct body of  
35 groundwater within a groundwater basin, which shall be described horizontally  
36 by surface description.

37 ~~35-~~ 39. "Subsequent active management area" means an active management  
38 area established after June 12, 1980 pursuant to article 2 of this chapter.

39 ~~36-~~ 40. "Subsidence" means the settling or lowering of the surface of  
40 land which results from the withdrawal of groundwater.

41 ~~37-~~ 41. "Transportation" means the movement of groundwater from the  
42 point of withdrawal to the point of use.

43 ~~38-~~ 42. "Type 1 non-irrigation grandfathered right" means a  
44 non-irrigation grandfathered right associated with retired irrigated land and  
45 determined pursuant to section 45-463, 45-469 or 45-472.

1           ~~39.~~ 43. "Type 2 non-irrigation grandfathered right" means a  
2 non-irrigation grandfathered right not associated with retired irrigated land  
3 and determined pursuant to section 45-464.

4           ~~40. "Water district" means an active management area water district~~  
5 ~~that is established under title 48, chapter 28 and that has adopted an~~  
6 ~~ordinance or resolution to undertake water district groundwater replenishment~~  
7 ~~obligations as defined and used in title 48, chapter 28, article 7.~~

8           ~~41. "Water district member land" means real property that qualifies as~~  
9 ~~water district member land of a water district as provided by title 48,~~  
10 ~~chapter 28.~~

11           ~~42. "Water district member service area" means the service area of the~~  
12 ~~city, town or private water company that qualifies as a water district member~~  
13 ~~service area of a water district as provided by title 48, chapter 28.~~

14           ~~43.~~ 44. "Well" means a man-made opening in the earth through which  
15 water may be withdrawn or obtained from beneath the surface of the earth  
16 except as provided in section 45-591.01.

17           Sec. 3. Section 45-454, Arizona Revised Statutes, is amended to read:

18           ~~45-454.~~ Exemption of small non-irrigation wells; definitions

19           A. Withdrawals of groundwater for non-irrigation uses from wells  
20 having a pump with a maximum capacity of not more than thirty-five gallons  
21 per minute which were drilled before April 28, 1983 or which were drilled  
22 after April 28, 1983 pursuant to a notice of intention to drill which was on  
23 file with the department on such date are exempt from the provisions of this  
24 chapter, except that:

25           1. Wells drilled before June 12, 1980 which are not abandoned or  
26 capped or wells which were not completed on June 12, 1980 but for which a  
27 notice of intention to drill was on file with the Arizona water commission on  
28 such date are subject to subsections ~~F, G, and H~~ AND I of this section and  
29 must be registered pursuant to section 45-593. If two or more wells in an  
30 active management area are exempt under this paragraph and are used to serve  
31 the same non-irrigation use at the same location, the aggregate quantity of  
32 groundwater withdrawn from the wells shall not exceed fifty-six acre-feet per  
33 year.

34           2. Wells drilled between June 12, 1980 and April 28, 1983, except as  
35 provided in paragraph 1 of this subsection, and wells drilled after April 28,  
36 1983 pursuant to a notice of intention to drill which was on file with the  
37 department on April 28, 1983 are subject to subsections ~~C, E, D, F, and G~~ AND  
38 ~~H~~ of this section.

39           B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, withdrawals of  
40 groundwater for non-irrigation uses from THE FOLLOWING WELLS ARE EXEMPT FROM  
41 THIS CHAPTER:

42           1. Wells having a pump with a maximum capacity of not more than  
43 thirty-five gallons per minute drilled on or PURSUANT TO A NOTICE OF  
44 INTENTION TO DRILL THAT IS FILED after April 28, 1983, ~~except wells drilled~~  
45 ~~after April 28, 1983 pursuant to a notice of intention to drill which was on~~

1 ~~file with the department on such date, are exempt from the provisions of this~~  
2 ~~chapter, except that:~~ AND BEFORE JANUARY 1, 2003.

3 2. WELLS HAVING A PUMP WITH A MAXIMUM CAPACITY OF NOT MORE THAN TWENTY  
4 GALLONS PER MINUTE DRILLED PURSUANT TO A NOTICE OF INTENTION TO DRILL THAT IS  
5 FILED ON OR AFTER JANUARY 1, 2003.

6 3. A REPLACEMENT EXEMPT WELL DRILLED PURSUANT TO A NOTICE OF INTENTION  
7 TO DRILL THAT IS FILED ON OR AFTER JANUARY 1, 2003.

8 4. A WELL HAVING A PUMP WITH A MAXIMUM CAPACITY OF MORE THAN TWENTY  
9 GALLONS PER MINUTE BUT NOT MORE THAN THIRTY-FIVE GALLONS PER MINUTE DRILLED  
10 PURSUANT TO A NOTICE OF INTENTION TO DRILL THAT IS FILED ON OR AFTER JANUARY  
11 1, 2003 IF THE PERSON WHO FILED THE NOTICE DEMONSTRATED TO THE SATISFACTION  
12 OF THE DIRECTOR BEFORE DRILLING THE WELL THAT PUMP CAPACITY IN EXCESS OF  
13 TWENTY GALLONS PER MINUTE WAS REQUIRED TO PROVIDE ADEQUATE FLOW RATES FOR THE  
14 INTENDED USE.

15 ~~1-~~ C. ~~Such~~ Wells EXEMPT UNDER SUBSECTION B OF THIS SECTION are  
16 subject to subsections ~~C- D~~ through ~~G- H~~ of this section AND ARE ALSO SUBJECT  
17 TO THE FOLLOWING, AS APPLICABLE~~,-~~:

18 ~~2-~~ 1. In an active management area, other than a subsequent active  
19 management area designated for a portion of a groundwater basin in the  
20 regional aquifer systems of northern Arizona, withdrawals of groundwater from  
21 such wells for non-irrigation uses other than domestic purposes and stock  
22 watering shall not exceed ten acre-feet per year.

23 ~~3-~~ 2. In a subsequent active management area that is designated for a  
24 portion of a groundwater basin in the regional aquifer systems of northern  
25 Arizona, groundwater withdrawn from such wells may be used only for domestic  
26 purposes and stock watering.

27 3. BEGINNING JANUARY 1, 2005, GROUNDWATER MAY NOT BE WITHDRAWN FROM AN  
28 EXEMPT WELL LOCATED WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE  
29 DELINEATED ON THE MAP IDENTIFIED IN SECTION 45-599, SUBSECTION K UNLESS ONE  
30 OF THE FOLLOWING APPLIES:

31 (a) THE WELL IS EXEMPT UNDER SUBSECTION A OF THIS SECTION OR THE  
32 NOTICE OF INTENTION TO DRILL THE WELL WAS FILED BEFORE JANUARY 1, 2005.

33 (b) THE WELL IS A REPLACEMENT EXEMPT WELL.

34 (c) GROUNDWATER WITHDRAWN FROM THE WELL IS USED ONLY FOR STOCK  
35 WATERING.

36 (d) THE DIRECTOR APPROVES CONSTRUCTION OF THE WELL PURSUANT TO SECTION  
37 45-596, SUBSECTION I, PARAGRAPH 1.

38 (e) THE DIRECTOR APPROVES CONSTRUCTION OF THE WELL PURSUANT TO SECTION  
39 45-596, SUBSECTION I, PARAGRAPH 4 AND ALL OF THE FOLLOWING APPLY:

40 (i) THE WELL IS EQUIPPED WITH A PUMP THAT HAS A MAXIMUM CAPACITY OF  
41 NOT MORE THAN TWENTY GALLONS PER MINUTE.

42 (ii) WITHDRAWALS OF GROUNDWATER FROM THE WELL DO NOT EXCEED TWO  
43 ACRE-FEET PER YEAR.

44 (iii) GROUNDWATER WITHDRAWN FROM THE WELL IS USED ONLY FOR DOMESTIC  
45 PURPOSES.

1           ~~C.~~ D. A person shall file a notice of intention to drill with the  
2 director pursuant to section 45-596 before drilling an exempt well or causing  
3 an exempt well to be drilled.

4           ~~D.~~ E. The registered well owner shall file a completion report  
5 pursuant to section 45-600, subsection B.

6           ~~E.~~ F. In an active management area only one exempt well may be  
7 drilled or used to serve the same non-irrigation use at the same location,  
8 except that a person may drill or use a second exempt well to serve the same  
9 non-irrigation use at the same location if the director determines that all  
10 of the following apply:

11           1. Because of its location, the first exempt well is not capable of  
12 consistently producing more than three gallons per minute of groundwater when  
13 equipped with a pump with ~~a- THE~~ maximum capacity ~~of thirty-five gallons per~~  
14 ~~minute~~ PERMITTED BY THIS SECTION.

15           2. The second exempt well is located on the same parcel of land as the  
16 first exempt well, the parcel of land is at least one acre in size, all  
17 groundwater withdrawn from both exempt wells is used on that parcel of land  
18 and there are no other exempt wells on that parcel of land.

19           3. Combined withdrawals from both wells do not exceed five acre-feet  
20 per year.

21           4. If the second exempt well is drilled after January 1, 2000, the  
22 county health authority for the county in which the well is located or any  
23 other local health authority that controls the installation of septic tanks  
24 or sewer systems in the county has approved the location of the well in  
25 writing after physically inspecting the well site.

26           5. Use of two wells for the same non-irrigation use at the same  
27 location is not contrary to the health and welfare of the public.

28           ~~F.~~ G. An exempt well is subject to sections 45-594 and 45-595. WELLS  
29 EXEMPT UNDER SUBSECTION B, PARAGRAPH 4 OF THIS SECTION AND EXEMPT WELLS  
30 APPROVED BY THE DIRECTOR PURSUANT TO SECTION 45-596, SUBSECTION I, PARAGRAPH  
31 4 ARE SUBJECT TO SECTIONS 45-604 AND 45-632.

32           ~~G.~~ H. Groundwater withdrawn from an exempt well may be transported  
33 only pursuant to the provisions of articles 8 and 8.1 of this chapter.

34           ~~H.~~ I. A person who owns land from which exempt withdrawals were being  
35 made as of the date of the designation of the active management area is not  
36 eligible for a certificate of grandfathered right for a type 2 non-irrigation  
37 use for such withdrawals.

38           J. NOTHING IN SUBSECTION C, PARAGRAPH 3 OF THIS SECTION SHALL BE  
39 CONSTRUED TO AFFECT DECREED AND APPROPRIATIVE WATER RIGHTS. NOTHING IN  
40 SUBSECTION C, PARAGRAPH 3 OF THIS SECTION SHALL BE CONSTRUED TO AFFECT THE  
41 DEFINITION OF SURFACE WATER IN SECTION 45-101 AND THE DESCRIPTION OF WATER  
42 SUBJECT TO APPROPRIATION IN SECTION 45-141 OR THE PROVISIONS OF CHAPTER 1,  
43 ARTICLE 9 OF THIS TITLE.

44           ~~I.~~ K. In this section:

1           1. "Domestic purposes" means uses related to the supply, service and  
2 activities of households and private residences and includes the application  
3 of water to less than two acres of land to produce plants or parts of plants  
4 for sale or human consumption, or for use as feed for livestock, range  
5 livestock or poultry, as such terms are defined in section 3-1201.

6           2. "REPLACEMENT EXEMPT WELL" MEANS A WELL TO WHICH BOTH OF THE  
7 FOLLOWING APPLY:

8           (a) THE WELL IS DRILLED TO REPLACE AN EXEMPT WELL ON THE SAME PARCEL  
9 OF LAND AND THE ORIGINAL WELL WAS EXEMPT UNDER SUBSECTION A OR SUBSECTION B,  
10 PARAGRAPH 1 OF THIS SECTION.

11           (b) THE WELL IS EQUIPPED WITH A PUMP WITH A MAXIMUM CAPACITY NOT MORE  
12 THAN THE MAXIMUM CAPACITY OF THE PUMP IN THE ORIGINAL WELL.

13           ~~2-~~ 3. "Stock watering" means the watering of livestock, range  
14 livestock or poultry, as such terms are defined in section 3-1201.

15           Sec. 4. Section 45-464, Arizona Revised Statutes, is amended to read:

16           45-464. Type 2 non-irrigation grandfathered right not  
17 associated with retired irrigated land; determination  
18 of amount; definition; ownership

19           A. In an active management area, a person who owns land from which  
20 groundwater was being legally withdrawn and used for a non-irrigation purpose  
21 as of the date of the designation of the active management area has the right  
22 to withdraw annually:

23           1. If the person holds a certificate of exemption, the greater of:

24           (a) The amount of groundwater established in proceedings on the  
25 application for certificate of exemption, subject to any modification as a  
26 result of a finding on appeal of a factual mistake by the state land  
27 department or Arizona water commission in computing the amount of the  
28 authorized withdrawal, less the amount of any right obtained by the person  
29 pursuant to section 45-463.

30           (b) The maximum amount of groundwater legally withdrawn from such land  
31 and used by the person in any one of the five years preceding the date of the  
32 designation of the active management area, less the amount of any right  
33 obtained by the person pursuant to section 45-463.

34           2. If the person does not hold a certificate of exemption, the maximum  
35 amount of groundwater legally withdrawn from such land and used by the person  
36 withdrawing the groundwater in any one of the five years preceding the date  
37 of the designation of the active management area, less the amount of any  
38 right **THAT IS** obtained pursuant to section 45-463 by the person withdrawing  
39 groundwater from such land **which AND THAT** has not been subtracted by the  
40 person withdrawing the groundwater in calculating the amount of another right  
41 pursuant to this section.

42           B. If the calculation in subsection A of this section results in an  
43 amount greater than zero, that amount is a grandfathered right in addition to  
44 any right obtained pursuant to section 45-463.

45           C. For the purposes of this section, "person" includes:

1           1. A city, town or private water company which owns land outside of  
2 the service area of such city, town or private water company from which  
3 groundwater was being legally withdrawn for a non-irrigation use as of the  
4 date of the designation of the active management area.

5           2. A city, town or private water company withdrawing groundwater from  
6 within its service area pursuant to a certificate of exemption.

7           3. Any other non-irrigation user.

8           D. If a person has been using groundwater for less than one year  
9 during the twelve months immediately preceding the date of the designation of  
10 the active management area, the amount of the grandfathered right pursuant to  
11 this section is the annual amount determined by the director to be reasonable  
12 for a full year to meet the requirements for a facility owned by such person  
13 in existence as of the date of the designation of the active management area.

14           E. If a person has received a certificate of environmental  
15 compatibility pursuant to title 40, chapter 2, article 6.2 for the  
16 construction of an electrical generating facility within a subsequent active  
17 management area for which expenditures or financial commitments for land  
18 acquisition, water development, materials, construction or engineering in  
19 excess of five hundred thousand dollars have been made before the date of the  
20 notice of the initiation of designation procedures or the call for the  
21 election for the area, the amount of the grandfathered right pursuant to this  
22 section is the annual amount determined by the director to be reasonable to  
23 meet the operational requirements for the facility for a full year.

24           F. The right to withdraw groundwater pursuant to this section is a  
25 non-irrigation grandfathered right not associated with retired irrigated  
26 land, or a type 2 non-irrigation grandfathered right.

27           G. A type 2 non-irrigation grandfathered right may be leased. Except  
28 as provided in subsection H of this section, the owner or lessee of a type 2  
29 non-irrigation grandfathered right may withdraw groundwater pursuant to the  
30 right only from a location within the same active management area in which  
31 the certificate of grandfathered right is issued.

32           H. Beginning July 1, 1994, the holder of a type 2 non-irrigation  
33 grandfathered right issued in the Tucson active management area prior to July  
34 1, 1994, may withdraw groundwater pursuant to the right only from a location  
35 within the same active management area in which the well or wells listed on  
36 the certificate of grandfathered right on July 1, 1994, are located. If no  
37 well is listed on the certificate of grandfathered right on July 1, 1994, the  
38 holder of the right may withdraw groundwater pursuant to the right only from  
39 a location within the same active management area in which the land from  
40 which the originating withdrawals were made is located. For THE purposes of  
41 this subsection, ~~the term~~ "originating withdrawals" means the withdrawals of  
42 groundwater on which the issuance of a type 2 non-irrigation grandfathered  
43 right was based.

44           I. If the user of a type 2 non-irrigation grandfathered right is  
45 different from the owner of the right, either the owner, or the user of the

1 right on behalf of the owner, may apply for a certificate of grandfathered  
2 right pursuant to section 45-476.

3 J. THE USE OF THE TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT SHALL BE A  
4 LIMITED GROUNDWATER RIGHT AND SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION  
5 45-579, IF ONE OF THE FOLLOWING APPLIES:

6 1. THE TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT IS USED IN THE  
7 PHOENIX, PRESCOTT, PINAL OR TUCSON ACTIVE MANAGEMENT AREA AND A CHANGE IN  
8 PLACE AND TYPE OF USE OCCURS ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT  
9 TO THIS SECTION.

10 2. THE TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT IS USED IN THE SANTA  
11 CRUZ ACTIVE MANAGEMENT AREA, THE DIRECTOR HAS ISSUED THE ORDER DESCRIBED IN  
12 SECTION 45-581, SUBSECTION B AND THE CHANGE IN PLACE AND TYPE OF USE OCCURS  
13 AFTER THE DIRECTOR ISSUES THE ORDER.

14 Sec. 5. Section 45-469, Arizona Revised Statutes, is amended to read:

15 45-469. Right to retire irrigation grandfathered right for  
16 non-irrigation use; development plan approval;  
17 amendment of plan; approval of plan prior to  
18 retirement; amount withdrawn; service area  
19 determined; restoration of retired irrigation  
20 grandfathered right

21 A. Except as provided in section 45-480, ~~subsection~~ SUBSECTIONS F AND  
22 H and ~~subsection~~ SUBSECTIONS I AND P of this section, ~~except as provided in~~  
23 ~~subsection I of this section,~~ a person who owns land which is legally  
24 entitled to be irrigated with groundwater pursuant to an irrigation  
25 grandfathered right and which is located within an active management area and  
26 outside of the exterior boundaries of the service area of a city, town or  
27 private water company has the right to retire such land from irrigation in  
28 anticipation of a future non-irrigation use and shall not forfeit or abandon  
29 the right to withdraw from or receive for such land the amount of groundwater  
30 calculated pursuant to subsection F of this section for a non-irrigation use  
31 if:

32 1. The land is held in the same ownership.

33 2. A development plan for the proposed non-irrigation use exists and  
34 is approved by the director within a reasonable time before or after the land  
35 is retired.

36 B. Except as provided in subsection P of this section, the director  
37 shall approve the development plan required by subsection A of this section  
38 if it appears that the land:

39 1. Has been or will be retired for the bona fide purpose of conserving  
40 or using water for a non-irrigation use which would otherwise continue to be  
41 used for irrigation of such land.

42 2. Has not been sold or taken out of production primarily because it  
43 would have been uneconomical to continue to withdraw water for irrigation.

44 C. The director shall not investigate the legality, other than  
45 pursuant to this chapter, feasibility or other factors involved in the

1 proposed development plan and shall not disapprove a development plan on such  
2 grounds.

3 D. A development plan may be amended and the director shall approve  
4 amendments if the criteria of this section are met.

5 E. A person proposing to retire irrigated land which is located inside  
6 or outside of an active management area may apply to the director for  
7 approval of a proposed development plan prior to the retirement of such land.

8 F. The amount of groundwater which may be withdrawn or received  
9 annually per acre pursuant to this section is the lesser of:

10 1. The current maximum amount of groundwater which may be used  
11 pursuant to the irrigation grandfathered right for the acre at the time it is  
12 retired, as calculated pursuant to section 45-465, subsection B.

13 2. Three acre-feet multiplied by the water duty acres in the farm in  
14 which the acre to which the right is appurtenant is located divided by the  
15 number of irrigation acres in the farm.

16 G. The right to withdraw or receive groundwater pursuant to this  
17 section is a non-irrigation grandfathered right associated with retired  
18 irrigated land, or a type 1 non-irrigation grandfathered right as described  
19 in section 45-463.

20 H. Whether the land to which an irrigation grandfathered right is  
21 appurtenant is within the exterior boundaries of the service area of a city,  
22 town or private water company shall be determined as of the date the  
23 development plan is filed with the director.

24 I. A city or town in an initial active management area that holds a  
25 certificate of irrigation grandfathered right for acres of land that were  
26 acquired before January 1, 1989 in another initial active management area,  
27 and a groundwater replenishment district established under title 48, chapter  
28 27 that purchases any of that land from the city or town, has the right,  
29 subject to subsections J, K, L and M of this section, to retire the land in  
30 anticipation of a future non-irrigation use and withdraw from any location on  
31 the land groundwater for non-irrigation use on the land or for transportation  
32 to another initial active management area for the purpose of demonstrating  
33 and providing an assured water supply if all of the following apply:

34 1. Before January 1, 1989, the city or town filed with the director a  
35 development plan pursuant to this section for all or a portion of the land.

36 2. Any withdrawals pursuant to this subsection from a new well, as  
37 defined in section 45-591, will comply with the rules adopted pursuant to  
38 section 45-598, subsection A to prevent unreasonably increasing damage to  
39 surrounding land or other water users from the concentration of wells.

40 3. Any withdrawals for transportation to another initial active  
41 management area for the purpose of demonstrating and providing an assured  
42 water supply are made from a depth to one thousand two hundred feet at the  
43 site or sites of the withdrawals, except that the wells may be drilled to any  
44 depth.



1 J. The amount of groundwater that may be withdrawn and used annually  
2 pursuant to subsection I of this section shall be determined pursuant to  
3 subsection F of this section. The maximum amount of such groundwater that  
4 may be included by the director in determining whether to designate or  
5 redesignate the city or town as having an assured water supply pursuant to  
6 section 45-576 equals one hundred times the total amount that may be  
7 withdrawn annually from the land.

8 K. A city or town that is eligible for a type 1 non-irrigation  
9 grandfathered right under subsection I of this section may:

10 1. Before retiring the land under subsection I of this section,  
11 substitute for the acres of land described in subsection I of this section  
12 the same number of acres owned by the city or town to which irrigation  
13 grandfathered rights are appurtenant and located in the same sub-basin as the  
14 acres described in subsection I of this section.

15 2. At any time, elect to convert a type 1 non-irrigation grandfathered  
16 right appurtenant to land in the same sub-basin and acquired by the city or  
17 town before January 1, 1989 under subsection A of this section to a type 1  
18 non-irrigation grandfathered right under subsection I of this section.

19 L. In determining whether to designate or redesignate the city or town  
20 as having an assured water supply pursuant to section 45-576, based in whole  
21 or in part on groundwater transported from the active management area under  
22 subsection I of this section, the director shall include the amount of  
23 groundwater that may be included under subsection J of this section and can  
24 be withdrawn from a depth to one thousand two hundred feet at the site or  
25 sites of the proposed withdrawals at a rate that, when added to the existing  
26 rate of withdrawals in the area, is not expected to cause the groundwater  
27 table at the site or sites of the proposed withdrawals to decline more than  
28 an average of ten feet per year during the one hundred year evaluation  
29 period.

30 M. In any designation or redesignation of an assured water supply  
31 pursuant to section 45-576, the projected use of the groundwater that is  
32 demonstrated to be available for assured water supply purposes under  
33 subsection L of this section is deemed to be consistent with achieving the  
34 management goal for the active management area. In any such designation or  
35 redesignation, the director shall determine whether the projected use is  
36 consistent with the management plan for the active management area by  
37 determining whether the projected use is consistent with the management plan  
38 of the active management area in which the city or town to be designated or  
39 redesignated is located.

40 N. Subsections A, B and H of this section do not apply to type 1  
41 non-irrigation grandfathered rights acquired under subsection I of this  
42 section.

43 O. The director may restore retired irrigation grandfathered rights to  
44 land that was retired from irrigation under this section according to the  
45 following conditions and procedures:

1           1. Title to the retired land has reverted involuntarily, or  
2 voluntarily in lieu of foreclosure or forfeiture, from the person who retired  
3 it from irrigation, or a successor in title, to a previous owner.

4           2. The current owner of the retired land must apply to the director in  
5 writing stating:

6           (a) The history of the original retirement from irrigation under this  
7 section.

8           (b) The circumstances regarding the reversion of title to the current  
9 owner.

10          (c) Why restoring the irrigation grandfathered rights is necessary.

11          3. The director shall enter the application in the registry under  
12 section 45-479 and review the application. An administrative hearing shall  
13 be held in the active management area in which the use is located on whether  
14 to restore the irrigation grandfathered rights to the land.

15          4. The director must find that restoring the irrigation grandfathered  
16 rights:

17          (a) Will not adversely impact the management of the active management  
18 area.

19          (b) Is necessary to prevent unreasonable hardship to the current owner  
20 of the retired land.

21          5. If the director decides to restore the retired irrigation  
22 grandfathered rights to the land:

23          (a) The retired irrigation land regains its original irrigation  
24 grandfathered rights, with the debits and credits in its flexibility account  
25 at the time of retirement.

26          (b) The type 1 non-irrigation grandfathered right under this section  
27 is terminated.

28          (c) The development plan required by this section is terminated for  
29 purposes of this section.

30          P. Beginning January 1 of the calendar year following the year in  
31 which a groundwater replenishment district is required to submit its  
32 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,  
33 the director shall withhold approval of a development plan that is submitted  
34 under this section by a person who seeks to obtain a non-irrigation  
35 grandfathered right associated with retired irrigated land located in the  
36 district unless at the time the plan is submitted:

37           1. The director has determined that the district's plan for operation  
38 is consistent with achieving the management goal, according to section  
39 45-576.03, subsection E, and the designation has not expired.

40           2. The master replenishment account, as established in section  
41 45-858.01, does not have a debit balance in an amount in excess of the amount  
42 allowed under section 45-576.01, subsection A, paragraph 3.

43          Q. Section 45-114, subsections A and B govern administrative  
44 proceedings, rehearing or review and judicial review of final decisions of  
45 the director under this section.

1 Sec. 6. Section 45-480, Arizona Revised Statutes, is amended to read:  
2 45-480. Review of applications; investigations; hearings; final  
3 determination; judicial review

4 A. Except as provided in subsection F of this section, the director  
5 shall review each application for a certificate of grandfathered right or a  
6 restoration of a retired irrigation grandfathered right and may conduct such  
7 investigations as deemed necessary to determine whether the information  
8 contained in the application is correct and sufficient to issue a certificate  
9 or grant restoration. Except as provided in section 45-476, subsection C, in  
10 appropriate cases, including cases in which a written objection has been  
11 filed, an administrative hearing may be held before the director's decision  
12 on the application if the director deems a hearing necessary to determine  
13 whether the information contained in the application is correct and  
14 sufficient to issue a certificate or grant restoration. Thirty days prior to  
15 the date of the hearing, the director shall give notice of the hearing to the  
16 applicant and any person who has filed an objection to the application.

17 B. If the director determines that the information contained in the  
18 application is correct and is sufficient to issue a certificate of  
19 grandfathered right or restore a retired irrigation grandfathered right, the  
20 director shall issue a certificate of grandfathered right pursuant to section  
21 45-481 or restore a retired irrigation grandfathered right to the applicant.  
22 If the director determines that the information contained in the application  
23 is incorrect or is insufficient to issue a certificate or grant restoration,  
24 the director may return the application specifically stating the reasons for  
25 its return. The applicant may reapply within thirty days of receipt of the  
26 returned application. A reapplication relates back to the filing of the  
27 original application but otherwise shall be treated as a new application.

28 C. If, before an administrative hearing, the director determines that  
29 the applicant is not entitled to a certificate of grandfathered right or a  
30 restoration of a retired irrigation grandfathered right or determines that  
31 the amount of a grandfathered right or a retired irrigation grandfathered  
32 right is less than that requested in the application, the director shall  
33 provide the applicant with notice and an opportunity for an administrative  
34 hearing.

35 D. The applicant or any person entering a proper objection to the  
36 application may seek judicial review of the final decision of the director as  
37 provided in section 45-114, subsection B in the superior court in the county  
38 in which the irrigated land or the non-irrigation use is located.

39 E. This section does not apply to late applications for certificates  
40 of grandfathered rights filed pursuant to section 45-476.01.

41 F. Beginning January 1 of the calendar year following the year in  
42 which a groundwater replenishment district is required to submit its  
43 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,  
44 the director shall withhold review of an application for a certificate for a

1 type 1 non-irrigation grandfathered right appurtenant to land located in the  
2 district unless at the time the application is filed:

3 1. The director has determined that the district's plan for operation  
4 is consistent with achieving the management goal, according to section  
5 45-576.03, subsection E, and the designation has not expired.

6 2. The master replenishment account, as established in section  
7 45-858.01, does not have a debit balance in an amount in excess of the amount  
8 allowed under section 45-576.01, subsection A, paragraph 3.

9 G. Section 45-114, subsections A and B govern administrative  
10 proceedings, rehearing or review and judicial review of final decisions of  
11 the director under this section. If an administrative hearing is held, it  
12 shall be conducted in the active management area in which the use is located.

13 H. THE RETIREMENT OF AN IRRIGATION GRANDFATHERED RIGHT TO A TYPE 1  
14 NON-IRRIGATION GRANDFATHERED RIGHT SHALL BE A LIMITED GROUNDWATER RIGHT AND  
15 SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION 45-579, IF BOTH OF THE  
16 FOLLOWING APPLY:

17 1. THE GROUNDWATER WITHDRAWN WILL NOT BE USED IN A DAIRY OR CATTLE  
18 FEEDLOT.

19 2. ONE OF THE FOLLOWING APPLIES:

20 (a) THE TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT MAY BE USED IN THE  
21 PHOENIX, PINAL, PRESCOTT OR TUCSON ACTIVE MANAGEMENT AREA AND THE APPLICATION  
22 FOR THE RETIREMENT IS FILED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT  
23 TO THIS SECTION.

24 (b) THE TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT MAY BE USED IN THE  
25 SANTA CRUZ ACTIVE MANAGEMENT AREA, THE DIRECTOR HAS ISSUED THE ORDER  
26 DESCRIBED IN SECTION 45-581, SUBSECTION B AND THE APPLICATION FOR RETIREMENT  
27 IS FILED AFTER THE DIRECTOR ISSUES THE ORDER.

28 Sec. 7. Section 45-492, Arizona Revised Statutes, is amended to read:

29 45-492. Withdrawals by cities, towns and private water  
30 companies within service areas; contract to supply  
31 groundwater

32 A. Except as provided in subsection D AND E of this section, in an  
33 active management area, a city, town or private water company shall have the  
34 right to withdraw and transport groundwater within its service area for the  
35 benefit of landowners and residents within its service area, and the  
36 landowners and residents are entitled to use the groundwater delivered,  
37 subject to:

38 1. The provisions of articles 8 and 8.1 of this chapter relating to  
39 transportation of groundwater.

40 2. Conservation requirements developed by the director pursuant to  
41 article 9 of this chapter.

42 B. Claims of landowners to irrigation grandfathered rights or type 1  
43 or 2 non-irrigation grandfathered rights shall be subject to the provisions  
44 of article 5 of this chapter.

1 C. A city, town or private water company may contract to supply  
2 groundwater to a city, town or private water company in the same active  
3 management area if it is consistent with the management plan for the active  
4 management area and section 45-576 and is approved by the director.

5 D. In an active management area, a city, town or private water company  
6 whose service area has qualified as a member service area under title 48,  
7 chapter 22, ~~or as a water district member service area under title 48,~~  
8 ~~chapter 28,~~ has the right to withdraw and transport groundwater within its  
9 service area for the benefit of landowners and residents within its service  
10 area, and the landowners and residents are entitled to use the groundwater  
11 delivered, subject to the provisions of subsection A of this section and, to  
12 the extent the groundwater delivered is considered excess groundwater as  
13 defined and used in title 48, chapter 22 ~~or 28, as applicable,~~ subject to the  
14 payment by the city, town or private water company of the replenishment tax  
15 levied from time to time by a conservation district under title 48, chapter  
16 22, ~~or a water district under title 48, chapter 28, whichever is~~  
17 ~~applicable.~~ A city, town or private water company shall be deemed to have  
18 failed to pay the replenishment tax only if the conservation district or the  
19 water district provides notice to the department of a delinquency in the  
20 payment of the replenishment tax pursuant to section 48-3781, subsection G ~~or~~  
21 ~~section 48-4982, subsection G, as applicable.~~

22 E. IN THE PHOENIX, PRESCOTT AND TUCSON ACTIVE MANAGEMENT AREAS, AND IN  
23 THE SANTA CRUZ ACTIVE MANAGEMENT AREA IF THE DIRECTOR HAS ISSUED THE ORDER  
24 DESCRIBED IN SECTION 45-581, SUBSECTION B, IN ADDITION TO ALL OTHER  
25 LIMITATIONS APPLICABLE TO SERVICE AREAS IN THIS ARTICLE, A CITY, TOWN OR  
26 PRIVATE WATER COMPANY SHALL NOT HAVE THE RIGHT TO WITHDRAW AND TRANSPORT  
27 GROUNDWATER WITHIN ITS LIMITED SERVICE AREA FOR THE BENEFIT OF LANDOWNERS AND  
28 RESIDENTS WITHIN ITS LIMITED SERVICE AREA UNLESS THE REQUIREMENTS OF SECTION  
29 45-580 ARE MET.

30 Sec. 8. Section 45-498, Arizona Revised Statutes, is amended to read:  
31 45-498. Maps of service areas

32 A. Each city, town, private water company and irrigation district in  
33 an active management area shall maintain a current map clearly delineating  
34 its service area, **ITS LIMITED SERVICE AREA, IF ANY,** and distribution system  
35 in the director's office and shall furnish such other related data as the  
36 director may require. In addition:

37 1. Each city and town shall maintain a current map of its service area  
38 and distribution system in its city or town clerk's office.

39 2. Each private water company and irrigation district shall maintain a  
40 current map of its service area and distribution system in its offices.

41 B. All maps required by this section shall be available for  
42 examination by the public at reasonable times.

43 C. IN THE PHOENIX, PINAL, PRESCOTT AND TUCSON ACTIVE MANAGEMENT AREAS,  
44 NOT LATER THAN APRIL 1, 2003:

45 1. WITH RESPECT TO A CITY OR TOWN THAT SUPPLIES WATER FOR

1 NON-IRRIGATION USE AND THAT IS NOT DESIGNATED AS HAVING AN ASSURED WATER  
2 SUPPLY UNDER SECTION 45-576, EACH CITY AND TOWN SHALL FILE A MAP WITH THE  
3 DIRECTOR DELINEATING ITS CORPORATE BOUNDARIES AS THOSE BOUNDARIES EXISTED ON  
4 THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND ITS SERVICE AREA AS  
5 IT EXISTED ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, IF THE  
6 SERVICE AREA ON THAT DATE EXTENDS BEYOND THE CORPORATE BOUNDARIES OF THE CITY  
7 OR TOWN.

8 2. WITH RESPECT TO A PRIVATE WATER COMPANY THAT IS REGULATED BY THE  
9 CORPORATION COMMISSION AND THAT IS NOT DESIGNATED AS HAVING AN ASSURED WATER  
10 SUPPLY UNDER SECTION 45-576, EACH PRIVATE WATER COMPANY SHALL FILE A MAP WITH  
11 THE DIRECTOR DELINEATING ANY AREA COVERED BY A CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY FOR THE PRIVATE WATER COMPANY THAT WAS APPROVED BY THE CORPORATION  
13 COMMISSION AND THAT WAS IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO  
14 THIS SECTION.

15 3. WITH RESPECT TO A MUNICIPAL PROVIDER THAT IS NOT DESIGNATED AS  
16 HAVING AN ASSURED WATER SUPPLY AND THAT IS NOT A CITY, TOWN OR PRIVATE WATER  
17 COMPANY REGULATED BY THE CORPORATION COMMISSION, EACH MUNICIPAL PROVIDER  
18 SHALL FILE A MAP WITH THE DIRECTOR DELINEATING ITS SERVICE AREA AS IT EXISTED  
19 ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

20 D. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR ISSUES  
21 THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, NOT LATER THAN APRIL 1  
22 IN THE YEAR AFTER THE DIRECTOR ISSUES THE ORDER:

23 1. WITH RESPECT TO A CITY OR TOWN THAT SUPPLIES WATER FOR  
24 NON-IRRIGATION USE AND THAT IS NOT DESIGNATED AS HAVING AN ASSURED WATER  
25 SUPPLY UNDER SECTION 45-576, EACH CITY AND TOWN SHALL FILE A MAP WITH THE  
26 DIRECTOR DELINEATING ITS CORPORATE BOUNDARIES AS THOSE BOUNDARIES EXISTED ON  
27 JANUARY 1 OF THAT YEAR AND ITS SERVICE AREA AS IT EXISTED ON JANUARY 1 OF  
28 THAT YEAR, IF THE SERVICE AREA ON THAT DATE EXTENDS BEYOND THE CORPORATE  
29 BOUNDARIES OF THE CITY OR TOWN.

30 2. WITH RESPECT TO A PRIVATE WATER COMPANY THAT IS REGULATED BY THE  
31 CORPORATION COMMISSION AND THAT IS NOT DESIGNATED AS HAVING AN ASSURED WATER  
32 SUPPLY UNDER SECTION 45-576, EACH PRIVATE WATER COMPANY SHALL FILE A MAP WITH  
33 THE DIRECTOR DELINEATING ANY AREA COVERED BY A CERTIFICATE OF CONVENIENCE AND  
34 NECESSITY FOR THE PRIVATE WATER COMPANY THAT WAS APPROVED BY THE CORPORATION  
35 COMMISSION AND THAT WAS IN EFFECT ON JANUARY 1 OF THAT YEAR.

36 3. WITH RESPECT TO A MUNICIPAL PROVIDER THAT IS NOT DESIGNATED AS  
37 HAVING AN ASSURED WATER SUPPLY AND THAT IS NOT A CITY, TOWN OR PRIVATE WATER  
38 COMPANY REGULATED BY THE CORPORATION COMMISSION, EACH MUNICIPAL PROVIDER  
39 SHALL FILE A MAP WITH THE DIRECTOR DELINEATING ITS SERVICE AREA AS IT EXISTED  
40 ON JANUARY 1 OF THAT YEAR.

41 E. IF A MUNICIPAL PROVIDER FILES A MAP WITH THE DIRECTOR UNDER THIS  
42 SECTION IDENTIFYING A LIMITED SERVICE AREA, NO RIGHT OR PRESUMPTION OF A  
43 RIGHT TO SERVE WATER IN THE MAPPED AREA IS CREATED. THE RIGHT TO SERVE WATER  
44 TO THE AREA IS CONTROLLED BY THE OTHER PROVISIONS OF THIS ARTICLE, THE

1 REQUIREMENTS OF THE CORPORATION COMMISSION AND OTHER RELEVANT PROVISIONS OF  
2 LAW.

3 Sec. 9. Section 45-514, Arizona Revised Statutes, is amended to read:

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

6 A. Except as provided in ~~subsection~~ SUBSECTIONS D AND E of this  
7 section, a person who is engaged in or proposes to engage in the extraction  
8 and processing of minerals shall be issued a permit to withdraw groundwater  
9 in the required amount, if 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. A MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMIT SHALL BE A  
5 LIMITED GROUNDWATER RIGHT AND SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION  
6 45-579, IF BOTH OF THE FOLLOWING APPLY:

7           1. THE WATER WILL NOT BE USED FOR METAL MINING AND METALLURGICAL  
8 RECOVERY PURPOSES.

9           2. ONE OF THE FOLLOWING APPLIES:

10          (a) IN THE PHOENIX, PINAL, PRESCOTT AND TUCSON ACTIVE MANAGEMENT  
11 AREAS, THE APPLICATION FOR THE PERMIT WAS ORIGINALLY FILED BEFORE THE  
12 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND AN APPLICATION TO MODIFY  
13 THE PERMIT TO ALLOW A CHANGE IN THE PLACE OF USE IS FILED ON OR AFTER THE  
14 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

15          (b) IN THE PHOENIX, PINAL, PRESCOTT AND TUCSON ACTIVE MANAGEMENT  
16 AREAS, AN APPLICATION FOR THE PERMIT IS FILED ON OR AFTER THE EFFECTIVE DATE  
17 OF THIS AMENDMENT TO THIS SECTION.

18          (c) IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR HAS  
19 ISSUED THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, THE APPLICATION  
20 FOR THE PERMIT WAS ORIGINALLY FILED BEFORE THE DIRECTOR ISSUED THE ORDER AND  
21 AN APPLICATION TO AMEND THE PERMIT TO ALLOW A CHANGE IN THE PLACE OF USE IS  
22 FILED AFTER THE DIRECTOR ISSUES THE ORDER.

23          (d) IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR HAS  
24 ISSUED THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, AN APPLICATION  
25 FOR THE PERMIT IS FILED AFTER THE DIRECTOR ISSUES THE ORDER.

26          Sec. 10. Section 45-515, Arizona Revised Statutes, is amended to read:

27          45-515. General industrial use permits; conditions for  
28                 issuance; duration of permit

29          A. Except as provided in ~~subsection~~ SUBSECTIONS D AND E of this  
30 section, the director shall issue a permit to withdraw groundwater from a  
31 point outside of the exterior boundaries of the service area of a city, town  
32 or private water company for a general industrial use outside of the exterior  
33 boundaries of such service area if the director determines that all of the  
34 following apply:

35           1. Uncommitted municipal and industrial central Arizona project water  
36 is not available at the point where the operator's wellhead or distribution  
37 system would otherwise be, at a cost which does not exceed the current  
38 municipal and industrial central Arizona project rates.

39           2. Other surface water of adequate quality or effluent of adequate  
40 quality is not available at the point where the operator's wellhead or  
41 distribution system would otherwise be, at a cost, including treatment costs,  
42 which does not exceed by twenty-five per cent the cost the operator would  
43 otherwise incur in withdrawing groundwater.

44           3. Irrigation grandfathered rights appurtenant to acres of land in  
45 reasonable proximity to the intended general industrial use are not available



1 for purchase at a reasonable price or cannot be acquired by eminent domain  
2 and the applicant does not own or lease grandfathered rights that the  
3 applicant is not using or leasing, that may be used for the intended general  
4 industrial use and that can be used for the intended general industrial use  
5 without imposing an unreasonable economic burden on the applicant.

6 4. The intended general industrial use, if located within three miles  
7 of the exterior boundaries of the service area of a city, town or private  
8 water company, has been denied service by the city, town or private water  
9 company at the customary rate in the customary manner. The requirement of  
10 this paragraph does not apply to an expanded animal industry use.

11 5. The management plan for the active management area can be adjusted  
12 to accommodate the intended general industrial use consistent with the  
13 achievement of the management goal for the active management area.

14 6. There is an assured water supply for the intended use at the  
15 intended point of withdrawal. The director may waive this requirement if the  
16 director is unable to determine if there is an assured water supply because  
17 of hydrogeologic conditions underlying the point of withdrawal. For purposes  
18 of this ~~section~~ PARAGRAPH, "assured water supply" means that sufficient  
19 groundwater of adequate quality will be available to the applicant to satisfy  
20 the projected general industrial use for the duration of the permit.

21 7. If a new well or replacement well at a new location is to be  
22 constructed, a permit for the well has been issued pursuant to section  
23 45-599.

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

27 C. If, during the life of the permit, the director determines that  
28 uncommitted municipal and industrial central Arizona project water is  
29 available or other water or effluent of adequate quality is available at a  
30 cost comparable to groundwater, the director may require the permittee to use  
31 such water in lieu of groundwater.

32 D. Beginning January 1 of the calendar year following the year in  
33 which a groundwater replenishment district is required to submit its  
34 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,  
35 and except for an application to renew a general industrial use permit, on  
36 receiving a permit application the director shall not issue a permit for a  
37 well in the district unless at the time the application is filed:

38 1. The director has determined that the district's plan for operation  
39 is consistent with achieving the management goal, according to section  
40 45-576.03, subsection E, and the designation has not expired.

41 2. The master replenishment account, as established in section 45-676,  
42 does not have a debit balance in an amount in excess of the amount allowed  
43 under section 45-576.01, paragraph 3.

44 E. A GENERAL INDUSTRIAL USE PERMIT SHALL BE A LIMITED GROUNDWATER  
45 RIGHT AND SHALL BE SUBJECT TO THE REQUIREMENTS OF SECTION 45-579, IF ONE OF

1 THE FOLLOWING APPLIES:

2 1. IN THE PHOENIX, PINAL, PRESCOTT AND TUCSON ACTIVE MANAGEMENT AREAS,  
3 THE APPLICATION FOR THE PERMIT WAS ORIGINALLY FILED BEFORE THE EFFECTIVE DATE  
4 OF THIS AMENDMENT TO THIS SECTION AND AN APPLICATION TO MODIFY THE PERMIT TO  
5 ALLOW A CHANGE IN THE PLACE OF USE IS FILED ON OR AFTER THE EFFECTIVE DATE OF  
6 THIS AMENDMENT TO THIS SECTION.

7 2. IN THE PHOENIX, PINAL, PRESCOTT AND TUCSON ACTIVE MANAGEMENT AREAS,  
8 AN APPLICATION FOR THE PERMIT IS FILED ON OR AFTER THE EFFECTIVE DATE OF THIS  
9 AMENDMENT TO THIS SECTION.

10 3. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR HAS  
11 ISSUED THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, THE APPLICATION  
12 FOR THE PERMIT WAS ORIGINALLY FILED BEFORE THE DIRECTOR ISSUED THE ORDER AND  
13 AN APPLICATION TO AMEND THE PERMIT TO ALLOW A CHANGE IN THE PLACE OF USE IS  
14 FILED AFTER THE DIRECTOR ISSUES THE ORDER.

15 4. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR HAS  
16 ISSUED THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, AN APPLICATION  
17 FOR THE PERMIT IS FILED AFTER THE DIRECTOR ISSUES THE ORDER.

18 Sec. 11. Section 45-561, Arizona Revised Statutes, is amended to read:  
19 45-561. Definitions

20 In this ~~article~~ CHAPTER, unless the context otherwise requires:

21 1. "Aquifer" means a geologic formation that contains sufficient  
22 saturated materials to be capable of storing water and transmitting water in  
23 usable quantities to a well.

24 2. "Augmentation" means to supplement the water supply of an active  
25 management area and may include the importation of water into the active  
26 management area, storage of water or storage of water pursuant to chapter 3.1  
27 of this title.

28 3. "Incidental recharge" means the percolation of water to an aquifer  
29 after the water has been withdrawn, diverted or received for delivery by a  
30 municipal provider for use within its service area, except water that is  
31 added to an aquifer pursuant to chapter 3.1 of this title.

32 4. "Incidental recharge factor" means:

33 (a) WITH RESPECT TO A MUNICIPAL PROVIDER, the ratio of the amount of  
34 incidental recharge attributable to a municipal provider during a calendar  
35 year to the amount of water withdrawn, diverted or received for delivery by  
36 the municipal provider for use within its service area during the year. The  
37 amount of incidental recharge attributable to a municipal provider during a  
38 calendar year is the amount of water that is incidentally recharged during  
39 the year after it is withdrawn, diverted or received for delivery by the  
40 municipal provider for use within its service area.

41 (b) WITH RESPECT TO A LIMITED GROUNDWATER RIGHT HOLDER, THE RATIO OF  
42 THE AMOUNT OF INCIDENTAL RECHARGE ATTRIBUTABLE TO THE RIGHT HOLDER DURING A  
43 CALENDAR YEAR TO THE AMOUNT OF WATER WITHDRAWN, DIVERTED OR RECEIVED FOR USE  
44 BY THE RIGHT HOLDER DURING THE YEAR. THE AMOUNT OF INCIDENTAL RECHARGE  
45 ATTRIBUTABLE TO A LIMITED GROUNDWATER RIGHT HOLDER DURING A CALENDAR YEAR IS

1 THE AMOUNT OF WATER THAT IS INCIDENTALY RECHARGED AFTER IT IS WITHDRAWN,  
2 DIVERTED OR RECEIVED FOR USE BY THE RIGHT HOLDER.

3 5. "Industrial use" means a non-irrigation use of water not supplied  
4 by a city, town or private water company, including animal industry use and  
5 expanded animal industry use.

6 6. "Intermediate water duty" means an irrigation water duty, as  
7 defined in section 45-402, which is established by the director during a  
8 management period to apply for a specific number of years during the  
9 management period.

10 7. "Large untreated water provider" means a municipal provider that as  
11 of January 1, 1990 was serving untreated water to at least five hundred  
12 persons or supplying at least one hundred acre-feet of untreated water during  
13 a calendar year.

14 8. "Management period" means a period of years prescribed by sections  
15 45-564 through 45-568 during which a prescribed management plan applies.

16 9. "Mined groundwater" means the amount of groundwater withdrawn or  
17 received by a municipal provider from within an active management area during  
18 a calendar year for use in its service area, minus both of the following, as  
19 applicable:

20 (a) An amount of water computed by multiplying the amount of water  
21 supplied by the municipal provider for use within its service area during the  
22 calendar year by the incidental recharge factor established for the municipal  
23 provider pursuant to this article.

24 (b) If the municipal provider is a city or town in the Tucson active  
25 management area, the amount of groundwater withdrawn by the municipal  
26 provider during the calendar year from land owned or leased by the municipal  
27 provider to which a type 1 non-irrigation grandfathered right under section  
28 45-463, subsection A is appurtenant, up to the following amount:

29 (i) If the municipal provider has made a request to the director as  
30 described in section 45-463, subsection F, the amount of groundwater computed  
31 by the director under section 45-463, subsection F, in determining whether to  
32 designate or redesignate the municipal provider as having an assured water  
33 supply, minus the amount of any groundwater withdrawn by the municipal  
34 provider from the land during the period beginning with January 1 of the year  
35 in which the request was made and ending on December 31 of the year  
36 immediately preceding the calendar year for which the calculation of mined  
37 groundwater is being made.

38 (ii) If the municipal provider has not made a request to the director  
39 as described in section 45-463, subsection F, the amount of groundwater that  
40 the director would have been required to include in determining whether to  
41 designate or redesignate the municipal provider as having an assured water  
42 supply, as computed under section 45-463, subsection F, if the municipal  
43 provider had made a request to the director as described in that subsection  
44 on January 1 of the calendar year for which the calculation of mined  
45 groundwater is being made.

1           10. "Municipal provider" means a city, town, private water company or  
2 irrigation district that supplies water for non-irrigation use.

3           11. "Municipal use" means all non-irrigation uses of water supplied by  
4 a city, town, private water company or irrigation district, except for uses  
5 of water, other than Colorado river water, released for beneficial use from  
6 storage, diversion or distribution facilities to avoid spilling that would  
7 otherwise occur due to uncontrolled surface water inflows that exceed  
8 facility capacity.

9           12. "Safe-yield" means a groundwater management goal which attempts to  
10 achieve and thereafter maintain a long-term balance between the annual amount  
11 of groundwater withdrawn in an active management area and the annual amount  
12 of natural and artificial recharge in the active management area.

13           13. "Small municipal provider" means a municipal provider that supplies  
14 two hundred fifty acre-feet or less of water for non-irrigation use during a  
15 calendar year. For purposes of this paragraph, the amount of untreated water  
16 that is supplied by a large untreated water provider during a year shall not  
17 be counted in determining whether the municipal provider supplied two hundred  
18 fifty acre-feet or less of water for non-irrigation use.

19           14. "Untreated water" means water that is not treated to improve its  
20 quality and that is supplied by a municipal provider through a distribution  
21 system other than a potable water distribution system.

22           Sec. 12. Title 45, chapter 2, article 9, Arizona Revised Statutes, is  
23 amended by adding section 45-563.03, to read:

24           45-563.03. Reports on water management conditions; active  
25                                     management areas; guidelines

26           A. AT THE SAME TIME THE DIRECTOR ADOPTS A MANAGEMENT PLAN FOR AN  
27 ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-567 OR 45-568 AND ON OR BEFORE  
28 JANUARY 1 OF THE FIFTH CALENDAR YEAR AFTER THE DIRECTOR ADOPTS A MANAGEMENT  
29 PLAN FOR AN ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-567 OR 45-568, THE  
30 DIRECTOR SHALL ISSUE A REPORT DESCRIBING WATER MANAGEMENT CONDITIONS WITHIN  
31 THE ACTIVE MANAGEMENT AREA. IN PREPARING A REPORT FOR AN ACTIVE MANAGEMENT  
32 AREA, THE DIRECTOR SHALL CONSULT WITH AND SEEK ADVICE FROM THE ACTIVE  
33 MANAGEMENT AREA'S GROUNDWATER USERS ADVISORY COUNCIL. EACH REPORT SHALL  
34 CONTAIN THE FOLLOWING:

35           1. A WATER BUDGET OF ALL SOURCES OF WATER USED IN THE ACTIVE  
36 MANAGEMENT AREA DURING THE MOST RECENT FIVE YEARS FOR WHICH INFORMATION IS  
37 AVAILABLE. THE BUDGETS SHALL RECOGNIZE LONG-TERM AVERAGE CONDITIONS AND  
38 ACTUAL HYDROLOGIC CONDITIONS.

39           2. THE RESULTS OF AQUIFER MONITORING PERFORMED BY THE DEPARTMENT IN  
40 THE ACTIVE MANAGEMENT AREA DURING THE PREVIOUS FIVE YEARS, INCLUDING A  
41 DESCRIPTION OF BOTH CURRENT AQUIFER CONDITIONS AND CHANGES OVER TIME.

42           3. THE RESULTS OF ANY RECENT HYDROLOGIC MODELING OR FUTURE PROJECTIONS  
43 PERFORMED BY THE DEPARTMENT FOR THE ACTIVE MANAGEMENT AREA OR ANY PORTION OF  
44 THE ACTIVE MANAGEMENT AREA, INCLUDING TRENDS AND PROJECTIONS OF GROUNDWATER  
45 LEVELS OR OTHER HYDROLOGIC CHANGES EXPECTED TO OCCUR IN THE FUTURE BASED ON

1 PROJECTED WATER SUPPLY AND DEMAND CONDITIONS, REGIONAL RECHARGE AND RECOVERY  
2 ACTIVITIES AND ANY OTHER RELEVANT CONDITIONS. THE PROJECTIONS SHALL BE  
3 DEVELOPED IN CONSULTATION WITH WATER PROVIDERS AND WATER USERS WITHIN THE  
4 ACTIVE MANAGEMENT AREA AND THE ACTIVE MANAGEMENT AREA'S GROUNDWATER USERS  
5 ADVISORY COUNCIL.

6 4. ANY OTHER INFORMATION THE DIRECTOR DETERMINES IS ADVISABLE TO  
7 REPORT CONCERNING WATER MANAGEMENT CONDITIONS WITHIN THE ACTIVE MANAGEMENT  
8 AREA.

9 B. ON OR BEFORE JANUARY 1, 2005, AND ON OR BEFORE JANUARY 1 OF EVERY  
10 SECOND CALENDAR YEAR THEREAFTER, THE DIRECTOR SHALL SUBMIT TO THE LEGISLATURE  
11 AND THE GOVERNOR A REPORT FOR EACH ACTIVE MANAGEMENT AREA CONTAINING A  
12 SUMMARY OF WATER MANAGEMENT CONDITIONS WITHIN THE ACTIVE MANAGEMENT AREA.  
13 EACH REPORT SHALL CONTAIN THE FOLLOWING:

14 1. A WATER BUDGET OF ALL SOURCES OF WATER USED IN THE ACTIVE  
15 MANAGEMENT AREA DURING THE MOST RECENT TWO YEARS FOR WHICH INFORMATION IS  
16 AVAILABLE. THE WATER BUDGET SHALL RECOGNIZE LONG-TERM AVERAGE CONDITIONS AND  
17 ACTUAL HYDROLOGIC CONDITIONS.

18 2. A DESCRIPTION OF LONG-TERM TRENDS AND ANY CHANGES IN WATER  
19 MANAGEMENT CONDITIONS THAT HAVE OCCURRED SINCE THE LAST REPORT WAS SUBMITTED  
20 PURSUANT TO THIS SUBSECTION.

21 3. ANY OTHER INFORMATION THE DIRECTOR DETERMINES IS ADVISABLE TO  
22 REPORT CONCERNING WATER MANAGEMENT CONDITIONS WITHIN THE ACTIVE MANAGEMENT  
23 AREA.

24 Sec. 13. Section 45-565.01, Arizona Revised Statutes, is amended to  
25 read:

26 45-565.01. Non-per capita conservation program for municipal  
27 providers; second management period

28 A. In addition to the provisions of the management plan for the second  
29 management period prescribed by section 45-565, subsection A, not later than  
30 January 1, 1995 the director shall include in the management plan a non-per  
31 capita conservation program for municipal providers that requires a municipal  
32 provider approved for the program to implement specific conservation programs  
33 within its service area, including all of the following:

34 1. Residential and nonresidential conservation programs for interior  
35 and exterior water use.

36 2. A public education program relating to water conservation.

37 3. A program to meter all service area connections, except connections  
38 to fire services, dwelling units in multifamily residential structures,  
39 mobile homes in mobile home parks with master meters and construction users.

40 B. In a non-per capita conservation program established under this  
41 section, the director shall establish a standard incidental recharge factor  
42 for all municipal providers that apply for the program, except for municipal  
43 providers that are members of a groundwater replenishment district  
44 established under title 48, chapter 27. A municipal provider that applies  
45 for the non-per capita conservation program may request in its application

1 that the director establish an incidental recharge factor for the municipal  
2 provider that is different than the standard incidental recharge factor  
3 established in the program. The director may establish a different  
4 incidental recharge factor for the municipal provider if the municipal  
5 provider demonstrates to the satisfaction of the director that the ratio of  
6 the average annual amount of incidental recharge expected to be attributable  
7 to the municipal provider during the management period to the average annual  
8 amount of water expected to be withdrawn, diverted or received for delivery  
9 by the municipal provider for use within its service area during the  
10 management period is different than the standard incidental recharge factor.

11 C. A municipal provider may apply for a non-per capita conservation  
12 program established under this section if any of the following applies:

13 1. The municipal provider is a member of a groundwater replenishment  
14 district established under title 48, chapter 27.

15 2. The service area of the municipal provider has qualified as a  
16 member service area under title 48, chapter 22, ~~or as a water district member~~  
17 ~~service area under title 48, chapter 28,~~ and the conditions established under  
18 section 45-576.01, subsection B, paragraphs 2 and 3 are met by the  
19 conservation district ~~or the water district, as applicable,~~ for the active  
20 management area in which the service area is located.

21 3. The municipal provider has developed a plan to both:

22 (a) Reduce the proportion of mined groundwater supplied by it for use  
23 within its service area such that the result computed by dividing the volume  
24 of mined groundwater supplied by the provider for use within its service area  
25 in a year by the volume of all water supplied by the provider for use within  
26 its service area in that year does not exceed:

27 (i) Fourteen-fifteenths for 1996.

28 (ii) Thirteen-fifteenths for 1997.

29 (iii) Four-fifths for 1998.

30 (iv) Eleven-fifteenths for 1999.

31 (v) Two-thirds for 2000.

32 (vi) Three-fifths for 2001.

33 (vii) Eight-fifteenths for 2002.

34 (viii) Seven-fifteenths for 2003.

35 (ix) Two-fifths for 2004.

36 (x) One-third for 2005.

37 (xi) Four-fifteenths for 2006.

38 (xii) One-fifth for 2007.

39 (xiii) Two-fifteenths for 2008.

40 (xiv) One-fifteenth for 2009.

41 (b) Deliver no mined groundwater for use within its service area after  
42 January 1, 2010.

43 4. The municipal provider is designated as having an assured water  
44 supply under rules adopted by the director pursuant to section 45-576.

1           5. The municipal provider has applied to the director to be designated  
2 as having an assured water supply under rules adopted by the director  
3 pursuant to section 45-576 and the director has not yet granted or denied the  
4 application.

5           6. The municipal provider is a city or town that is deemed to have an  
6 assured water supply under section 45-576, subsection E and both of the  
7 following apply:

8           (a) The municipal provider has not applied to the director to be  
9 designated as having an assured water supply under rules adopted by the  
10 director pursuant to section 45-576.

11           (b) The municipal provider can demonstrate that if it was applying to  
12 the director to be designated as having an assured water supply under rules  
13 adopted by the director pursuant to section 45-576, its projected groundwater  
14 use would be found to be consistent with achieving the management goal of the  
15 active management area under the criteria contained in those rules.

16           D. The director shall prescribe and furnish an application form for a  
17 non-per capita conservation program established under this section that  
18 includes the following:

19           1. If the municipal provider requests an incidental recharge factor  
20 different than the standard incidental recharge factor established by the  
21 director pursuant to subsection B of this section:

22           (a) A copy of a hydrological study that demonstrates the amount of  
23 water withdrawn, diverted or received for delivery by the municipal provider  
24 for use within its service area during each of the preceding five years and  
25 the amount of incidental recharge that was attributable to the municipal  
26 provider during each of those years.

27           (b) A copy of a hydrological study that projects the average annual  
28 amount of water that will be withdrawn, diverted or received for delivery by  
29 the municipal provider for use within its service area during the management  
30 period and the average annual amount of incidental recharge that will be  
31 attributable to the municipal provider during the management period.

32           2. If the municipal provider is applying for the program under  
33 subsection C, paragraph 3 of this section, a copy of the plan described in  
34 that paragraph.

35           3. If the municipal provider is applying for the program under  
36 subsection C, paragraph 6 of this section, information demonstrating that if  
37 the municipal provider was applying to the director to be designated as  
38 having an assured water supply under rules adopted by the director pursuant  
39 to section 45-576, the municipal provider's projected groundwater use would  
40 be found to be consistent with achieving the management goal of the active  
41 management area under the criteria contained in those rules.

42           4. A description of the conservation programs currently being  
43 implemented by the municipal provider, and any conservation programs that the  
44 municipal provider intends to implement if it is approved for the non-per

1 capita conservation program, including a time schedule for implementing the  
2 programs.

3 5. Any other information that the director may require.

4 E. The director shall approve a municipal provider's application for a  
5 non-per capita conservation program established under this section only if  
6 the following conditions are satisfied:

7 1. The municipal provider agrees in writing to implement specific  
8 conservation programs that will result in achieving water use efficiency in  
9 the municipal provider's service area equivalent to the water use efficiency  
10 that was assumed by the director in establishing the municipal provider's per  
11 capita conservation requirements pursuant to section 45-565, subsection A,  
12 paragraph 2, including the programs described in subsection A of this  
13 section.

14 2. If the municipal provider is applying for the program under  
15 subsection C, paragraph 3 of this section, the municipal provider has  
16 demonstrated to the satisfaction of the director that it will reduce the  
17 proportion of mined groundwater supplied by it for use within its service  
18 area to the proportions described in subsection C, paragraph 3, subdivision  
19 (a) of this section, and that it will not deliver mined groundwater for use  
20 within its service area after January 1, 2010.

21 3. If the municipal provider is applying for the program under  
22 subsection C, paragraph 5 of this section, the director has made a  
23 preliminary determination that the municipal provider's projected groundwater  
24 use is consistent with achieving the management goal of the active management  
25 area under the criteria contained in rules adopted by the director pursuant  
26 to section 45-576. A preliminary determination for purposes of this  
27 paragraph is not binding on the director at the time the director determines  
28 whether to designate the municipal provider as having an assured water  
29 supply.

30 4. If the municipal provider is applying for the program under  
31 subsection C, paragraph 6 of this section, the director has made a  
32 preliminary determination that if the municipal provider was applying to the  
33 director to be designated as having an assured water supply under rules  
34 adopted by the director pursuant to section 45-576, the municipal provider's  
35 projected groundwater use would be found to be consistent with achieving the  
36 management goal of the active management area under those rules. A  
37 preliminary determination of the director for purposes of this paragraph is  
38 not binding on the director at the time the director determines whether to  
39 designate the municipal provider as having an assured water supply.

40 F. A municipal provider that is approved for a non-per capita  
41 conservation program established under this section shall comply with any  
42 individual user requirements prescribed pursuant to section 45-565,  
43 subsection A, paragraph 2, except as provided in section 45-571.02.

44 G. The director shall include in a non-per capita conservation program  
45 established under this section:



1           1. A requirement that a municipal provider that applied for the  
2 program under subsection C, paragraph 3 of this section shall reduce the  
3 proportion of mined groundwater supplied by it for use within its service  
4 area to the proportions described in subsection C, paragraph 3, subdivision  
5 (a) of this section. The director may excuse a municipal provider's failure  
6 to comply with the requirement during any year if the municipal provider  
7 demonstrates to the satisfaction of the director that the municipal  
8 provider's failure to comply with the requirement was due to drought  
9 conditions or the failure of a surface water distribution system.

10           2. A requirement that a municipal provider that applied for the  
11 program under subsection C, paragraph 4 or 5 of this section shall not supply  
12 groundwater for use within its service area in an amount that exceeds that  
13 amount of groundwater that the municipal provider may supply for use within  
14 its service area consistent with rules adopted by the director pursuant to  
15 section 45-576. For purposes of this requirement, if a municipal provider  
16 has applied to the director to be designated as having an assured water  
17 supply under rules adopted by the director pursuant to section 45-576 and the  
18 application is not approved, the amount of groundwater that the municipal  
19 provider may supply for use within its service area consistent with the rules  
20 is the amount of groundwater that the director determines the municipal  
21 provider would have been allowed to supply consistent with the rules if the  
22 application had been granted.

23           H. A municipal provider that applies for a non-per capita conservation  
24 program under this section shall comply with the per capita conservation  
25 requirements established under section 45-565, subsection A, paragraph 2  
26 until the director approves the application. If the municipal provider's  
27 application for the non-per capita conservation program is approved by the  
28 director, the provider is exempt from the per capita conservation  
29 requirements prescribed under section 45-565, subsection A, paragraph 2.

30           Sec. 14. Section 45-566.01, Arizona Revised Statutes, is amended to  
31 read:

32           45-566.01. Non-per capita conservation program for municipal  
33           providers; third management period

34           A. In addition to the provisions of the management plan for the third  
35 management period prescribed by section 45-566, subsection A, paragraph 2,  
36 the director shall include in the management plan a non-per capita  
37 conservation program for municipal providers that requires a municipal  
38 provider approved for the program to implement specific conservation programs  
39 within its service area, including all of the following:

40           1. Residential and nonresidential conservation programs for interior  
41 and exterior water use.

42           2. A public education program relating to water conservation.

43           3. A program to meter all service area connections, except connections  
44 to fire services, dwelling units in multifamily residential structures,  
45 mobile homes in mobile home parks with master meters and construction users.

1           B. In a non-per capita conservation program established under this  
2 section, the director shall establish a standard incidental recharge factor  
3 for all municipal providers that apply for the program, except for municipal  
4 providers that are members of a groundwater replenishment district  
5 established under title 48, chapter 27. A municipal provider that applies  
6 for the non-per capita conservation program may request in its application  
7 that the director establish an incidental recharge factor for the municipal  
8 provider that is different than the standard incidental recharge factor  
9 established in the program. The director may establish a different  
10 incidental recharge factor for the municipal provider if the municipal  
11 provider demonstrates to the satisfaction of the director that the ratio of  
12 the average annual amount of incidental recharge expected to be attributable  
13 to the municipal provider during the management period to the average annual  
14 amount of water expected to be withdrawn, diverted or received for delivery  
15 by the municipal provider for use within its service area during the  
16 management period is different than the standard incidental recharge factor.

17           C. A municipal provider that was approved for a non-per capita  
18 conservation program established pursuant to section 45-565.01 and that  
19 applies for the non-per capita conservation program established under this  
20 section within ninety days from the date of the first notice of the  
21 conservation requirements prescribed pursuant to section 45-566, subsection  
22 A, paragraph 2 remains subject to the program established under section  
23 45-565.01 until the director approves or denies the application. If the  
24 director denies the application or if the provider fails to apply within  
25 ninety days from the date of the first notice of the conservation  
26 requirements prescribed pursuant to section 45-566, subsection A, paragraph  
27 2, the municipal provider shall comply with the per capita conservation  
28 requirements prescribed pursuant to section 45-566, subsection A, paragraph  
29 2, until the director approves an application filed by the provider for the  
30 non-per capita conservation program established pursuant to this section.

31           D. A municipal provider may apply for a non-per capita conservation  
32 program established under this section if any of the following applies:

33           1. The municipal provider is a member of a groundwater replenishment  
34 district established under title 48, chapter 27.

35           2. The service area of the municipal provider has qualified as a  
36 member service area under title 48, chapter 22, ~~or as a water district member~~  
37 ~~service area under title 48, chapter 28,~~ and the conditions established under  
38 section 45-576.01, subsection B, paragraphs 2 and 3 are met by the  
39 conservation district ~~or the water district, as applicable,~~ for the active  
40 management area in which the service area is located.

41           3. The municipal provider has developed a plan to both:

42           (a) Reduce the proportion of mined groundwater supplied by it for use  
43 within its service area such that the result computed by dividing the volume  
44 of mined groundwater supplied by the provider for use within its service area

1 in a year by the volume of all water supplied by the provider for use within  
2 its service area in that year does not exceed:

- 3 (i) Two-thirds for 2000.
- 4 (ii) Three-fifths for 2001.
- 5 (iii) Eight-fifteenths for 2002.
- 6 (iv) Seven-fifteenths for 2003.
- 7 (v) Two-fifths for 2004.
- 8 (vi) One-third for 2005.
- 9 (vii) Four-fifteenths for 2006.
- 10 (viii) One-fifth for 2007.
- 11 (ix) Two-fifteenths for 2008.
- 12 (x) One-fifteenth for 2009.

13 (b) Deliver no mined groundwater for use within its service area after  
14 January 1, 2010.

15 4. The municipal provider is designated as having an assured water  
16 supply under rules adopted by the director pursuant to section 45-576.

17 E. The director shall prescribe and furnish an application form for a  
18 non-per capita conservation program established under this section that  
19 includes the following:

20 1. If the municipal provider requests an incidental recharge factor  
21 different than the standard incidental recharge factor established by the  
22 director pursuant to subsection B of this section:

23 (a) A copy of a hydrological study that demonstrates the amount of  
24 water withdrawn, diverted or received for delivery by the municipal provider  
25 for use within its service area during each of the preceding five years and  
26 the amount of incidental recharge that was attributable to the municipal  
27 provider during each of those years.

28 (b) A copy of a hydrological study that projects the average annual  
29 amount of water that will be withdrawn, diverted or received for delivery by  
30 the municipal provider for use within its service area during the management  
31 period and the average annual amount of incidental recharge that will be  
32 attributable to the municipal provider during the management period.

33 2. If the municipal provider is applying for the program under  
34 subsection D, paragraph 3 of this section, a copy of the plan described in  
35 that paragraph.

36 3. A description of the conservation programs currently being  
37 implemented by the municipal provider, and any conservation programs that the  
38 municipal provider intends to implement if it is approved for the non-per  
39 capita conservation program, including a time schedule for implementing the  
40 programs.

41 4. Any other information that the director may require.

42 F. The director shall approve a municipal provider's application for a  
43 non-per capita conservation program established under this section only if  
44 the following conditions are satisfied:

1           1. The municipal provider agrees in writing to implement specific  
2 conservation programs that will result in achieving water use efficiency in  
3 the municipal provider's service area equivalent to the water use efficiency  
4 that was assumed by the director in establishing the municipal provider's per  
5 capita conservation requirements pursuant to section 45-566, subsection A,  
6 paragraph 2, including the programs described in subsection A of this  
7 section.

8           2. If the municipal provider is applying for the program under  
9 subsection D, paragraph 3 of this section, the municipal provider has  
10 demonstrated to the satisfaction of the director that it will reduce the  
11 proportion of mined groundwater supplied by it for use within its service  
12 area to the proportions described in subsection D, paragraph 3, subdivision  
13 (a) of this section, and that it will not deliver mined groundwater for use  
14 within its service area after January 1, 2010.

15           G. A municipal provider that is approved for a non-per capita  
16 conservation program established under this section shall comply with any  
17 individual user requirements prescribed pursuant to section 45-566,  
18 subsection A, paragraph 2, except as provided in section 45-571.02.

19           H. The director shall include in a non-per capita conservation program  
20 established under this section:

21           1. A requirement that a municipal provider that applied for the  
22 program under subsection D, paragraph 3 of this section shall reduce the  
23 proportion of mined groundwater supplied by it for use within its service  
24 area to the proportions described in subsection D, paragraph 3, subdivision  
25 (a) of this section and shall not deliver mined groundwater for use within  
26 its service area after January 1, 2010. The director may excuse a municipal  
27 provider's failure to comply with the requirement during any year if the  
28 municipal provider demonstrates to the satisfaction of the director that the  
29 municipal provider's failure to comply with the requirement was due to  
30 drought conditions or the failure of a surface water distribution system.

31           2. A requirement that a municipal provider that applied for the  
32 program under subsection D, paragraph 4 of this section shall not supply  
33 groundwater for use within its service area in an amount that exceeds the  
34 amount of groundwater that the municipal provider may supply for use within  
35 its service area consistent with rules adopted by the director pursuant to  
36 section 45-576.

37           I. Except as provided in subsection C of this section, a municipal  
38 provider that applies for a non-per capita conservation program under this  
39 section shall comply with the per capita conservation requirements  
40 established under section 45-566, subsection A, paragraph 2 until the  
41 director approves the application. If the municipal provider's application  
42 for the non-per capita conservation program is approved by the director, the  
43 provider is exempt from the per capita conservation requirements prescribed  
44 under section 45-566, subsection A, paragraph 2.

1           Sec. 15. Section 45-567.01, Arizona Revised Statutes, is amended to  
2 read:

3       45-567.01. Non-per capita conservation program for municipal  
4   providers; fourth management period

5           A. In addition to the provisions of the management plan for the fourth  
6 management period prescribed by section 45-567, subsection A, the director  
7 shall include in the management plan a non-per capita conservation program  
8 for municipal providers that requires a municipal provider approved for the  
9 program to implement specific conservation programs within its service area,  
10 including all of the following:

11           1. Residential and nonresidential conservation programs for interior  
12 and exterior water use.

13           2. A public education program relating to water conservation.

14           3. A program to meter all service area connections, except connections  
15 to fire services, dwelling units in multifamily residential structures,  
16 mobile homes in mobile home parks with master meters and construction users.

17           B. In a non-per capita conservation program established under this  
18 section, the director shall establish a standard incidental recharge factor  
19 for all municipal providers that apply for the program, except for municipal  
20 providers that are members of a groundwater replenishment district  
21 established under title 48, chapter 27. A municipal provider that applies  
22 for the non-per capita conservation program may request in its application  
23 that the director establish an incidental recharge factor for the municipal  
24 provider that is different than the standard incidental recharge factor  
25 established in the program. The director may establish a different  
26 incidental recharge factor for the municipal provider if the municipal  
27 provider demonstrates to the satisfaction of the director that the ratio of  
28 the average annual amount of incidental recharge expected to be attributable  
29 to the municipal provider during the management period to the average annual  
30 amount of water expected to be withdrawn, diverted or received for delivery  
31 by the municipal provider for use within its service area during the  
32 management period is different than the standard incidental recharge factor.

33           C. A municipal provider that was approved for a non-per capita  
34 conservation program established pursuant to section 45-566.01 and that  
35 applies for the non-per capita conservation program established under this  
36 section within ninety days from the date of the first notice of the  
37 conservation requirements prescribed pursuant to section 45-567, subsection  
38 A, paragraph 2 remains subject to the program established under section  
39 45-566.01 until the director approves or denies the application. If the  
40 director denies the application, or if the provider fails to apply for the  
41 program within ninety days from the date of the first notice of the  
42 conservation requirements prescribed pursuant to section 45-567, subsection  
43 A, paragraph 2, the municipal provider shall comply with the per capita  
44 conservation requirements prescribed pursuant to section 45-567, subsection  
45 A, paragraph 2, until the director approves an application filed by the

1 provider for the non-per capita conservation program established pursuant to  
2 this section.

3 D. A municipal provider may apply for a non-per capita conservation  
4 program established under this section if any of the following applies:

5 1. The municipal provider is a member of a groundwater replenishment  
6 district established under title 48, chapter 27.

7 2. The service area of the municipal provider has qualified as a  
8 member service area under title 48, chapter 22, ~~or as a water district member~~  
9 ~~service area under title 48, chapter 28,~~ and the conditions established under  
10 section 45-576.01, subsection B, paragraphs 2 and 3 are met by the  
11 conservation district ~~or the water district, as applicable,~~ for the active  
12 management area in which the service area is located.

13 3. The municipal provider has developed a plan to deliver no mined  
14 groundwater for use within its service area after January 1, 2010.

15 4. The municipal provider is designated as having an assured water  
16 supply under rules adopted by the director pursuant to section 45-576.

17 E. The director shall prescribe and furnish an application form for a  
18 non-per capita conservation program established under this section that  
19 includes the following:

20 1. If the municipal provider requests an incidental recharge factor  
21 different than the standard incidental recharge factor established by the  
22 director pursuant to subsection B of this section:

23 (a) A copy of a hydrological study that demonstrates the amount of  
24 water withdrawn, diverted or received for delivery by the municipal provider  
25 for use within its service area during each of the preceding five years and  
26 the amount of incidental recharge that was attributable to the municipal  
27 provider during each of those years.

28 (b) A copy of a hydrological study that projects the average annual  
29 amount of water that will be withdrawn, diverted or received for delivery by  
30 the municipal provider for use within its service area during the management  
31 period and the average annual amount of incidental recharge that will be  
32 attributable to the municipal provider during the management period.

33 2. If the municipal provider is applying for the program under  
34 subsection D, paragraph 3 of this section a copy of the plan described in  
35 that paragraph.

36 3. A description of the conservation programs currently being  
37 implemented by the municipal provider, and any conservation programs that the  
38 municipal provider intends to implement if it is approved for the non-per  
39 capita conservation program, including a time schedule for implementing the  
40 programs.

41 4. Any other information that the director may require.

42 F. The director shall approve a municipal provider's application for a  
43 non-per capita conservation program established under this section only if  
44 the following conditions are satisfied:

1           1. The municipal provider agrees in writing to implement specific  
2 conservation programs that will result in achieving water use efficiency in  
3 the municipal provider's service area equivalent to the water use efficiency  
4 that was assumed by the director in establishing the municipal provider's per  
5 capita conservation requirements pursuant to section 45-567, subsection A,  
6 paragraph 2, including the programs described in subsection A of this  
7 section.

8           2. If the municipal provider applied for the program under subsection  
9 D, paragraph 3 of this section, the municipal provider has demonstrated to  
10 the satisfaction of the director that it will not deliver mined groundwater  
11 for use within its service area after January 1, 2010.

12           G. A municipal provider that is approved for a non-per capita  
13 conservation program established under this section shall comply with any  
14 individual user requirements prescribed pursuant to section 45-567,  
15 subsection A, paragraph 2, except as provided in section 45-571.02.

16           H. The director shall include in a non-per capita conservation program  
17 established under this section:

18           1. A requirement that a municipal provider that applied for the  
19 program under subsection D, paragraph 3 of this section shall not deliver  
20 mined groundwater for use within its service area after January 1, 2010. The  
21 director may excuse a municipal provider's failure to comply with the  
22 requirement during any year if the municipal provider demonstrates to the  
23 satisfaction of the director that the municipal provider's failure to comply  
24 with the requirement was due to drought conditions or the failure of a  
25 surface water distribution system.

26           2. A requirement that a municipal provider that applied for the  
27 program under subsection D, paragraph 4 of this section shall not supply  
28 groundwater for use within its service area in an amount that exceeds the  
29 amount of groundwater the municipal provider may supply for use within its  
30 service area consistent with rules adopted by the director pursuant to  
31 section 45-576.

32           I. Except as provided in subsection C of this section, a municipal  
33 provider that applies for a non-per capita conservation program established  
34 under this section shall comply with the per capita conservation requirements  
35 prescribed pursuant to section 45-567, subsection A, paragraph 2 until the  
36 director approves the application. If the municipal provider's application  
37 for the non-per capita conservation program is approved by the director, the  
38 provider is exempt from the per capita conservation requirements prescribed  
39 under section 45-567, subsection A, paragraph 2.

40           Sec. 16. Title 45, chapter 2, article 9, Arizona Revised Statutes, is  
41 amended by adding section 45-569.01, to read:

42           45-569.01. Adoption of incidental recharge factor

43           A. IN ADDITION TO THE PROVISIONS OF THE MANAGEMENT PLANS FOR THE THIRD  
44 MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-566, SUBSECTION A, THE MANAGEMENT  
45 PLANS FOR THE FOURTH MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-567,

1 SUBSECTION A AND THE MANAGEMENT PLANS FOR THE FIFTH MANAGEMENT PERIOD  
2 PRESCRIBED BY SECTION 45-568, SUBSECTION A, THE DIRECTOR SHALL INCLUDE IN THE  
3 MANAGEMENT PLANS A STANDARD INCIDENTAL RECHARGE FACTOR FOR ALL MUNICIPAL  
4 PROVIDERS THAT SERVE OR MAY SERVE LIMITED SERVICE AREAS DURING THE APPLICABLE  
5 MANAGEMENT PERIOD AND FOR EACH CATEGORY OF LIMITED GROUNDWATER RIGHT HOLDERS.

6 B. WITHIN ONE YEAR BEFORE JANUARY 1, 2025 AND WITHIN ONE YEAR BEFORE  
7 JANUARY 1 OF EVERY TENTH CALENDAR YEAR THEREAFTER, THE DIRECTOR SHALL ADOPT  
8 STANDARD INCIDENTAL RECHARGE FACTORS FOR THE FOLLOWING TEN YEAR PERIOD FOR  
9 ALL MUNICIPAL PROVIDERS THAT SERVE OR MAY SERVE LIMITED SERVICE AREAS AND FOR  
10 EACH CATEGORY OF LIMITED GROUNDWATER RIGHT HOLDERS. IN ADOPTING THE STANDARD  
11 INCIDENTAL RECHARGE FACTORS, THE DIRECTOR SHALL COMPLY WITH THE PROCEDURES  
12 SET FORTH IN SECTIONS 45-570 AND 45-571 FOR THE ADOPTION OF A MANAGEMENT  
13 PLAN.

14 C. A MUNICIPAL PROVIDER MAY APPLY TO THE DIRECTOR TO ESTABLISH AN  
15 INCIDENTAL RECHARGE FACTOR FOR THE MUNICIPAL PROVIDER THAT IS DIFFERENT THAN  
16 THE STANDARD INCIDENTAL RECHARGE FACTOR. THE DIRECTOR MAY ESTABLISH A  
17 DIFFERENT INCIDENTAL RECHARGE FACTOR FOR THE MUNICIPAL PROVIDER IF THE  
18 MUNICIPAL PROVIDER DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT THE  
19 RATIO OF THE AVERAGE ANNUAL AMOUNT OF INCIDENTAL RECHARGE EXPECTED TO BE  
20 ATTRIBUTABLE TO THE MUNICIPAL PROVIDER DURING THE APPLICABLE PERIOD TO THE  
21 AVERAGE ANNUAL AMOUNT OF WATER EXPECTED TO BE WITHDRAWN, DIVERTED OR RECEIVED  
22 FOR DELIVERY BY THE MUNICIPAL PROVIDER FOR USE WITHIN ITS SERVICE AREA DURING  
23 THE APPLICABLE PERIOD IS DIFFERENT THAN THE STANDARD INCIDENTAL RECHARGE  
24 FACTOR.

25 D. A LIMITED GROUNDWATER RIGHT HOLDER MAY APPLY TO THE DIRECTOR TO  
26 ESTABLISH AN INCIDENTAL RECHARGE FACTOR FOR THE RIGHT HOLDER THAT IS  
27 DIFFERENT THAN THE STANDARD INCIDENTAL RECHARGE FACTOR. THE DIRECTOR MAY  
28 ESTABLISH A DIFFERENT INCIDENTAL RECHARGE FACTOR FOR THE RIGHT HOLDER IF THE  
29 RIGHT HOLDER DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT THE RATIO  
30 OF THE AVERAGE ANNUAL AMOUNT OF INCIDENTAL RECHARGE EXPECTED TO BE  
31 ATTRIBUTABLE TO THE RIGHT HOLDER DURING THE APPLICABLE PERIOD TO THE AVERAGE  
32 ANNUAL AMOUNT OF WATER EXPECTED TO BE WITHDRAWN, DIVERTED OR USED BY THE  
33 RIGHT HOLDER DURING THE APPLICABLE PERIOD IS DIFFERENT THAN THE STANDARD  
34 INCIDENTAL RECHARGE FACTOR.

35 E. AN APPLICATION UNDER SUBSECTION C OR D OF THIS SECTION SHALL BE  
36 FILED WITH THE DIRECTOR WITHIN NINETY DAYS OF THE ADOPTION OF THE STANDARD  
37 INCIDENTAL RECHARGE FACTORS OR, IF THE MUNICIPAL PROVIDER DOES NOT QUALIFY  
38 ITS LIMITED SERVICE AREA AS A LIMITED MEMBER SERVICE AREA OR IF THE LIMITED  
39 GROUNDWATER RIGHT HOLDER DOES NOT QUALIFY ITS REAL PROPERTY AS LIMITED MEMBER  
40 LANDS UNTIL AFTER THE ADOPTION OF THE STANDARD INCIDENTAL RECHARGE FACTORS,  
41 WITHIN NINETY DAYS OF THE QUALIFICATION AS A LIMITED MEMBER SERVICE AREA OR  
42 QUALIFICATION AS LIMITED MEMBER LANDS.

43 Sec. 17. Section 45-576, Arizona Revised Statutes, is amended to read:



1           45-576. Certificate of assured water supply; designated cities,  
2                                   towns and private water companies; exemptions;  
3                                   definition

4           A. A person who proposes to offer subdivided lands, as defined in  
5 section 32-2101, for sale or lease in an active management area shall apply  
6 for and obtain a certificate of assured water supply from the director prior  
7 to presenting the plat for approval to the city, town or county in which the  
8 land is located, where such is required, and prior to filing with the state  
9 real estate commissioner a notice of intention to offer such lands for sale  
10 or lease, pursuant to section 32-2181, unless the subdivider has obtained a  
11 written commitment of water service for the subdivision from a city, town or  
12 private water company designated as having an assured water supply pursuant  
13 to this section.

14           B. A city, town or county may approve a subdivision plat only if the  
15 subdivider has obtained a certificate of assured water supply from the  
16 director or the subdivider has obtained a written commitment of water service  
17 for the subdivision from a city, town or private water company designated as  
18 having an assured water supply pursuant to this section. The city, town or  
19 county shall note on the face of the approved plat that a certificate of  
20 assured water supply has been submitted with the plat or that the subdivider  
21 has obtained a written commitment of water service for the proposed  
22 subdivision from a city, town or private water company designated as having  
23 an assured water supply pursuant to this section.

24           C. The state real estate commissioner may issue a public report  
25 authorizing the sale or lease of subdivided lands only if the subdivider,  
26 owner or agent has obtained a certificate of assured water supply from the  
27 director AND HAS PAID ANY REPLENISHMENT RESERVE FEE REQUIRED UNDER SECTION  
28 48-3774.02, SUBSECTION A, PARAGRAPH 2 or IF the subdivider has obtained a  
29 written commitment of water service for the lands from a city, town or  
30 private water company designated as having an assured water supply pursuant  
31 to this section.

32           D. The director shall designate private water companies in active  
33 management areas that have an assured water supply. If a city or town  
34 acquires a private water company which has contracted for central Arizona  
35 project water, the city or town shall assume the private water company's  
36 contract for central Arizona project water.

37           E. The director shall designate cities and towns in active management  
38 areas where an assured water supply exists. If a city or town has entered  
39 into a contract for central Arizona project water, the city or town is deemed  
40 to continue to have an assured water supply until December 31,  
41 1997. Commencing on January 1, 1998, the determination that the city or town  
42 has an assured water supply is subject to review by the director and the  
43 director may determine that a city or town does not have an assured water  
44 supply.

1 F. The director shall notify the mayors of all cities and towns in  
2 active management areas and the chairmen of the boards of supervisors of  
3 counties in which active management areas are located of the cities, towns  
4 and private water companies designated as having an assured water supply and  
5 any modification of that designation within thirty days of the designation or  
6 modification. WHEN THE SERVICE AREA OF THAT CITY, TOWN OR PRIVATE WATER  
7 COMPANY HAS QUALIFIED AS A MEMBER SERVICE AREA OF A CONSERVATION DISTRICT  
8 PURSUANT TO TITLE 48, CHAPTER 22, ARTICLE 4, THE DIRECTOR SHALL ALSO NOTIFY  
9 THE CONSERVATION DISTRICT OF THE DESIGNATION OR MODIFICATION AND SHALL REPORT  
10 THE PROJECTED ANNUAL REPLENISHMENT OBLIGATION FOR THE MEMBER SERVICE AREA  
11 BASED ON THE PROJECTED AND COMMITTED ANNUAL DEMAND FOR WATER WITHIN THE  
12 SERVICE AREA DURING THE EFFECTIVE TERM OF THE DESIGNATION OR MODIFICATION  
13 SUBJECT TO ANY LIMITATION IN AN AGREEMENT BETWEEN THE CONSERVATION DISTRICT  
14 AND THE CITY, TOWN OR PRIVATE WATER COMPANY persons proposing to offer  
15 subdivided lands served by those designated cities, towns and private water  
16 companies for sale or lease are exempt from applying for and obtaining a  
17 certificate of assured water supply.

18 G. This section does not apply in the case of the sale of lands for  
19 developments which are subject to a mineral extraction and processing permit  
20 or an industrial use permit pursuant to sections 45-514 and 45-515.

21 H. The director shall adopt rules to carry out the purposes of this  
22 section no later than January 1, 1995.

23 I. For purposes of this section, "assured water supply" means all of  
24 the following:

25 1. Sufficient groundwater, surface water or effluent of adequate  
26 quality will be continuously available to satisfy the water needs of the  
27 proposed use for at least one hundred years. Beginning January 1 of the  
28 calendar year following the year in which a groundwater replenishment  
29 district is required to submit its preliminary plan pursuant to section  
30 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a  
31 member of the district, "sufficient groundwater" for purposes of this  
32 paragraph means that the proposed groundwater withdrawals that the applicant  
33 will cause over a period of one hundred years will be of adequate quality and  
34 will not exceed, in combination with other withdrawals from land in the  
35 replenishment district, a depth to water of one thousand feet or the depth of  
36 the bottom of the aquifer, whichever is less. In determining depth to water  
37 for the purposes of this paragraph, the director shall consider the  
38 combination of:

39 (a) The existing rate of decline.

40 (b) The proposed withdrawals.

41 (c) The expected water requirements of all recorded lots that are not  
42 yet served water and that are located in the service area of a municipal  
43 provider.

44 2. The projected groundwater use is consistent with the management  
45 plan and achievement of the management goal for the active management area.

1           3. The financial capability has been demonstrated to construct  
2 the water facilities necessary to make the supply of water available for the  
3 proposed use, including a delivery system and any storage facilities or  
4 treatment works. The director may accept evidence of the construction  
5 assurances required by section 9-463.01, 11-806.01 or 32-2181 to satisfy this  
6 requirement.

7           Sec. 18. Section 45-576.01, Arizona Revised Statutes, is amended to  
8 read:

9           45-576.01. Determining consistency with management goal in a  
10           replenishment district and conservation district

11           A. For the purpose of determining whether an assured water supply  
12 exists, the director shall find that a groundwater replenishment district  
13 member's projected use is consistent with achieving the management goal for  
14 the active management area under section 45-576 if:

15           1. The land for which a certificate or the city, town or private water  
16 company for which a designation is sought is in a groundwater replenishment  
17 district established pursuant to title 48, chapter 27.

18           2. The director has made either a preliminary determination that has  
19 not expired or a final determination that the district's plan for operation  
20 is consistent with achieving the management goal according to section  
21 45-576.03, subsection E.

22           3. The master replenishment account established pursuant to section  
23 45-858.01 does not have a debit balance that exceeds the cumulative amount of  
24 the district's debits accrued during the four preceding calendar years.

25           B. For the purpose of determining whether an assured water supply  
26 exists, the director shall find that a projected use is consistent with  
27 achieving the management goal for the active management area under section  
28 45-576 if all of the following apply:

29           1. The land for which a certificate is sought is a member land, or the  
30 service area of a city, town or private water company for which a designation  
31 is sought is a member service area, in a conservation district as provided by  
32 title 48, chapter 22, article 4, ~~or the land for which a certificate is~~  
33 ~~sought is a water district member land, or the service area for which a~~  
34 ~~designation is sought is a water district member service area in a water~~  
35 ~~district as provided by title 48, chapter 28, article 7.~~

36           2. The director has made a determination that has not expired that the  
37 most recent plan for operation submitted under section 45-576.02, subsection  
38 C ~~or E~~ by the conservation district ~~or the water district, whichever is~~  
39 ~~obligated to replenish groundwater on behalf of the land for which a~~  
40 ~~certificate is sought or the service area of a city, town or private water~~  
41 ~~company for which a designation is sought,~~ is consistent with achieving the  
42 management goal for the active management area in which the use is located  
43 according to section 45-576.03, subsection N ~~or O, as applicable.~~

44           3. The conservation district ~~or the water district, whichever is~~  
45 ~~obligated to replenish groundwater on behalf of the land for which a~~

1 ~~certificate is sought or the service area of a city, town or private water~~  
2 ~~company for which a designation is sought,~~ is currently in compliance with  
3 its groundwater replenishment obligation for the active management area in  
4 which the use is located, as determined by the director pursuant to section  
5 45-859.01 ~~or 45-860.01.~~

6 Sec. 19. Section 45-576.02, Arizona Revised Statutes, is amended to  
7 read:

8 45-576.02. Replenishment district plans and conservation  
9 district plans

10 A. A groundwater replenishment district that is established pursuant  
11 to title 48, chapter 27 shall submit to the director:

12 1. On or before January 1 of the second calendar year following the  
13 year in which the district is established, a preliminary plan describing the  
14 activities that the district proposes to undertake during the seventeen  
15 calendar years following submittal of the preliminary plan.

16 2. On or before January 1 of the twelfth calendar year following the  
17 year in which the district is established, a long-range plan describing the  
18 district's proposed activities through the first calendar year in which  
19 achieving safe-yield is required.

20 B. The district's plan shall include:

21 1. An estimate of the district members' replenishment obligations that  
22 will arise during the planning period.

23 2. A description of water resources that are expected to be available  
24 to the district during the planning period.

25 3. A description of any facilities and projects to be used for  
26 replenishment during the planning period.

27 4. An analysis of potential groundwater replenishment sites in each  
28 groundwater sub-basin in the district.

29 5. A description of the district's financial capabilities and  
30 financial requirements that are necessary to address the district members'  
31 replenishment obligations during the planning period.

32 6. A description of the district's current capability to meet the  
33 district members' replenishment obligations for the five calendar years  
34 following the calendar year in which the district submits its plan.

35 7. Any other information that the director may reasonably require.

36 C. A conservation district that is established pursuant to title 48,  
37 chapter 22, ~~article 4~~ shall submit to the director:

38 1. On or before June 1, 1994, ~~and on or within one year before January~~  
39 ~~1 of every tenth calendar year thereafter, commencing on January 1, 2004,~~ a  
40 plan describing the activities that the conservation district proposes to  
41 undertake during the twenty calendar years following submitting the  
42 plan. Except as provided in subsection D of this section, the plan shall  
43 include the following information for each active management area in which a  
44 member land or member service area is or may be located:

1           ~~1.~~ (a) An estimate of the conservation district's current and  
2 projected groundwater replenishment obligations, as that term is defined and  
3 used in title 48, chapter 22, for the twenty calendar years following the  
4 submission of the plan.

5           ~~2.~~ (b) A description of water resources that are expected to be  
6 available to the conservation district for replenishment purposes during the  
7 twenty calendar years following the submission of the plan.

8           ~~3.~~ (c) A description of any facilities and projects to be used for  
9 replenishment purposes during the twenty calendar years following the  
10 submission of the plan.

11           ~~4.~~ (d) An analysis of potential groundwater replenishment sites in  
12 each groundwater sub-basin.

13           ~~5.~~ (e) A description of the conservation district's financial  
14 capabilities and financial requirements that are necessary to address the  
15 conservation district's groundwater replenishment obligations during the  
16 twenty calendar years following the submission of the plan.

17           ~~6.~~ (f) A description of the conservation district's current  
18 capability to meet the current and projected groundwater replenishment  
19 obligations for the five calendar years following the calendar year in which  
20 the conservation district submits the plan.

21           ~~7. If a water district has adopted an ordinance or resolution to  
22 undertake water district groundwater replenishment obligations pursuant to  
23 section 48-4971, subsection A, a description of central Arizona project water  
24 that may be available to the water district for replenishment purposes during  
25 the twenty calendar years following the submission of the plan.~~

26           ~~8.~~ (g) Any other information that the director may require.

27           2. ON OR BEFORE JANUARY 1, 2005 AND WITHIN ONE YEAR BEFORE JANUARY 1  
28 OF EVERY TENTH CALENDAR YEAR THEREAFTER, A PLAN DESCRIBING THE ACTIVITIES FOR  
29 EACH ACTIVE MANAGEMENT AREA THAT THE CONSERVATION DISTRICT PROPOSES TO  
30 UNDERTAKE DURING THE ONE HUNDRED CALENDAR YEARS FOLLOWING THE SUBMISSION OF  
31 THE PLAN. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE PLAN SHALL  
32 INCLUDE THE FOLLOWING INFORMATION FOR EACH ACTIVE MANAGEMENT AREA IN WHICH A  
33 MEMBER LAND, LIMITED MEMBER LAND, MEMBER SERVICE AREA OR LIMITED MEMBER  
34 SERVICE AREA IS OR MAY BE LOCATED:

35           (a) THE CONSERVATION DISTRICT'S GROUNDWATER REPLENISHMENT OBLIGATIONS  
36 AND THE EXTENT TO WHICH THOSE OBLIGATIONS HAVE BEEN MET IN THE TEN YEARS  
37 PRECEDING SUBMITTAL OF THE PLAN.

38           (b) AN ESTIMATE OF THE CONSERVATION DISTRICT'S CURRENT AND PROJECTED  
39 GROUNDWATER REPLENISHMENT OBLIGATIONS, AS THAT TERM IS DEFINED AND USED IN  
40 TITLE 48, CHAPTER 22, FOR CURRENT MEMBERS FOR THE TWENTY CALENDAR YEARS  
41 FOLLOWING THE SUBMISSION OF THE PLAN AND AN ESTIMATE OF THE DISTRICT'S  
42 PROJECTED GROUNDWATER REPLENISHMENT OBLIGATIONS FOR THE ONE HUNDRED CALENDAR  
43 YEARS FOLLOWING THE SUBMISSION OF THE PLAN FOR CURRENT MEMBERS AND POTENTIAL  
44 MEMBERS BASED ON REASONABLE PROJECTIONS OF REAL PROPERTY, SERVICE AREAS AND

1 LIMITED SERVICE AREAS THAT COULD QUALIFY FOR MEMBERSHIP IN THE TEN YEARS  
2 FOLLOWING THE SUBMISSION OF THE PLAN.

3 (c) A DESCRIPTION OF THE WATER RESOURCES THAT THE CONSERVATION  
4 DISTRICT PLANS TO USE FOR REPLENISHMENT PURPOSES DURING THE TWENTY CALENDAR  
5 YEARS FOLLOWING THE SUBMISSION OF THE PLAN AND WATER RESOURCES POTENTIALLY  
6 AVAILABLE TO THE CONSERVATION DISTRICT FOR GROUNDWATER REPLENISHMENT PURPOSES  
7 DURING THE SUBSEQUENT EIGHTY CALENDAR YEARS.

8 (d) A DESCRIPTION OF THE DISTRICT'S CURRENT REPLENISHMENT RESERVE  
9 ACTIVITIES IN EACH ACTIVE MANAGEMENT AREA FOR THE TEN YEARS PRECEDING THE  
10 CURRENT PLAN AND PLANNED REPLENISHMENT RESERVE ACTIVITIES FOR THE ENSUING TEN  
11 YEARS TO BE UNDERTAKEN IN ACCORDANCE WITH SECTION 48-3772, SUBSECTION E.

12 (e) A DESCRIPTION OF ANY FACILITIES AND PROJECTS TO BE USED FOR  
13 REPLENISHMENT AND THE REPLENISHMENT CAPACITY AVAILABLE TO THE CONSERVATION  
14 DISTRICT DURING THE TWENTY CALENDAR YEARS FOLLOWING THE SUBMISSION OF THE  
15 PLAN.

16 (f) AN ANALYSIS OF POTENTIAL STORAGE FACILITIES THAT MAY BE USED BY  
17 THE CONSERVATION DISTRICT FOR REPLENISHMENT PURPOSES.

18 (g) A DESCRIPTION OF THE CONSERVATION DISTRICT'S CAPABILITY TO MEET  
19 THE CURRENT AND PROJECTED GROUNDWATER REPLENISHMENT OBLIGATIONS FOR THE  
20 TWENTY CALENDAR YEARS FOLLOWING THE CALENDAR YEAR IN WHICH THE CONSERVATION  
21 DISTRICT SUBMITS THE PLAN.

22 (h) ANY OTHER INFORMATION THAT THE DIRECTOR MAY REQUIRE.

23 D. The information required by subsection C, ~~paragraphs 2 and 6~~  
24 PARAGRAPH 1, SUBDIVISIONS (b) AND (f) AND PARAGRAPH 2, SUBDIVISIONS (c) AND  
25 (g) of this section need not be included in a conservation district's plan if  
26 the conservation district demonstrates to the director that it has obtained  
27 an allocation of central Arizona project water OR OTHER WATER SUPPLIES  
28 DETERMINED BY THE DIRECTOR TO BE CONSISTENT WITH THE ASSURED WATER SUPPLY  
29 REQUIREMENTS PURSUANT TO SECTION 45-576 in an amount that equals or exceeds  
30 the projected groundwater replenishment obligation for the twenty calendar  
31 years following the submission of the plan. If the conservation district  
32 demonstrates to the director that it has obtained an allocation of central  
33 Arizona project water OR OTHER WATER SUPPLIES DETERMINED BY THE DIRECTOR TO  
34 BE CONSISTENT WITH THE ASSURED WATER SUPPLY REQUIREMENTS PURSUANT TO SECTION  
35 45-576 in an amount that is less than the projected groundwater replenishment  
36 obligation for the twenty calendar years following the submission of the  
37 plan, the information required by subsection C, ~~paragraphs 2 and 6~~ PARAGRAPH  
38 1, SUBDIVISIONS (b) AND (f) AND PARAGRAPH 2, SUBDIVISIONS (c) AND (g) of this  
39 section shall be submitted only for the amount of the obligation in excess of  
40 the amount of the CENTRAL ARIZONA PROJECT WATER allocation OR OTHER  
41 SUPPLIES. The director shall quantify the amount of an allocation of central  
42 Arizona project water associated with a nondeclining municipal and industrial  
43 subcontract on the basis of the amount of the contract. The director shall  
44 quantify the amount of an allocation of central Arizona project water

1 associated with a subcontract other than a nondeclining municipal and  
2 industrial subcontract on the basis of the reliability of the source.

3 ~~E. A water district shall submit to the director on or before June 1~~  
4 ~~of the calendar year following the year in which the water district has~~  
5 ~~adopted an ordinance or resolution to undertake the water district~~  
6 ~~groundwater replenishment obligations under section 48-4971, and on or within~~  
7 ~~one year before each date on which a plan is required to be submitted by the~~  
8 ~~conservation district under subsection C of this section, a plan describing~~  
9 ~~the replenishment activities that the water district proposes to undertake~~  
10 ~~during the twenty calendar years following the submittal of the plan. The~~  
11 ~~plan shall include the following information for the active management area~~  
12 ~~in which the water district is located:~~

13 ~~1. An estimate of the water district's current and projected water~~  
14 ~~district groundwater replenishment obligation, as that term is defined and~~  
15 ~~used in title 48, chapter 28, for the twenty calendar years following the~~  
16 ~~submission of the plan.~~

17 ~~2. A description of water resources that are expected to be available~~  
18 ~~to the water district for replenishment purposes during the twenty calendar~~  
19 ~~years following the submission of the plan.~~

20 ~~3. A description of any facilities and projects to be used for~~  
21 ~~replenishment purposes during the twenty calendar years following the~~  
22 ~~submission of the plan.~~

23 ~~4. An analysis of potential groundwater replenishment sites in each~~  
24 ~~groundwater sub-basin.~~

25 ~~5. A description of the water district's financial capabilities and~~  
26 ~~financial requirements that are necessary to address the water district~~  
27 ~~groundwater replenishment obligation during the twenty calendar years~~  
28 ~~following the submission of the plan.~~

29 ~~6. A description of the water district's current capability to meet~~  
30 ~~the current and projected water district groundwater replenishment obligation~~  
31 ~~for the five calendar years following the calendar year in which the water~~  
32 ~~district submits the plan.~~

33 ~~7. Any other information that the director may require.~~

34 ~~F. For each plan submitted by the water district, the water district~~  
35 ~~may incorporate applicable portions of the conservation district's plan.~~

36 Sec. 20. Section 45-576.03, Arizona Revised Statutes, is amended to  
37 read:

38 45-576.03. Director's review of plans

39 A. Within sixty days after receiving a groundwater replenishment  
40 district's preliminary and long-range plans pursuant to section 45-576.02,  
41 the director shall determine if the district has submitted sufficient  
42 information to determine whether the district's plan for operation is  
43 consistent with the management goal of the active management area. If the  
44 director determines that the information is insufficient for such a  
45 determination, the director shall notify the district of the insufficiency in

1 writing and shall specify what additional information is required. The  
2 district shall provide the information to the director within thirty days  
3 after receiving the notice.

4 B. On determining that the district's preliminary or long-range plan  
5 is complete, the director shall publish notice in a newspaper of general  
6 statewide circulation once each week for two consecutive weeks:

7 1. Requesting public comment concerning information supplied by the  
8 district to meet the requirements of section 45-576.02.

9 2. Setting a date and location of a public hearing to be held pursuant  
10 to subsection C of this section.

11 C. The director shall hold a public hearing within sixty days after  
12 the last day of notice under subsection B of this section. The hearing shall  
13 be conducted in an informal manner without adhering to the rules of evidence  
14 required in judicial proceedings. Any person, including the department,  
15 shall have an opportunity to comment on or to present evidence concerning the  
16 submitted plan.

17 D. The district shall respond in writing to all public comments  
18 whether received at the hearing or otherwise received by a date announced by  
19 the director.

20 E. Within one hundred twenty days after the hearing on the preliminary  
21 plan, the director shall issue a preliminary decision determining whether or  
22 not the plan for district operation shall be designated as being consistent  
23 with achieving the management goal. If the director determines that the  
24 preliminary plan for district operation is consistent with achieving the  
25 management goal, the designation expires on January 1 of the thirteenth  
26 calendar year following the calendar year in which the district is  
27 established. Within one hundred twenty days after the hearing on the  
28 long-range plan, the director shall issue a final decision determining  
29 whether or not the plan for district operation shall be designated as being  
30 consistent with achieving the management goal. The director shall include  
31 findings with the decision and a summary of all public comments received in  
32 writing and public comments made at the public hearing.

33 F. The director shall issue a decision that the district's plan for  
34 operation is consistent with achieving the management goal if the director  
35 finds that the district has the current capability to meet the district  
36 members' replenishment obligations for the five calendar years following the  
37 calendar year in which the district submits its plan and, in addition, the  
38 director makes either of the following findings, as applicable:

39 1. If the director is evaluating the preliminary plan, that the  
40 district has established an adequate plan for obtaining financing and water  
41 resources that are necessary to meet the district members' replenishment  
42 obligations through the eighteenth calendar year following the year in which  
43 the district is established.

44 2. If the director is evaluating the long-range plan, that the  
45 district has established an adequate plan to meet the projected replenishment



1 obligations through the first calendar year in which achieving safe-yield is  
2 required.

3 G. Unless the district successfully appeals the director's decision  
4 pursuant to subsection H of this section, if the director has made a  
5 determination that the district's plan for operation is not consistent with  
6 achieving the management goal, the director shall notify the district of the  
7 inconsistency in writing and shall specify how the district's plan for  
8 operation is inconsistent with achieving the management goal. The district  
9 shall modify its proposed plan and resubmit the plan, and the director shall  
10 review the plan as provided by section 45-576.02 and this section, except  
11 that the director shall only hold a hearing regarding those matters that the  
12 district has modified in its resubmitted plan.

13 H. The director's determination under subsection E of this section is  
14 subject to rehearing or review and to judicial review as provided in section  
15 45-114, subsection C, but the court shall not issue a temporary restraining  
16 order or preliminary injunction to prevent the director from acting under  
17 this chapter while the action is pending.

18 I. Within sixty days after receiving a conservation district's plan ~~or~~  
19 ~~a water district's plan~~ pursuant to section 45-576.02, the director shall  
20 determine if the conservation district ~~or water district, as the case may be,~~  
21 has submitted sufficient information to determine whether the conservation  
22 district's plan for operation is consistent with the management goals of each  
23 of the active management areas in which a member land or member service area  
24 is or may be located ~~or whether the water district's plan for operation is~~  
25 ~~consistent with the management goal of the active management area in which a~~  
26 ~~water district member land or a water district member service area is or may~~  
27 ~~be located.~~ If the director determines that the information is insufficient  
28 for such a determination, the director shall notify the conservation district  
29 ~~or water district, as the case may be,~~ of the insufficiency in writing and  
30 shall specify what additional information is required. The conservation  
31 district ~~or water district, as the case may be,~~ shall provide the information  
32 to the director within a reasonable time as specified by the director.

33 J. On determining that the conservation district's plan ~~or the water~~  
34 ~~district's plan, as the case may be,~~ is complete, the director shall publish  
35 notice in a newspaper of general statewide circulation once each week for two  
36 consecutive weeks:

37 1. Requesting public comment concerning information supplied by the  
38 conservation district ~~or water district, as the case may be,~~ to meet the  
39 requirements of section 45-576.02.

40 2. Setting a date and location of a public hearing to be held pursuant  
41 to subsection K of this section.

42 K. The director shall hold a public hearing within sixty days after  
43 the last day of the notice under subsection J of this section. The hearing  
44 shall be conducted in an informal manner without adhering to the rules of  
45 evidence required in judicial proceedings. Any person, including the

1 department, shall have an opportunity to comment on or to present evidence  
2 concerning the submitted plan.

3 L. The conservation district ~~or the water district, as the case may~~  
4 ~~be,~~ shall respond in writing to all public comments whether received at the  
5 hearing or otherwise received by a date announced by the director.

6 M. Within sixty days after the hearing on the first plan required  
7 under section 45-576.02, subsection C ~~or the first plan required under~~  
8 ~~section 45-576.02, subsection E~~ and within one hundred twenty days after the  
9 hearing on any subsequent plan required under section 45-576.02, subsection C  
10 ~~or E,~~ the director shall issue a decision for each of the active management  
11 areas in which a member land or member service area is or may be located, ~~and~~  
12 ~~the active management area in which a water district member land or water~~  
13 ~~district member service area is or may be located,~~ determining whether or not  
14 the plan submitted with respect to an active management area shall be  
15 designated as being consistent with achieving the management goal of the  
16 active management area. If the director determines that the plan submitted  
17 for an active management area is consistent with achieving the management  
18 goal of that active management area, the designation expires on January 1 of  
19 the year following the year in which the conservation district ~~or the water~~  
20 ~~district, as the case may be,~~ is required to submit its next plan under  
21 section 45-576.02, ~~subsections~~ SUBSECTION C ~~and E.~~ The director shall  
22 include findings with the decision and a summary of all public comments  
23 received in writing and public comments made at the public hearing.

24 N. The director shall ~~issue a decision~~ MAKE A DETERMINATION that the  
25 conservation district's plan is consistent with achieving the management goal  
26 ~~of an~~ FOR EACH active management area if ~~the director finds that the~~  
27 ~~conservation district has the current capability to meet the current and~~  
28 ~~projected groundwater replenishment obligation, as that term is defined and~~  
29 ~~used in title 48, chapter 22, for the active management area for the five~~  
30 ~~calendar years following the calendar year in which the conservation district~~  
31 ~~submits its plan, and, in addition, the director finds that the conservation~~  
32 ~~district has established an adequate plan to meet the projected groundwater~~  
33 ~~replenishment obligation for the active management area for the twenty~~  
34 ~~calendar years following the calendar year in which the plan was submitted~~  
35 ALL OF THE FOLLOWING HAVE BEEN DEMONSTRATED:

36 1. THE CONSERVATION DISTRICT HAS IDENTIFIED SUFFICIENT WATER SUPPLIES  
37 TO MEET ITS REPLENISHMENT OBLIGATIONS FOR CURRENT MEMBERS DURING THE TWENTY  
38 CALENDAR YEARS FOLLOWING THE SUBMISSION OF THE PLAN AND HAS IDENTIFIED  
39 ADDITIONAL WATER SUPPLIES POTENTIALLY AVAILABLE FOR THE DISTRICT'S PROJECTED  
40 GROUNDWATER REPLENISHMENT OBLIGATIONS FOR THE ONE HUNDRED CALENDAR YEARS  
41 FOLLOWING THE SUBMISSION OF THE PLAN FOR CURRENT MEMBERS AND POTENTIAL  
42 MEMBERS BASED ON REASONABLE PROJECTIONS OF REAL PROPERTY, SERVICE AREAS AND  
43 LIMITED SERVICE AREAS THAT COULD QUALIFY FOR MEMBERSHIP IN THE TEN YEARS  
44 FOLLOWING THE SUBMISSION OF THE PLAN.

1           2. THE DISTRICT IS DEVELOPING A REPLENISHMENT RESERVE IN EACH ACTIVE  
2 MANAGEMENT AREA IN ACCORDANCE WITH SECTION 48-3772, SUBSECTION E.

3           3. THE CONSERVATION DISTRICT HAS IDENTIFIED SUFFICIENT CAPACITY AT  
4 STORAGE FACILITIES AND PROJECTS TO BE USED FOR REPLENISHMENT PURPOSES DURING  
5 THE TWENTY CALENDAR YEARS FOLLOWING THE SUBMISSION OF THE PLAN.

6           ~~0. The director shall issue a decision that the water district's plan  
7 is consistent with achieving the management goal of the active management  
8 area in which the water district is located if the director finds that the  
9 water district has the current capability to meet the current and projected  
10 water district groundwater replenishment obligation, as that term is defined  
11 and used in title 48, chapter 28, for the five calendar years following the  
12 calendar year in which the water district submits its plan and, in addition,  
13 the director finds the water district has established an adequate plan to  
14 meet the projected water district groundwater replenishment obligation for  
15 the twenty calendar years following the calendar year in which the plan was  
16 submitted.~~

17           ~~P.~~ 0. Unless the conservation district ~~or water district~~ successfully  
18 appeals the director's decision pursuant to subsection ~~Q~~ P of this section,  
19 if the director has made a determination **FOR ONE OR MORE ACTIVE MANAGEMENT**  
20 **AREAS** that the conservation district's plan for operation ~~or the water~~  
21 ~~district's plan~~ is not consistent with achieving the management goal of an  
22 active management area, the director shall notify the conservation district  
23 ~~or water district, as the case may be,~~ of the inconsistency in writing and  
24 shall specify how the conservation district's plan for operation ~~or the water~~  
25 ~~district's plan~~ is inconsistent with achieving the management goal. The  
26 conservation district ~~or water district, as the case may be,~~ shall modify its  
27 proposed plan and resubmit the plan **WITHIN SIXTY DAYS AFTER IT HAS BEEN**  
28 **NOTIFIED IN WRITING OF THE DIRECTOR'S DECISION**, and the director shall review  
29 the plan as provided by section 45-576.02 and this section, except that the  
30 director shall only hold a hearing regarding those matters that the  
31 conservation district ~~or water district, as the case may be,~~ has modified in  
32 its resubmitted plan.

33           ~~Q.~~ P. The director's determination under subsection M of this section  
34 is subject to rehearing or review and to judicial review as provided in  
35 section 45-114, subsection C, but the court shall not issue a temporary  
36 restraining order or preliminary injunction to prevent the director from  
37 acting under this chapter while the action is pending.

38           Q. **IF, AT ANY TIME BETWEEN THE SECOND ANNIVERSARY AND THE SIXTH**  
39 **ANNIVERSARY OF THE DIRECTOR'S DETERMINATION OF CONSISTENCY WITH THE**  
40 **MANAGEMENT GOAL, THE DIRECTOR DETERMINES THAT THERE HAS BEEN EITHER AN**  
41 **UNEXPECTED INCREASE IN THE CONSERVATION DISTRICT'S PROJECTED GROUNDWATER**  
42 **REPLENISHMENT OBLIGATIONS OR AN UNEXPECTED REDUCTION IN WATER SUPPLIES**  
43 **AVAILABLE TO MEET THE CONSERVATION DISTRICT'S CURRENT OBLIGATIONS SUCH THAT**  
44 **THE CONSERVATION DISTRICT'S PLAN NO LONGER DEMONSTRATES CONSISTENCY WITH THE**  
45 **MANAGEMENT GOAL FOR ONE OR MORE ACTIVE MANAGEMENT AREAS, THE DIRECTOR MAY**

1 REQUIRE THE CONSERVATION DISTRICT TO SUBMIT A REVISED PLAN FOR OPERATION. THE  
2 REVISED PLAN FOR OPERATION SHALL BE SUBMITTED WITHIN TWO CALENDAR YEARS OF  
3 THE DATE THAT THE DIRECTOR NOTIFIES THE CONSERVATION DISTRICT OF A  
4 DETERMINATION. THE DIRECTOR SHALL REVIEW THE REVISED PLAN AS PROVIDED BY  
5 SECTION 45-576.02 AND THIS SECTION, EXCEPT THAT THE DIRECTOR SHALL ONLY HOLD  
6 A HEARING REGARDING THOSE CONDITIONS THAT HAVE CHANGED.

7 R. UNLESS THE CONSERVATION DISTRICT SUCCESSFULLY APPEALS THE  
8 DIRECTOR'S DECISION PURSUANT TO SUBSECTION Q OF THIS SECTION, IF THE DIRECTOR  
9 HAS MADE A DETERMINATION FOR ONE OR MORE ACTIVE MANAGEMENT AREAS THAT THE  
10 CONSERVATION DISTRICT'S REVISED PLAN FOR OPERATION IS NOT CONSISTENT WITH  
11 ACHIEVING THE MANAGEMENT GOAL OF THAT ACTIVE MANAGEMENT AREA PURSUANT TO THIS  
12 SECTION AND THE CONSERVATION DISTRICT IS UNABLE TO SATISFY THE DIRECTOR'S  
13 CONCERNS WITHIN 60 DAYS AFTER THE DIRECTOR HAS NOTIFIED THE CONSERVATION  
14 DISTRICT OF THE DETERMINATION, THE DISTRICT'S PLAN SHALL EXPIRE.

15 Sec. 21. Section 45-576.06, Arizona Revised Statutes, is amended to  
16 read:

17 45-576.06. Termination of designation for members of  
18 conservation district; moratorium on adding new  
19 member lands, member service areas, limited member  
20 lands and limited member service areas

21 A. After a conservation district has been established under title 48,  
22 chapter 22, if one or more of the conditions established under section  
23 45-576.01, subsection B, paragraph 2 or 3 are not met for an active  
24 management area with respect to a conservation district and for as long as  
25 the condition is not met:

26 1. Any municipal provider whose service area is in that active  
27 management area and that was designated as having an assured water supply on  
28 the basis that its service area is a member service area shall lose its  
29 designation. The municipal provider may reapply for and reobtain its  
30 designation if the director determines that the municipal provider's  
31 projected use is consistent with achieving the management goal of the active  
32 management area under section 45-576.

33 2. No additional real property in that active management area may  
34 become a member land OR A LIMITED MEMBER LAND.

35 3. No additional service area of a city, town or private water company  
36 in that active management area may become a member service area.

37 4. NO ADDITIONAL LIMITED SERVICE AREA OF A MUNICIPAL PROVIDER MAY  
38 QUALIFY AS A LIMITED MEMBER SERVICE AREA.

39 ~~B. After a water district has adopted an ordinance or resolution to~~  
40 ~~undertake the water district groundwater replenishment obligations~~  
41 ~~established under title 48, chapter 28, article 7, if one or more of the~~  
42 ~~conditions established under section 45-576.01, subsection B, paragraph 2 or~~  
43 ~~3 are not met with respect to the water district and for as long as the~~  
44 ~~condition is not met:~~

1           ~~1. Any municipal provider whose service area is in the active~~  
2 ~~management area in which the water district is located and that was~~  
3 ~~designated as having an assured water supply on the basis that its service~~  
4 ~~area is a water district member service area shall lose its designation. The~~  
5 ~~municipal provider may reapply for and reobtain its designation if the~~  
6 ~~director determines that the municipal provider's projected use is consistent~~  
7 ~~with achieving the management goal of the active management area under~~  
8 ~~section 45-576.~~

9           ~~2. No additional real property in that active management area may~~  
10 ~~become a water district member land.~~

11           ~~3. No additional service area of a city, town or private water company~~  
12 ~~in that active management area may become a water district member service~~  
13 ~~area.~~

14           C. B. If the conservation district notifies the director pursuant to  
15 section 48-3781, subsection G that a municipal provider that was designated  
16 as having an assured water supply on the basis that its service area is a  
17 member service area has failed to pay any portion of the required annual  
18 replenishment tax assessed under section 48-3781, the director may revoke the  
19 municipal provider's designation. The municipal provider may reapply for and  
20 reobtain its designation if the director determines that the municipal  
21 provider's projected use is consistent with achieving the management goal of  
22 the active management area under section 45-576.

23           ~~D. After a water district has adopted an ordinance or resolution to~~  
24 ~~undertake the water district groundwater replenishment obligations~~  
25 ~~established under title 48, chapter 28, article 7, if the water district~~  
26 ~~notifies the director pursuant to section 48-4982, subsection G that a~~  
27 ~~municipal provider that was designated as having an assured water supply on~~  
28 ~~the basis that its service area is a water district member service area has~~  
29 ~~failed to pay any portion of the required annual replenishment tax assessed~~  
30 ~~under section 48-4982, the director may revoke the municipal provider's~~  
31 ~~designation. The municipal provider may reapply for and reobtain its~~  
32 ~~designation if the director determines that the municipal provider's~~  
33 ~~projected use is consistent with achieving the management goal of the active~~  
34 ~~management area under section 45-576.~~

35           Sec. 22. Section 45-578, Arizona Revised Statutes, is amended to read:

36           45-578. Notice; objections; hearing; issuance of certificate;  
37           appeals

38           A. The director shall give notice of the application for a certificate  
39 of assured water supply once each week for two consecutive weeks in a  
40 newspaper of general circulation in the active management area in which the  
41 applicant proposes to use water. The first publication shall occur within  
42 fifteen days after the application is determined complete and correct or at  
43 any earlier time as the applicant may request after the application is  
44 determined complete. If the application is substantially modified after  
45 notice of the application is given pursuant to this subsection, the director

1 shall give notice of the application as modified in the manner prescribed by  
2 this subsection. The first publication of any subsequent notice shall occur  
3 within fifteen days after the modified application is determined complete and  
4 correct or at any earlier time as the applicant may request after the  
5 modified application is determined complete.

6 B. Notice pursuant to subsection A of this section shall state that  
7 objections to the issuance of the certificate may be filed by residents of  
8 the active management area, in writing, with the director within fifteen days  
9 after the last publication of notice. An objection shall state the name and  
10 mailing address of the objector, be signed by the objector, the objector's  
11 agent or the objector's attorney and clearly set forth reasons why the  
12 certificate should not be issued. The grounds for objection are limited to  
13 whether the certificate application meets the criteria for determining an  
14 assured water supply set forth in section 45-576, subsection I.

15 C. In appropriate cases, including cases where a proper written  
16 objection to the certificate application has been filed, an administrative  
17 hearing may be held before the director's decision on the application if the  
18 director deems a hearing necessary. The director shall, thirty days prior to  
19 the date of the hearing, give notice of the hearing to the applicant and to  
20 any person who filed a proper written objection to the issuance of the  
21 certificate. The hearing shall be scheduled for not less than sixty days nor  
22 more than ninety days after the expiration of the time in which to file  
23 objections.

24 D. Upon finding that an assured water supply exists for the proposed  
25 use, the director shall issue a certificate of assured water supply to the  
26 applicant. Upon finding that an assured water supply does not exist, the  
27 director shall deny the application and return it to the applicant.

28 E. An aggrieved party or a person who contested a certificate by  
29 filing a proper objection pursuant to subsection B of this section may seek  
30 judicial review of the final decision of the director as provided in section  
31 45-114, subsection B in the superior court.

32 F. If the application for a certificate of assured water supply is for  
33 land ~~in an active management area where an active management area water~~  
34 ~~district exists~~ THAT HAS QUALIFIED AS A MEMBER LAND under title 48, chapter  
35 ~~28~~ 22, when the application is determined to be complete and correct, the  
36 director shall ~~transmit a copy of the application to~~ NOTIFY the CONSERVATION  
37 district AND SHALL REPORT THE TOTAL PROJECTED ANNUAL GROUNDWATER DEMAND FOR  
38 EACH PLAT UNDER THE CERTIFICATE.

39 G. Section 45-114, subsections A and B govern administrative  
40 proceedings, rehearing or review and judicial review of final decisions of  
41 the director under this section. If an administrative hearing is held, it  
42 shall be conducted in the active management area in which the use is located.

43 Sec. 23. Title 45, chapter 2, article 9, Arizona Revised Statutes, is  
44 amended by adding sections 45-579, 45-580 and 45-581, to read:

45 45-579. Limited groundwater rights; limited groundwater; use

1           A. IN THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS, THE  
2 HOLDER OF A LIMITED GROUNDWATER RIGHT MAY WITHDRAW, RECEIVE AND USE  
3 GROUNDWATER PURSUANT TO THE RIGHT, BUT ONLY IF THE REAL PROPERTY ON WHICH THE  
4 GROUNDWATER IS USED IS QUALIFIED AS A LIMITED MEMBER LAND OF THE CONSERVATION  
5 DISTRICT AS PROVIDED BY TITLE 48, CHAPTER 22, ARTICLE 4. IN ACCORDANCE WITH  
6 SECTION 48-3774.01, THE HOLDER SHALL COVENANT TO SUBJECT THE REAL PROPERTY TO  
7 A LIMITED MEMBER LAND REPLENISHMENT OBLIGATION AND TO A REPLENISHMENT  
8 ASSESSMENT TO BE DETERMINED BY THE CONSERVATION DISTRICT IN ORDER TO PERMIT  
9 THE USE OF LIMITED GROUNDWATER ON THE REAL PROPERTY.

10           B. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS, WITH RESPECT TO  
11 A LIMITED GROUNDWATER RIGHT HOLDER, LIMITED GROUNDWATER MEANS THAT VOLUME OF  
12 GROUNDWATER WITHDRAWN OR RECEIVED AFTER DECEMBER 31, 2004 IN A CALENDAR YEAR  
13 PURSUANT TO A LIMITED GROUNDWATER RIGHT THAT IS EQUAL TO THE FOLLOWING  
14 COMPUTATION:

15           1. DETERMINE THE TOTAL AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED  
16 DURING THE CALENDAR YEAR PURSUANT TO THE LIMITED GROUNDWATER RIGHT.

17           2. MULTIPLY THE AMOUNT DETERMINED IN PARAGRAPH 1 BY THE INCIDENTAL  
18 REPLENISHMENT FACTOR APPLICABLE TO THE LIMITED GROUNDWATER RIGHT HOLDER.

19           3. SUBTRACT THE PRODUCT CALCULATED IN PARAGRAPH 2 FROM THE AMOUNT  
20 DETERMINED IN PARAGRAPH 1.

21           4. FOR GROUNDWATER USED IN YEARS 2005 THROUGH 2024, MULTIPLY THE  
22 DIFFERENCE CALCULATED IN PARAGRAPH 3 BY A FRACTION IN WHICH:

23           (a) THE NUMERATOR IS 2004 SUBTRACTED FROM THE YEAR IN WHICH THE  
24 GROUNDWATER IS WITHDRAWN OR RECEIVED.

25           (b) THE DENOMINATOR IS 21.

26           C. IN THE PINAL ACTIVE MANAGEMENT AREA, WITH RESPECT TO A LIMITED  
27 GROUNDWATER RIGHT HOLDER, LIMITED GROUNDWATER MEANS THAT VOLUME OF  
28 GROUNDWATER WITHDRAWN OR RECEIVED AFTER DECEMBER 31, 2004 IN A CALENDAR YEAR  
29 PURSUANT TO A LIMITED GROUNDWATER RIGHT THAT IS EQUAL TO THE FOLLOWING  
30 COMPUTATION:

31           1. DETERMINE THE TOTAL AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED  
32 DURING THE CALENDAR YEAR PURSUANT TO THE LIMITED GROUNDWATER RIGHT.

33           2. MULTIPLY THE AMOUNT DETERMINED IN PARAGRAPH 1 BY THE INCIDENTAL  
34 REPLENISHMENT FACTOR APPLICABLE TO THE LIMITED GROUNDWATER RIGHT HOLDER.

35           3. SUBTRACT THE PRODUCT CALCULATED IN PARAGRAPH 2 FROM THE AMOUNT  
36 DETERMINED IN PARAGRAPH 1.

37           4. FOR GROUNDWATER USED IN YEARS 2005 THROUGH 2039, MULTIPLY THE  
38 DIFFERENCE CALCULATED IN PARAGRAPH 3 BY A FRACTION IN WHICH:

39           (a) THE NUMERATOR IS 2004 SUBTRACTED FROM THE YEAR IN WHICH THE  
40 GROUNDWATER IS WITHDRAWN.

41           (b) THE DENOMINATOR IS 36.

42           D. IN THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS, THE  
43 DIRECTOR SHALL NOT APPROVE AN APPLICATION FOR A LIMITED GROUNDWATER RIGHT  
44 DESCRIBED IN SECTION 45-480, SUBSECTION H, SECTION 45-514, SUBSECTION E OR  
45 SECTION 45-515, SUBSECTION E UNLESS THE APPLICANT PROVIDES EVIDENCE THAT THE

1 LAND ON WHICH THE GROUNDWATER IS TO BE USED IS QUALIFIED AS A LIMITED MEMBER  
2 LAND OF THE CONSERVATION DISTRICT AS PROVIDED BY TITLE 48, CHAPTER 22,  
3 ARTICLE 4.

4 E. IN THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS, THE  
5 LIMITED GROUNDWATER RIGHT DESCRIBED IN SECTION 45-464, SUBSECTION J, SHALL  
6 NOT BE USED UNTIL THE HOLDER FILES WRITTEN NOTICE WITH THE DIRECTOR THAT A  
7 LIMITED GROUNDWATER RIGHT WILL BE USED AND SUBMITS WITH THE WRITTEN NOTICE  
8 EVIDENCE THAT THE LAND ON WHICH THE GROUNDWATER IS TO BE USED IS QUALIFIED AS  
9 A LIMITED MEMBER LAND OF THE CONSERVATION DISTRICT AS PROVIDED BY TITLE 48,  
10 CHAPTER 22, ARTICLE 4.

11 F. IN THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS:

12 1. USE OF A LIMITED GROUNDWATER RIGHT BEFORE QUALIFYING THE REAL  
13 PROPERTY ON WHICH THE GROUNDWATER IS TO BE USED AS A LIMITED MEMBER LAND OF  
14 THE CONSERVATION DISTRICT IS A VIOLATION OF THIS CHAPTER DIRECTLY RELATED TO  
15 THE ILLEGAL WITHDRAWAL, USE AND TRANSPORTATION OF GROUNDWATER AND EACH DAY OF  
16 WITHDRAWAL, USE OR TRANSPORTATION OF GROUNDWATER BEFORE QUALIFICATION IS A  
17 DAY OF VIOLATION UNDER SECTION 45-635.

18 2. IF THE HOLDER OF A LIMITED GROUNDWATER RIGHT HAS QUALIFIED THE REAL  
19 PROPERTY ON WHICH THE GROUNDWATER IS TO BE USED AS A LIMITED MEMBER LAND OF  
20 THE CONSERVATION DISTRICT AND FAILS TO PAY THE ANNUAL REPLENISHMENT  
21 ASSESSMENT, THE USE OF THE LIMITED GROUNDWATER RIGHT DURING THE DELINQUENCY  
22 IS A VIOLATION OF THIS CHAPTER DIRECTLY RELATED TO THE ILLEGAL WITHDRAWAL,  
23 USE AND TRANSPORTATION OF GROUNDWATER AND EACH DAY OF WITHDRAWAL, USE OR  
24 TRANSPORTATION OF GROUNDWATER AFTER THE NOTICE OF DELINQUENCY UNTIL THE  
25 DELINQUENCY IS CURED IS A DAY OF VIOLATION UNDER SECTION 45-635. THE  
26 CONSERVATION DISTRICT SHALL PROVIDE NOTICE TO THE DEPARTMENT THAT A HOLDER IS  
27 DELINQUENT IN THE PAYMENT OF THE ANNUAL REPLENISHMENT ASSESSMENT PURSUANT TO  
28 SECTION 48-3778.

29 G. IN THE PRESCOTT ACTIVE MANAGEMENT AREA, WITH RESPECT TO A LIMITED  
30 GROUNDWATER RIGHT HOLDER, LIMITED GROUNDWATER MEANS THAT VOLUME OF  
31 GROUNDWATER WITHDRAWN OR RECEIVED PURSUANT TO THE RIGHT AFTER DECEMBER 31,  
32 2004 IN A CALENDAR YEAR BY A LIMITED GROUNDWATER RIGHT HOLDER THAT IS EQUAL  
33 TO THE DIFFERENCE BETWEEN TOTAL VOLUME OF GROUNDWATER WITHDRAWN OR RECEIVED  
34 PURSUANT TO THE RIGHT DURING THE CALENDAR YEAR AND THAT SAME VOLUME OF  
35 GROUNDWATER MULTIPLIED BY THE INCIDENTAL RECHARGE FACTOR APPLICABLE TO THE  
36 HOLDER OF THE LIMITED GROUNDWATER RIGHT.

37 H. IN THE PRESCOTT ACTIVE MANAGEMENT AREA AND THE SANTA CRUZ ACTIVE  
38 MANAGEMENT AREA, IF THE DIRECTOR ISSUES THE ORDER DESCRIBED IN SECTION  
39 45-581, SUBSECTION A, THE LIMITED GROUNDWATER RIGHT DESCRIBED IN SECTION  
40 45-464, SUBSECTION J SHALL NOT BE USED UNTIL THE HOLDER FILES WRITTEN NOTICE  
41 WITH THE DIRECTOR THAT A LIMITED GROUNDWATER RIGHT WILL BE USED.

42 I. IN THE PRESCOTT ACTIVE MANAGEMENT AREA, IF A LIMITED GROUNDWATER  
43 RIGHT HOLDER FAILS TO PAY THE LIMITED GROUNDWATER FEE REQUIRED BY SECTION  
44 45-611.02 WITHIN SIX MONTHS OF ITS ANNUAL DUE DATE OF MARCH 31 FOR  
45 GROUNDWATER WITHDRAWN DURING THE PRECEDING CALENDAR YEAR, THE USE OF THE



1 LIMITED GROUNDWATER RIGHT BY THE HOLDER AFTER THAT DATE IS A VIOLATION OF  
2 THIS CHAPTER DIRECTLY RELATED TO THE ILLEGAL WITHDRAWAL, USE AND  
3 TRANSPORTATION OF GROUNDWATER AND EACH DAY OF WITHDRAWAL, USE OR  
4 TRANSPORTATION OF GROUNDWATER DURING THE DELINQUENCY OF THE LIMITED  
5 GROUNDWATER RIGHT FEE IS A DAY OF VIOLATION UNDER SECTION 45-635.

6 J. IF THE DIRECTOR ISSUES THE ORDER DESCRIBED IN SECTION 45-581,  
7 SUBSECTION B FOR THE PRESCOTT ACTIVE MANAGEMENT AREA, A LIMITED GROUNDWATER  
8 RIGHT THAT DID NOT EXIST ON THE DATE OF THE ORDER MAY NOT BE USED UNTIL IT IS  
9 ESTABLISHED TO THE SATISFACTION OF THE DIRECTOR THAT ALL SUBSEQUENT USE OF  
10 LIMITED GROUNDWATER IN THE PRESCOTT ACTIVE MANAGEMENT AREA WILL BE OFFSET BY  
11 EQUIVALENT REPLACEMENT OR PRESERVATION OF WATER IN THE ACTIVE MANAGEMENT  
12 AREA'S AQUIFERS.

13 K. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR HAS  
14 ISSUED THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, WITH RESPECT TO A  
15 LIMITED GROUNDWATER RIGHT HOLDER, LIMITED GROUNDWATER MEANS THAT VOLUME OF  
16 GROUNDWATER WITHDRAWN OR RECEIVED PURSUANT TO THE RIGHT IN ANY CALENDAR YEAR  
17 AFTER THE YEAR IN WHICH THE DIRECTOR ISSUES THE ORDER THAT IS EQUAL TO THE  
18 DIFFERENCE BETWEEN THE TOTAL VOLUME OF GROUNDWATER WITHDRAWN OR RECEIVED  
19 PURSUANT TO THE RIGHT DURING THE CALENDAR YEAR AND THAT SAME VOLUME OF  
20 GROUNDWATER MULTIPLIED BY THE INCIDENTAL RECHARGE FACTOR APPLICABLE TO THE  
21 HOLDER OF THE LIMITED GROUNDWATER RIGHT.

22 L. IF THE DIRECTOR ISSUES THE ORDER DESCRIBED IN SECTION 45-581,  
23 SUBSECTION B FOR THE SANTA CRUZ ACTIVE MANAGEMENT AREA, A LIMITED GROUNDWATER  
24 RIGHT THAT DID NOT EXIST ON THE DATE OF THE ORDER MAY NOT BE USED UNTIL IT IS  
25 ESTABLISHED TO THE SATISFACTION OF THE DIRECTOR THAT THE USE OF LIMITED  
26 GROUNDWATER BY THE HOLDER OF THE RIGHT WILL BE OFFSET BY EQUIVALENT  
27 REPLACEMENT OR PRESERVATION OF WATER IN THE ACTIVE MANAGEMENT AREA'S  
28 AQUIFERS.

29 45-580. Limited service areas; limited groundwater; use

30 A. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS, WITH RESPECT TO  
31 A LIMITED SERVICE AREA, LIMITED GROUNDWATER MEANS THAT VOLUME OF GROUNDWATER  
32 WITHDRAWN OR RECEIVED BY A MUNICIPAL PROVIDER AFTER DECEMBER 31, 2004 IN A  
33 CALENDAR YEAR FOR DELIVERY IN A LIMITED SERVICE AREA THAT IS EQUAL TO THE  
34 FOLLOWING COMPUTATION:

35 1. DETERMINE THE TOTAL AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED  
36 DURING THE CALENDAR YEAR FOR DELIVERY IN THE LIMITED SERVICE AREA.

37 2. FROM THE AMOUNT DETERMINED IN PARAGRAPH 1, SUBTRACT ANY GROUNDWATER  
38 DELIVERED BY THE MUNICIPAL PROVIDER DURING THE CALENDAR YEAR FOR USE ON  
39 MEMBER LANDS OF THE CONSERVATION DISTRICT WITHIN THE LIMITED SERVICE AREA.

40 3. MULTIPLY THE DIFFERENCE CALCULATED IN PARAGRAPH 2 BY THE INCIDENTAL  
41 REPLENISHMENT FACTOR APPLICABLE TO THE MUNICIPAL PROVIDER.

42 4. SUBTRACT THE PRODUCT CALCULATED IN PARAGRAPH 3 FROM THE DIFFERENCE  
43 CALCULATED IN PARAGRAPH 2.

44 5. FOR GROUNDWATER USED IN YEARS 2005 THROUGH 2024, MULTIPLY THE  
45 DIFFERENCE CALCULATED IN PARAGRAPH 4 BY A FRACTION IN WHICH:

1 (a) THE NUMERATOR IS 2004 SUBTRACTED FROM THE YEAR IN WHICH THE  
2 GROUNDWATER IS WITHDRAWN OR RECEIVED.

3 (b) THE DENOMINATOR IS 21.

4 B. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS, A MUNICIPAL  
5 PROVIDER SHALL NOT HAVE THE RIGHT TO WITHDRAW AND TRANSPORT GROUNDWATER  
6 WITHIN ITS LIMITED SERVICE AREA FOR THE BENEFIT OF LANDOWNERS AND RESIDENTS  
7 WITHIN ITS LIMITED SERVICE AREA UNTIL ALL OF THE FOLLOWING OCCUR:

8 1. THE MUNICIPAL PROVIDER COMPLIES WITH ALL THE REQUIREMENTS AND  
9 RESTRICTIONS OF ARTICLE 6 OF THIS CHAPTER.

10 2. THE MUNICIPAL PROVIDER FILES WRITTEN NOTICE WITH THE DIRECTOR THAT  
11 THE MUNICIPAL PROVIDER INTENDS TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN  
12 ITS LIMITED SERVICE AREA.

13 3. THE MUNICIPAL PROVIDER FILES A MAP IN ACCORDANCE WITH SECTION  
14 45-498 DELINEATING ITS LIMITED SERVICE AREA.

15 4. THE MUNICIPAL PROVIDER PROVIDES EVIDENCE TO THE DIRECTOR THAT THE  
16 LIMITED SERVICE AREA HAS QUALIFIED AS A LIMITED MEMBER SERVICE AREA OF THE  
17 CONSERVATION DISTRICT IN ACCORDANCE WITH SECTION 48-3780.01.

18 C. IN THE PHOENIX AND TUCSON ACTIVE MANAGEMENT AREAS:

19 1. WITHDRAWAL AND TRANSPORTATION OF GROUNDWATER BY A MUNICIPAL  
20 PROVIDER IN A LIMITED SERVICE AREA BEFORE COMPLYING WITH THE REQUIREMENTS OF  
21 SUBSECTION B OF THIS SECTION IS A VIOLATION OF THIS CHAPTER DIRECTLY RELATED  
22 TO THE ILLEGAL WITHDRAWAL, USE AND TRANSPORTATION OF GROUNDWATER AND EACH DAY  
23 OF WITHDRAWAL, USE OR TRANSPORTATION OF GROUNDWATER BEFORE COMPLYING IS A DAY  
24 OF VIOLATION UNDER SECTION 45-635.

25 2. IF A MUNICIPAL PROVIDER HAS QUALIFIED ITS LIMITED SERVICE AREA AS A  
26 LIMITED MEMBER SERVICE AREA OF THE CONSERVATION DISTRICT AND FAILS TO PAY ITS  
27 ANNUAL REPLENISHMENT TAX, THE WITHDRAWAL AND TRANSPORTATION OF GROUNDWATER  
28 WITHIN THE LIMITED SERVICE AREA AFTER THE CONSERVATION DISTRICT PROVIDES  
29 NOTICE TO THE DEPARTMENT THAT THE MUNICIPAL PROVIDER IS DELINQUENT IN THE  
30 PAYMENT OF ITS ANNUAL REPLENISHMENT TAX PURSUANT TO SECTION 48-3781,  
31 SUBSECTION G IS A VIOLATION OF THIS CHAPTER DIRECTLY RELATED TO THE ILLEGAL  
32 WITHDRAWAL, USE AND TRANSPORTATION OF GROUNDWATER AND EACH DAY OF WITHDRAWAL,  
33 USE OR TRANSPORTATION OF GROUNDWATER AFTER THE NOTICE OF DELINQUENCY UNTIL  
34 THE DELINQUENCY IS CURED IS A DAY OF VIOLATION UNDER SECTION 45-635.

35 D. IN THE PRESCOTT ACTIVE MANAGEMENT AREA, WITH RESPECT TO A LIMITED  
36 SERVICE AREA, LIMITED GROUNDWATER MEANS THAT VOLUME OF GROUNDWATER WITHDRAWN  
37 OR RECEIVED AFTER DECEMBER 31, 2004 IN A CALENDAR YEAR FOR DELIVERY WITHIN A  
38 LIMITED SERVICE AREA THAT IS EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL VOLUME  
39 OF GROUNDWATER WITHDRAWN OR RECEIVED DURING THE CALENDAR YEAR FOR DELIVERY  
40 WITHIN THE LIMITED SERVICE AREA AND THAT SAME VOLUME OF GROUNDWATER  
41 MULTIPLIED BY THE INCIDENTAL RECHARGE FACTOR APPLICABLE TO THE MUNICIPAL  
42 PROVIDER.

43 E. IN THE PRESCOTT ACTIVE MANAGEMENT AREA, A MUNICIPAL PROVIDER SHALL  
44 NOT HAVE THE RIGHT TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN ITS LIMITED

1 SERVICE AREA FOR THE BENEFIT OF LANDOWNERS AND RESIDENTS WITHIN ITS LIMITED  
2 SERVICE AREA UNTIL ALL OF THE FOLLOWING OCCUR:

3 1. THE MUNICIPAL PROVIDER COMPLIES WITH ALL THE REQUIREMENTS AND  
4 RESTRICTIONS OF ARTICLE 6 OF THIS CHAPTER.

5 2. THE MUNICIPAL PROVIDER FILES WRITTEN NOTICE WITH THE DIRECTOR THAT  
6 THE MUNICIPAL PROVIDER INTENDS TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN  
7 ITS LIMITED SERVICE AREA.

8 3. THE MUNICIPAL PROVIDER FILES A MAP IN ACCORDANCE WITH SECTION  
9 45-498 DELINEATING ITS LIMITED SERVICE AREA.

10 F. IN THE PRESCOTT ACTIVE MANAGEMENT AREA, IF A MUNICIPAL PROVIDER  
11 FAILS TO PAY THE LIMITED GROUNDWATER RIGHT FEE REQUIRED BY SECTION 45-611.02  
12 WITHIN SIX MONTHS OF ITS ANNUAL DUE DATE OF MARCH 31 FOR GROUNDWATER  
13 WITHDRAWN DURING THE PRECEDING CALENDAR YEAR, THE WITHDRAWAL AND  
14 TRANSPORTATION OF GROUNDWATER WITHIN ITS LIMITED SERVICE AREA BY THE  
15 MUNICIPAL PROVIDER AFTER THAT DATE IS A VIOLATION OF THIS CHAPTER DIRECTLY  
16 RELATED TO THE ILLEGAL WITHDRAWAL, USE AND TRANSPORTATION OF GROUNDWATER AND  
17 EACH DAY OF WITHDRAWAL, USE OR TRANSPORTATION OF GROUNDWATER DURING THE  
18 DELINQUENCY OF THE LIMITED GROUNDWATER RIGHT FEE IS A DAY OF VIOLATION UNDER  
19 SECTION 45-635.

20 G. IF THE DIRECTOR ISSUES THE ORDER DESCRIBED IN SECTION 45-581,  
21 SUBSECTION B FOR THE PRESCOTT ACTIVE MANAGEMENT AREA, A LIMITED SERVICE AREA  
22 MAY NOT BE ENLARGED BEYOND THE LIMITED SERVICE AREA THAT EXISTS ON THE DATE  
23 THE ORDER IS ISSUED UNTIL IT IS ESTABLISHED TO THE SATISFACTION OF THE  
24 DIRECTOR THAT ALL SUBSEQUENT USE OF LIMITED GROUNDWATER IN THE PRESCOTT  
25 ACTIVE MANAGEMENT AREA WILL BE OFFSET BY EQUIVALENT REPLACEMENT OR  
26 PRESERVATION OF WATER IN THE ACTIVE MANAGEMENT AREA'S AQUIFERS.

27 H. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR ISSUES  
28 THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, WITH RESPECT TO A  
29 LIMITED SERVICE AREA, LIMITED GROUNDWATER MEANS THAT VOLUME OF GROUNDWATER  
30 WITHDRAWN OR RECEIVED FOR DELIVERY WITHIN A LIMITED SERVICE AREA IN ANY  
31 CALENDAR YEAR AFTER THE YEAR IN WHICH THE DIRECTOR ISSUES THE ORDER THAT IS  
32 EQUAL TO THE DIFFERENCE BETWEEN TOTAL VOLUME OF GROUNDWATER WITHDRAWN OR  
33 RECEIVED DURING THE CALENDAR YEAR FOR DELIVERY WITHIN A LIMITED SERVICE AREA  
34 AND THAT SAME VOLUME OF GROUNDWATER MULTIPLIED BY THE INCIDENTAL RECHARGE  
35 FACTOR APPLICABLE TO THE MUNICIPAL PROVIDER.

36 I. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, IF THE DIRECTOR ISSUES  
37 THE ORDER DESCRIBED IN SECTION 45-581, SUBSECTION B, A MUNICIPAL PROVIDER  
38 SHALL NOT HAVE THE RIGHT TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN ITS  
39 LIMITED SERVICE AREA FOR THE BENEFIT OF LANDOWNERS AND RESIDENTS WITHIN ITS  
40 LIMITED SERVICE AREA UNTIL ALL OF THE FOLLOWING OCCUR:

41 1. THE MUNICIPAL PROVIDER COMPLIES WITH ALL THE REQUIREMENTS AND  
42 RESTRICTIONS OF ARTICLE 6 OF THIS CHAPTER.

43 2. THE MUNICIPAL PROVIDER FILES WRITTEN NOTICE WITH THE DIRECTOR THAT  
44 THE MUNICIPAL PROVIDER INTENDS TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN  
45 ITS LIMITED SERVICE AREA.

1           3. THE MUNICIPAL PROVIDER FILES A MAP IN ACCORDANCE WITH SECTION  
2 45-498 DELINEATING ITS LIMITED SERVICE AREA.

3           J. IF THE DIRECTOR ISSUES THE ORDER DESCRIBED IN SECTION 45-581,  
4 SUBSECTION B, FOR THE SANTA CRUZ ACTIVE MANAGEMENT AREA, A LIMITED SERVICE  
5 AREA MAY NOT BE ENLARGED BEYOND THE LIMITED SERVICE AREA THAT EXISTS ON THE  
6 DATE THE ORDER IS ISSUED UNTIL IT IS ESTABLISHED TO THE SATISFACTION OF THE  
7 DIRECTOR THAT THE USE OF LIMITED GROUNDWATER BY THE MUNICIPAL PROVIDER WILL  
8 BE OFFSET BY EQUIVALENT REPLACEMENT OR PRESERVATION OF WATER IN THE ACTIVE  
9 MANAGEMENT AREA'S AQUIFERS.

10           45-581. Management goal of Santa Cruz active management area;  
11                                   water supply review of Prescott and Santa Cruz active  
12                                   management areas

13           A. IN THE SANTA CRUZ ACTIVE MANAGEMENT AREA, THE DIRECTOR SHALL  
14 PERIODICALLY REVIEW WHETHER THE SANTA CRUZ ACTIVE MANAGEMENT AREA IS  
15 MAINTAINING ITS MANAGEMENT GOAL. IF THE DIRECTOR FINDS SUFFICIENT EVIDENCE,  
16 THE DIRECTOR SHALL ISSUE AN ORDER FINDING ALL OF THE FOLLOWING:

17           1. GROUNDWATER MINING IS PREVENTING THE SANTA CRUZ ACTIVE MANAGEMENT  
18 AREA FROM ATTAINING OR MAINTAINING ITS MANAGEMENT GOAL.

19           2. THERE ARE INADEQUATE MANAGEMENT TOOLS TO ATTAIN OR MAINTAIN THE  
20 MANAGEMENT GOAL.

21           3. THERE ARE INADEQUATE FUNDING MECHANISMS TO ATTAIN OR MAINTAIN THE  
22 MANAGEMENT GOAL.

23           B. IN THE PRESCOTT AND SANTA CRUZ ACTIVE MANAGEMENT AREAS, THE  
24 DIRECTOR SHALL PERIODICALLY REVIEW THE WATER SUPPLIES THAT ARE AVAILABLE TO  
25 WATER USERS IN EACH ACTIVE MANAGEMENT AREA. IF THE DIRECTOR FINDS THAT  
26 SUFFICIENT WATER SUPPLIES EXIST IN THE RESPECTIVE ACTIVE MANAGEMENT AREA, THE  
27 DIRECTOR SHALL ISSUE AN ORDER FOR THAT ACTIVE MANAGEMENT AREA FINDING  
28 SUFFICIENT WATER SUPPLIES OTHER THAN LIMITED GROUNDWATER ARE AVAILABLE TO  
29 MEET DEMANDS THAT WOULD OTHERWISE BE MET IN THAT ACTIVE MANAGEMENT AREA WITH  
30 LIMITED GROUNDWATER.

31           C. BEFORE ISSUING THE ORDERS DESCRIBED IN SUBSECTION A OR B, THE  
32 DIRECTOR SHALL GIVE NOTICE OF THE DIRECTOR'S INTENTION TO ISSUE THE ORDER AND  
33 SHALL HOLD A PUBLIC HEARING. THE DIRECTOR SHALL GIVE NOTICE OF THE PUBLIC  
34 HEARING AT LEAST THIRTY DAYS BEFORE THE HEARING. THE NOTICE SHALL BE  
35 PUBLISHED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL  
36 CIRCULATION IN THE ACTIVE MANAGEMENT AREA AFFECTED BY THE ORDER. THE HEARING  
37 SHALL BE HELD IN THAT ACTIVE MANAGEMENT AREA. WITHIN SIXTY DAYS OF THE  
38 CONCLUSION OF THE HEARING, THE DIRECTOR SHALL ISSUE THE ORDER OR SHALL ISSUE  
39 A DECISION NOT TO ISSUE THE ORDER.

40           Sec. 24. Section 45-596, Arizona Revised Statutes, as amended by Laws  
41 2000, chapter 85, section 2, is amended to read:

42           45-596. Notice of intention to drill

43           A. In an area not subject to active management, a person may not drill  
44 or cause to be drilled any well or deepen an existing well without first

1 filing notice of intention to drill pursuant to subsection C of this section  
2 or obtaining a permit pursuant to section 45-834.01.

3 B. In an active management area, a person may not drill or cause to be  
4 drilled an exempt well, a replacement well in approximately the same location  
5 or any other well for which a permit is not required under this article,  
6 article 7 of this chapter or section 45-834.01 or deepen an existing well  
7 without first filing a notice of intention to drill pursuant to subsection C  
8 of this section.

9 C. A notice of intention to drill shall be filed with the director on  
10 a form which is prescribed and furnished by the director and which shall  
11 include:

- 12 1. The name and mailing address of the person filing the notice.
- 13 2. The legal description of the land upon which the well is proposed  
14 to be drilled and the name and mailing address of the owner of the land.
- 15 3. The legal description of the location of the well on the land.
- 16 4. The depth, diameter and type of casing of the proposed well.
- 17 5. Such legal description of the land upon which the groundwater is  
18 proposed to be used as may be required by the director to administer this  
19 chapter.
- 20 6. When construction is to begin.
- 21 7. The proposed uses to which the groundwater will be applied.
- 22 8. The name and well driller's license number of the well driller who  
23 is to construct the well.
- 24 9. The design pumping capacity of the well.
- 25 10. If for a replacement well **OTHER THAN A REPLACEMENT EXEMPT WELL AS**  
26 **DEFINED IN SECTION 45-454**, the maximum capacity of the original well and the  
27 distance of the replacement well from the original well.
- 28 11. Proof that the director determines to be satisfactory that the  
29 person proposing to construct the well holds a valid license issued by the  
30 registrar of contractors pursuant to title 32, chapter 10 and that the  
31 license is of the type necessary to construct the well described in the  
32 notice of intention to drill. If the proposed well driller does not hold a  
33 valid license, the director may accept proof that the proposed well driller  
34 is exempt from licensing as prescribed by section 32-1121.
- 35 12. If any water from the proposed well will be used for domestic  
36 purposes as defined in section 45-454, evidence of compliance with the  
37 requirements of subsection F of this section.
- 38 13. If for a second exempt well at the same location for the same use  
39 pursuant to section 45-454, subsection ~~E~~ F, proof that the requirements of  
40 that subsection are met.
- 41 14. **IF FOR A REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454, THE**  
42 **WELL REGISTRATION NUMBER OF THE ORIGINAL EXEMPT WELL AND THE MAXIMUM CAPACITY**  
43 **OF ITS PUMP.**

1 15. IF FOR AN EXEMPT WELL PURSUANT TO SECTION 45-454, SUBSECTION B,  
2 PARAGRAPH 4, PROOF THAT PUMP CAPACITY IN EXCESS OF TWENTY GALLONS PER MINUTE  
3 IS REQUIRED TO PROVIDE ADEQUATE FLOW RATES FOR THE INTENDED USE.

4 16. WITHIN AN ACTIVE MANAGEMENT AREA, IF THE NOTICE IS FILED ON OR  
5 AFTER JANUARY 1, 2003 FOR AN EXEMPT WELL WITHIN THE SERVICE AREA OF A  
6 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, PROOF THAT THE  
7 INTENDED USE HAS BEEN DENIED SERVICE BY THE MUNICIPAL PROVIDER AT THE  
8 MUNICIPAL PROVIDER'S CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER OR PROOF THAT  
9 THE APPLICANT SUBMITTED A WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL  
10 PROVIDER AND THE MUNICIPAL PROVIDER DID NOT AGREE TO PROVIDE SERVICE TO THE  
11 INTENDED USE AT THE MUNICIPAL PROVIDER'S CUSTOMARY RATE AND IN ITS CUSTOMARY  
12 MANNER WITHIN SIXTY DAYS AFTER THE APPLICANT SUBMITTED THE WRITTEN REQUEST  
13 FOR SERVICE TO THE MUNICIPAL PROVIDER. THIS PARAGRAPH DOES NOT APPLY TO A  
14 REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454.

15 17. IF THE NOTICE IS FILED ON OR AFTER JANUARY 1, 2005 FOR AN EXEMPT  
16 WELL WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON  
17 THE MAP IDENTIFIED IN SECTION 45-599, SUBSECTION K AND THE APPLICANT SEEKS TO  
18 DRILL THE WELL PURSUANT TO SUBSECTION I, PARAGRAPH 1 OF THIS SECTION, A  
19 HYDROLOGICAL STUDY DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER FROM THE  
20 WELL WILL NOT HAVE AN ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE RIPARIAN  
21 AREA PROTECTION ZONE.

22 ~~14.~~ 18. Such other information as the director may require.

23 D. Notice of intention to drill shall be filed with the director in  
24 duplicate. Upon receiving the notice, the director shall endorse on the  
25 notice the date of its receipt. The director shall determine whether all  
26 information that is required has been submitted and whether the requirements  
27 of subsection C, paragraphs 11 ~~and 12~~ THROUGH 17 of this section have been  
28 met. If so, within fifteen days of receipt of the notice OR WITHIN  
29 FORTY-FIVE DAYS OF RECEIPT OF THE NOTICE IF THE REQUIREMENTS OF SUBSECTION C,  
30 PARAGRAPH 15 OF THIS SECTION APPLY OR IF THE NOTICE IS FILED ON OR AFTER  
31 JANUARY 1, 2005 FOR AN EXEMPT WELL WITHIN THE BOUNDARIES OF A RIPARIAN AREA  
32 PROTECTION ZONE DELINEATED ON THE MAP IDENTIFIED IN SECTION 45-599,  
33 SUBSECTION K, the director shall record the notice and mail the duplicate  
34 copy of the notice to the person giving the notice at the address stated in  
35 the notice. Upon receipt of a copy of the notice showing the record of  
36 receipt by the director, this section is deemed to have been fully complied  
37 with in respect to the drilling or deepening of the well described in the  
38 notice, and the person giving the notice may proceed to drill or deepen the  
39 well as described in the notice. If the director determines that the  
40 required information has not been submitted or that the requirements of  
41 subsection C, paragraphs 11 ~~and 12~~ THROUGH 17 of this section have not been  
42 met, the director shall mail a statement of the determination to the person  
43 giving the notice to the address stated in the notice, and the person giving  
44 the notice may not proceed to drill or deepen the well.

1 E. The well shall be completed within one year after the date of the  
2 notice. If the well is not completed within one year, the person shall file  
3 a new notice before proceeding with further construction.

4 F. If any water from a proposed well will be used for domestic  
5 purposes as defined in section 45-454 on a parcel of land of twenty or fewer  
6 acres, the applicant shall submit a well site plan of the property with the  
7 notice of intention to drill. The site plan shall:

8 1. Include the county assessor's parcel identification number.

9 2. Show the proposed well location and the location of any septic tank  
10 or sewer system that is either located on the property or within one hundred  
11 feet of the proposed well site.

12 3. Show written approval by the county health authority that controls  
13 the installation of septic tanks or sewer systems in the county, or by the  
14 local health authority in areas where the authority to control installation  
15 of septic tanks or sewer systems has been delegated to a local authority. In  
16 areas where there is no local or county authority that controls the  
17 installation of septic tanks or sewer systems, the applicant shall apply for  
18 approval directly to the department of water resources.

19 G. Before approving a well site plan submitted pursuant to subsection  
20 F of this section, the county or local health authority or the department of  
21 water resources, as applicable, pursuant to subsection F of this section,  
22 shall review the well site plan and determine whether the proposed well  
23 location complies with applicable local laws, ordinances and regulations and  
24 any laws or rules adopted under this title and title 49 regarding the  
25 placement of wells and the proximity of wells to septic tanks or sewer  
26 systems. If the health authority or the department of water resources, as  
27 applicable, pursuant to subsection F of this section, finds that the proposed  
28 well location complies with this title and title 49 and with local  
29 requirements, it shall endorse the site plan and the proposed well placement  
30 in a manner indicating approval. On endorsement, the director of water  
31 resources shall approve the construction of the well, if all remaining  
32 requirements have been met. If the health authority is unable to determine  
33 whether the proposed well location complies with this title and title 49 and  
34 local requirements, it shall indicate this on the site plan and the decision  
35 to approve or reject the proposed construction rests with the director of  
36 water resources. If parcel size, geology or location of improvements on the  
37 property prevents the well from being drilled in accordance with this title  
38 and title 49 or local requirements, the property owner may apply for a  
39 variance. The property owner shall make the request for a variance to the  
40 county or local authority if a county or local law, ordinance or regulation  
41 prevents the proposed construction. If a law or rule adopted under this  
42 title or title 49 prevents the proposed construction, the property owner  
43 shall make the request for a variance directly to the department of water  
44 resources. The request for a variance shall be in the form and shall contain  
45 the information that the department of water resources, county or local

1 authority may require. The department of water resources, or the county or  
2 local authority whose law, ordinance or regulation prevents the proposed  
3 construction, may expressly require that a particular variance shall include  
4 certification by a registered professional engineer or geologist that the  
5 location of the well will not pose a health hazard to the applicant or  
6 surrounding property or inhabitants. If all necessary variances are  
7 obtained, the director of water resources shall approve the construction of  
8 the well if all remaining requirements have been met.

9 H. If a well that was originally drilled as an exploration well, a  
10 monitor well or a piezometer well or for any use other than domestic use is  
11 later proposed to be converted to use for domestic purposes as defined in  
12 section 45-454, the well owner shall file a notice of intention to drill and  
13 shall comply with this section before the well is converted and any water  
14 from that well is used for domestic purposes.

15 I. IF THE NOTICE IS FILED ON OR AFTER JANUARY 1, 2005 FOR AN EXEMPT  
16 WELL WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON  
17 THE MAP IDENTIFIED IN SECTION 45-599, SUBSECTION K, THE DIRECTOR SHALL NOT  
18 APPROVE THE CONSTRUCTION OF THE WELL UNLESS ONE OF THE FOLLOWING APPLIES:

19 1. THE APPLICANT SUBMITS A HYDROLOGICAL STUDY WITH THE NOTICE  
20 DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER FROM THE WELL WILL NOT HAVE AN  
21 ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE RIPARIAN AREA PROTECTION ZONE.  
22 THE DIRECTOR SHALL MAKE THIS DETERMINATION PURSUANT TO THE CRITERIA  
23 ESTABLISHED BY THE DIRECTOR IN RULES ADOPTED PURSUANT TO SECTION 45-599,  
24 SUBSECTION M.

25 2. THE PROPOSED WELL IS A REPLACEMENT EXEMPT WELL AS DEFINED IN  
26 SECTION 45-454.

27 3. WITHDRAWALS OF GROUNDWATER FROM THE PROPOSED WELL WILL BE USED ONLY  
28 FOR STOCKWATERING AS DEFINED IN SECTION 45-454.

29 4. WITHDRAWALS OF GROUNDWATER FROM THE PROPOSED WELL WILL BE USED ONLY  
30 FOR DOMESTIC PURPOSES AS DEFINED IN SECTION 45-454 AND ALL OF THE FOLLOWING  
31 APPLY:

32 (a) WITHDRAWALS OF GROUNDWATER FROM THE WELL WILL NOT EXCEED TWO  
33 ACRE-FEET PER YEAR.

34 (b) THE WELL WILL BE EQUIPPED WITH A PUMP WITH A MAXIMUM CAPACITY OF  
35 NOT MORE THAN TWENTY GALLONS PER MINUTE.

36 J. WITHIN AN ACTIVE MANAGEMENT AREA, IF THE NOTICE IS FILED ON OR  
37 AFTER JANUARY 1, 2003 FOR AN EXEMPT WELL WITHIN THE SERVICE AREA OF A  
38 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, THE DIRECTOR  
39 SHALL NOT APPROVE THE CONSTRUCTION OF THE WELL UNLESS THE DIRECTOR FINDS THAT  
40 THE INTENDED USE HAS BEEN DENIED SERVICE BY THE MUNICIPAL PROVIDER AT ITS  
41 CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER OR THAT THE APPLICANT SUBMITTED A  
42 WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL PROVIDER AND THE MUNICIPAL  
43 PROVIDER DID NOT AGREE TO PROVIDE SERVICE TO THE INTENDED USE AT ITS  
44 CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER WITHIN SIXTY DAYS AFTER THE  
45 APPLICANT SUBMITTED THE WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL



1 PROVIDER. THIS SUBSECTION DOES NOT APPLY IF THE PROPOSED EXEMPT WELL IS A  
2 REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454.

3 Sec. 25. Section 45-596, Arizona Revised Statutes, as amended by Laws  
4 1994, chapter 291, section 27 and chapter 300, section 2, is amended to read:  
5 45-596. Notice of intention to drill

6 A. In an area not subject to active management, a person may not drill  
7 or cause to be drilled any well or deepen an existing well without first  
8 filing notice of intention to drill pursuant to subsection C of this section  
9 or obtaining a permit pursuant to section 45-834.01.

10 B. In an active management area, a person may not drill or cause to be  
11 drilled an exempt well, a replacement well in approximately the same location  
12 or any other well for which a permit is not required under this article,  
13 article 7 of this chapter or section 45-834.01 or deepen an existing well  
14 without first filing a notice of intention to drill pursuant to subsection C  
15 of this section.

16 C. A notice of intention to drill shall be filed with the director on  
17 a form which is prescribed and furnished by the director and which shall  
18 include:

- 19 1. The name and mailing address of the person filing the notice.
- 20 2. The legal description of the land upon which the well is proposed  
21 to be drilled and the name and mailing address of the owner of the land.
- 22 3. The legal description of the location of the well on the land.
- 23 4. The depth, diameter and type of casing of the proposed well.
- 24 5. Such legal description of the land upon which the groundwater is  
25 proposed to be used as may be required by the director to administer this  
26 chapter.
- 27 6. When construction is to begin.
- 28 7. The proposed uses to which the groundwater will be applied.
- 29 8. The name and well driller's license number of the well driller who  
30 is to construct the well.
- 31 9. The design pumping capacity of the well.
- 32 10. If for a replacement well OTHER THAN A REPLACEMENT EXEMPT WELL AS  
33 DEFINED IN SECTION 45-454, the maximum capacity of the original well and the  
34 distance of the replacement well from the original well.

35 11. If the proposed well would pump Colorado river water, proof that  
36 the director determines to be satisfactory that the person who files the  
37 notice has the legal right to use Colorado river water. This paragraph does  
38 not apply to a proposed well that will have a pump with a maximum capacity of  
39 not more than thirty-five gallons per minute and that will be used for the  
40 supply, service and activities of households and private residences,  
41 including the application of water to less than two acres of land to produce  
42 plants or parts of plants for sale or human consumption or for use as feed  
43 for livestock, range livestock or poultry, as those terms are defined in  
44 section 3-1201.

1           12. Proof that the director determines to be satisfactory that the  
2 person proposing to construct the well holds a valid license issued by the  
3 registrar of contractors pursuant to title 32, chapter 10, and that the  
4 license is of the type necessary to construct the well described in the  
5 notice of intention to drill. If the proposed well driller does not hold a  
6 valid license, the director may accept proof that the proposed well driller  
7 is exempt from licensing as prescribed by section 32-1121.

8           13. If any water from the proposed well will be used for domestic  
9 purposes as defined in section 45-454, evidence of compliance with the  
10 requirements of subsection F of this section.

11           14. IF FOR A REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454, THE  
12 WELL REGISTRATION NUMBER OF THE ORIGINAL EXEMPT WELL AND THE MAXIMUM CAPACITY  
13 OF ITS PUMP.

14           15. IF FOR AN EXEMPT WELL PURSUANT TO SECTION 45-454, SUBSECTION B,  
15 PARAGRAPH 4, PROOF THAT PUMP CAPACITY IN EXCESS OF TWENTY GALLONS PER MINUTE  
16 IS REQUIRED TO PROVIDE ADEQUATE FLOW RATES FOR THE INTENDED USE.

17           16. WITHIN AN ACTIVE MANAGEMENT AREA, IF THE NOTICE IS FILED ON OR  
18 AFTER JANUARY 1, 2003 FOR AN EXEMPT WELL WITHIN THE SERVICE AREA OF A  
19 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, PROOF THAT THE  
20 INTENDED USE HAS BEEN DENIED SERVICE BY THE MUNICIPAL PROVIDER AT THE  
21 MUNICIPAL PROVIDER'S CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER OR PROOF THAT  
22 THE APPLICANT SUBMITTED A WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL  
23 PROVIDER AND THE MUNICIPAL PROVIDER DID NOT AGREE TO PROVIDE SERVICE TO THE  
24 INTENDED USE AT THE MUNICIPAL PROVIDER'S CUSTOMARY RATE AND IN ITS CUSTOMARY  
25 MANNER WITHIN SIXTY DAYS AFTER THE APPLICANT SUBMITTED THE WRITTEN REQUEST  
26 FOR SERVICE TO THE MUNICIPAL PROVIDER. THIS PARAGRAPH DOES NOT APPLY TO A  
27 REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454.

28           17. IF THE NOTICE IS FILED ON OR AFTER JANUARY 1, 2005 FOR AN EXEMPT  
29 WELL WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON  
30 THE MAP IDENTIFIED IN SECTION 45-599, SUBSECTION K AND THE APPLICANT SEEKS TO  
31 DRILL THE WELL PURSUANT TO SUBSECTION I, PARAGRAPH 1 OF THIS SECTION, A  
32 HYDROLOGICAL STUDY DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER FROM THE  
33 WELL WILL NOT HAVE AN ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE RIPARIAN  
34 AREA PROTECTION ZONE.

35           ~~14.~~ 18. Such other information as the director may require.

36           D. Notice of intention to drill shall be filed with the director in  
37 duplicate. Upon receiving the notice, the director shall endorse on the  
38 notice the date of its receipt. The director shall determine whether all  
39 information that is required has been submitted and, if applicable, whether  
40 the requirements of subsection C, paragraphs 11, ~~12 and 13~~ THROUGH 17 of this  
41 section have been met. If so, within fifteen days of receipt of the notice  
42 OR WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE NOTICE IF THE REQUIREMENTS OF  
43 SUBSECTION C, PARAGRAPH 15 OF THIS SECTION APPLY OR IF THE NOTICE IS FILED ON  
44 OR AFTER JANUARY 1, 2005 FOR AN EXEMPT WELL WITHIN THE BOUNDARIES OF A  
45 RIPARIAN AREA PROTECTION ZONE DELINEATED ON THE MAP IDENTIFIED IN SECTION

1 45-599, SUBSECTION K, the director shall record the notice and mail the  
2 duplicate copy of the notice to the person giving the notice at the address  
3 stated in the notice. Upon receipt of a copy of the notice showing the  
4 record of receipt by the director, this section is deemed to have been fully  
5 complied with in respect to the drilling or deepening of the well described  
6 in the notice, and the person giving the notice may proceed to drill or  
7 deepen the well as described in the notice. If the director determines that  
8 the required information has not been submitted or, if applicable, that the  
9 requirements of subsection C, paragraphs 11, ~~12 and 13~~ THROUGH 17 of this  
10 section have not been met, the director shall mail a statement of the  
11 determination to the person giving the notice to the address stated in the  
12 notice, and the person giving the notice may not proceed to drill or deepen  
13 the well.

14 E. The well shall be completed within one year after the date of the  
15 notice. If the well is not completed within one year, the person shall file  
16 a new notice before proceeding with further construction.

17 F. If any water from a proposed well will be used for domestic  
18 purposes as defined in section 45-454 on a parcel of land OF twenty or fewer  
19 acres, the applicant shall submit a well site plan of the property with the  
20 notice of intention to drill. The site plan shall:

21 1. Include the county assessor's parcel identification number.

22 2. Show the proposed well location and the location of any septic tank  
23 or sewer system that is either located on the property or within one hundred  
24 feet of the proposed well site.

25 3. Show written approval by the county health authority that controls  
26 the installation of septic tanks or sewer systems in the county, or by the  
27 local health authority in areas where the authority to control installation  
28 of septic tanks or sewer systems has been delegated to a local authority. In  
29 areas where there is no local or county authority that controls the  
30 installation of septic tanks or sewer systems, the applicant shall apply for  
31 approval directly to the department of water resources.

32 G. Before approving a well site plan submitted pursuant to subsection  
33 F of this section, the county or local health authority or the department of  
34 water resources, as applicable, pursuant to subsection F of this section,  
35 shall review the well site plan and determine whether the proposed well  
36 location complies with applicable local laws, ordinances and regulations and  
37 any laws or rules adopted under this title and title 49 regarding the  
38 placement of wells and the proximity of wells to septic tanks or sewer  
39 systems. If the health authority or the department of water resources, as  
40 applicable, pursuant to subsection F of this section, finds that the proposed  
41 well location complies with this title, title 49 and with local requirements,  
42 it shall endorse the site plan and the proposed well placement in a manner  
43 indicating approval. On endorsement, the director of water resources shall  
44 approve the construction of the well, if all remaining requirements have been  
45 met. If the health authority is unable to determine whether the proposed

1 well location complies with this title, title 49 and local requirements, it  
 2 shall indicate this on the site plan and the decision to approve or reject  
 3 the proposed construction rests with the director of water resources. If  
 4 parcel size, geology or location of improvements on the property prevents the  
 5 well from being drilled in accordance with this title, title 49 or local  
 6 requirements, the property owner may apply for a variance. The property  
 7 owner shall make the request for a variance to the county or local authority  
 8 if a county or local law, ordinance or regulation prevents the proposed  
 9 construction. If a law or rule adopted under this title or title 49 prevents  
 10 the proposed construction, the property owner shall make the request for a  
 11 variance directly to the department of water resources. The request for a  
 12 variance shall be in the form and shall contain the information that the  
 13 department of water resources, county or local authority may require. The  
 14 department of water resources, or the county or local authority whose law,  
 15 ordinance or regulation prevents the proposed construction, may expressly  
 16 require that a particular variance shall include certification by a  
 17 registered professional engineer or geologist that the location of the well  
 18 will not pose a health hazard to the applicant or surrounding property or  
 19 inhabitants. If all necessary variances are obtained, the director of water  
 20 resources shall approve the construction of the well if all remaining  
 21 requirements have been met.

22 H. If a well that was originally drilled as an exploration well, a  
 23 monitor well or a piezometer well or for any use other than domestic use is  
 24 later proposed to be converted to use for domestic purposes as defined in  
 25 section 45-454, the well owner shall file a notice of intention to drill and  
 26 shall comply with this section before the well is converted and any water  
 27 from that well is used for domestic purposes.

28 I. IF THE NOTICE IS FILED ON OR AFTER JANUARY 1, 2005 FOR AN EXEMPT  
 29 WELL WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON  
 30 THE MAP IDENTIFIED IN SECTION 45-599, SUBSECTION K, THE DIRECTOR SHALL NOT  
 31 APPROVE THE CONSTRUCTION OF THE WELL UNLESS ONE OF THE FOLLOWING APPLIES:

32 1. THE APPLICANT SUBMITS A HYDROLOGICAL STUDY WITH THE NOTICE  
 33 DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER FROM THE WELL WILL NOT HAVE AN  
 34 ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE RIPARIAN AREA PROTECTION ZONE.  
 35 THE DIRECTOR SHALL MAKE THIS DETERMINATION PURSUANT TO THE CRITERIA  
 36 ESTABLISHED BY THE DIRECTOR IN RULES ADOPTED PURSUANT TO SECTION 45-599,  
 37 SUBSECTION M.

38 2. THE PROPOSED WELL IS A REPLACEMENT EXEMPT WELL AS DEFINED IN  
 39 SECTION 45-454.

40 3. WITHDRAWALS OF GROUNDWATER FROM THE PROPOSED WELL WILL BE USED ONLY  
 41 FOR STOCKWATERING AS DEFINED IN SECTION 45-454.

42 4. WITHDRAWALS OF GROUNDWATER FROM THE PROPOSED WELL WILL BE USED ONLY  
 43 FOR DOMESTIC PURPOSES AS DEFINED IN SECTION 45-454 AND ALL OF THE FOLLOWING  
 44 APPLY:

1 (a) WITHDRAWALS OF GROUNDWATER FROM THE WELL WILL NOT EXCEED TWO  
2 ACRE-FEET PER YEAR.

3 (b) THE WELL WILL BE EQUIPPED WITH A PUMP WITH A MAXIMUM CAPACITY OF  
4 NOT MORE THAN TWENTY GALLONS PER MINUTE.

5 J. WITHIN AN ACTIVE MANAGEMENT AREA, IF THE NOTICE IS FILED ON OR  
6 AFTER JANUARY 1, 2003 FOR AN EXEMPT WELL WITHIN THE SERVICE AREA OF A  
7 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, THE DIRECTOR  
8 SHALL NOT APPROVE THE CONSTRUCTION OF THE WELL UNLESS THE DIRECTOR FINDS THAT  
9 THE INTENDED USE HAS BEEN DENIED SERVICE BY THE MUNICIPAL PROVIDER AT ITS  
10 CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER OR THAT THE APPLICANT SUBMITTED A  
11 WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL PROVIDER AND THE MUNICIPAL  
12 PROVIDER DID NOT AGREE TO PROVIDE SERVICE TO THE INTENDED USE AT ITS  
13 CUSTOMARY RATE AND IN ITS CUSTOMARY MANNER WITHIN SIXTY DAYS AFTER THE  
14 APPLICANT SUBMITTED THE WRITTEN REQUEST FOR SERVICE TO THE MUNICIPAL  
15 PROVIDER. THIS SUBSECTION DOES NOT APPLY IF THE PROPOSED EXEMPT WELL IS A  
16 REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454.

17 Sec. 26. Section 45-599, Arizona Revised Statutes, is amended to read:  
18 45-599. Permit application; contents; correction of defective  
19 application; issuance of permit

20 A. An application for a permit to construct a new well or replacement  
21 well in a new location shall be made on a form THAT IS prescribed and  
22 furnished by the director ~~which shall include~~ AND THAT INCLUDES:

23 1. The name and mailing address of the applicant.

24 2. The legal description of the land upon which the new well is  
25 proposed to be constructed and the name and mailing address of the owner of  
26 the land.

27 3. The legal description of the proposed location of the new well on  
28 the land.

29 4. If for a replacement well, the legal description of the land upon  
30 which the original well is located, the name and mailing address of the owner  
31 of the land, the legal description of the location of the original well on  
32 the land, the depth and diameter of the original well and evidence of proper  
33 abandonment.

34 5. The depth, diameter and type of casing of the new well.

35 6. Such legal description of the land upon which the groundwater is  
36 proposed to be used as may be required by the director to administer this  
37 chapter.

38 7. When construction is to begin.

39 8. The proposed use of the groundwater to be withdrawn.

40 9. The design pumping capacity of the new well.

41 10. The name and well driller's license number of the well driller who  
42 is to construct the well.

43 11. The estimated time required to complete the well, if more than one  
44 year from the date of receipt of the permit.

1           12. IF THE APPLICATION IS FILED AFTER THE RULES REQUIRED BY SECTION  
2 45-598, SUBSECTION A HAVE BEEN ADOPTED, A HYDROLOGICAL STUDY DEMONSTRATING  
3 THAT THE WELL COMPLIES WITH THE RULES. EXCEPT AS PROVIDED IN THIS PARAGRAPH,  
4 THE STUDY SHALL EVALUATE THE CUMULATIVE IMPACTS OF THE PROPOSED WELL, ANY  
5 WELLS INCLUDED IN ANY PERMITS ISSUED TO THE APPLICANT UNDER THIS SECTION OR  
6 SECTION 45-834.01 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE  
7 APPLICATION FOR THE PROPOSED WELL WAS FILED AND ANY WELLS WITHIN THE AREA OF  
8 IMPACT OF THE PROPOSED WELL THAT ARE INCLUDED IN ANY OTHER PENDING  
9 APPLICATIONS FILED BY THE APPLICANT UNDER THIS SECTION OR SECTION 45-834.01  
10 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE APPLICATION FOR THE  
11 PROPOSED WELL WAS FILED. THE HYDROLOGICAL STUDY SHALL NOT EVALUATE THE  
12 IMPACTS OF ANY WELL THAT IS NOT WITHIN THE AREAL EXTENT OF THE CUMULATIVE  
13 IMPACT ANALYSIS FOR THE PROPOSED WELL AS DETERMINED PURSUANT TO THE RULES  
14 ADOPTED UNDER SECTION 45-598, SUBSECTION A, OR ANY WELL THAT IS INCLUDED IN A  
15 PERMIT ISSUED UNDER SECTION 45-834.01 OR THAT IS INCLUDED IN A PENDING  
16 APPLICATION UNDER SECTION 45-834.01, IF THE WELL IS NOT SUBJECT TO SECTION  
17 45-834.01, SUBSECTION B, PARAGRAPH 1.

18           13. EXCEPT AS PROVIDED IN SUBSECTION N OF THIS SECTION AND EXCEPT FOR  
19 WELLS USED EXCLUSIVELY FOR STOCK WATERING AS DEFINED IN SECTION 45-454, IF  
20 THE APPLICATION IS FILED ON OR AFTER JANUARY 1, 2005 AND THE WELL IS TO BE  
21 LOCATED WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED  
22 ON THE MAP IDENTIFIED IN SUBSECTION K OF THIS SECTION, A HYDROLOGICAL STUDY  
23 DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER FROM THE WELL WILL NOT HAVE AN  
24 ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE RIPARIAN AREA PROTECTION ZONE.  
25 EXCEPT AS PROVIDED IN THIS PARAGRAPH, THE STUDY SHALL EVALUATE THE CUMULATIVE  
26 IMPACTS OF THE PROPOSED WELL, ANY WELLS INCLUDED IN ANY PERMITS ISSUED TO THE  
27 APPLICANT UNDER THIS SECTION OR SECTION 45-834.01 DURING THE TWELVE MONTH  
28 PERIOD PRECEDING THE DATE THE APPLICATION FOR THE PROPOSED WELL WAS FILED AND  
29 ANY WELLS INCLUDED IN ANY OTHER PENDING APPLICATIONS FILED BY THE APPLICANT  
30 UNDER THIS SECTION OR SECTION 45-834.01 DURING THE TWELVE MONTH PERIOD  
31 PRECEDING THE DATE THE APPLICATION FOR THE PROPOSED WELL WAS FILED. THE  
32 HYDROLOGICAL STUDY SHALL NOT EVALUATE THE IMPACTS OF ANY WELL THAT IS NOT  
33 WITHIN THE AREAL EXTENT OF THE CUMULATIVE IMPACT ANALYSIS FOR THE PROPOSED  
34 WELL AS DETERMINED PURSUANT TO THE RULES ADOPTED UNDER SECTION 45-598,  
35 SUBSECTION A, OR ANY WELL THAT IS NOT SUBJECT TO EITHER SUBSECTION D,  
36 PARAGRAPH 3 OF THIS SECTION OR SECTION 45-834.01, SUBSECTION B, PARAGRAPH 4.

37           ~~12-~~ 14. Such other information including any maps, drawings and data  
38 as the director may require.

39           B. Upon receipt of a permit application, the director shall endorse on  
40 the application the date of its receipt. If the application is incorrect or  
41 incomplete, the director may request additional information from the  
42 applicant. The director may conduct independent investigations as may be  
43 necessary to determine whether the application should be approved or  
44 rejected.

45           C. IN DETERMINING WHETHER TO APPROVE OR REJECT A PERMIT APPLICATION:

1           1. THE DIRECTOR SHALL NOT CONSIDER ANY IMPACTS THE PROPOSED WELL MAY  
2 HAVE ON AN EXEMPT WELL DRILLED PURSUANT TO A NOTICE OF INTENTION TO DRILL  
3 FILED ON OR AFTER JANUARY 1, 2003 UNLESS THE WELL IS A REPLACEMENT EXEMPT  
4 WELL AS DEFINED IN SECTION 45-454.

5           2. IF THE DIRECTOR DETERMINES THAT THE PROPOSED WELL WILL CAUSE  
6 UNREASONABLY INCREASING DAMAGE TO A WELL THAT IS EXEMPT UNDER SECTION 45-454,  
7 SUBSECTION A OR SUBSECTION B, PARAGRAPH 1 OR A REPLACEMENT EXEMPT WELL AS  
8 DEFINED IN SECTION 45-454, THE DIRECTOR SHALL SEND WRITTEN NOTICE OF THE  
9 APPLICATION TO THE OWNER OF THE EXEMPT WELL AT THE OWNER'S LAST ADDRESS ON  
10 RECORD WITH THE DEPARTMENT. THE NOTICE SHALL STATE THAT THE OWNER OF THE  
11 EXEMPT WELL MAY FILE A WRITTEN OBJECTION TO THE APPLICATION WITHIN THIRTY  
12 DAYS FROM THE DATE OF THE NOTICE. THE DIRECTOR SHALL CONSIDER THE IMPACTS ON  
13 THE EXEMPT WELL IN DETERMINING WHETHER TO APPROVE OR REJECT THE APPLICATION,  
14 EXCEPT THE DIRECTOR SHALL NOT CONSIDER THE IMPACTS ON THE EXEMPT WELL IF ONE  
15 OF THE FOLLOWING APPLIES:

16           (a) THE OWNER OF THE EXEMPT WELL FAILS TO FILE A WRITTEN OBJECTION TO  
17 THE APPLICATION WITHIN THIRTY DAYS FROM THE DATE OF THE NOTICE.

18           (b) THE USE SERVED BY THE EXEMPT WELL IS WITHIN THE SERVICE AREA OF A  
19 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM AND THE APPLICANT  
20 AGREES TO PAY THE COST OF CONNECTING THE USE TO THE MUNICIPAL PROVIDER'S  
21 DISTRIBUTION SYSTEM, INCLUDING THE COSTS DESCRIBED IN SECTION 45-599.01,  
22 SUBSECTION B, PARAGRAPH 1.

23           ~~C.~~ D. The director shall approve an application for a permit for a  
24 new well or a replacement well in a new location ONLY if ALL OF THE FOLLOWING  
25 APPLY, AS APPROPRIATE:

26           1. The proposed well complies with the rules and regulations adopted  
27 pursuant to section 45-598, subsection A. ~~and,~~

28           2. If the proposed well is in the Santa Cruz active management area,  
29 ~~if~~ the location of the proposed well is consistent with the management plan  
30 for the active management area.

31           3. EXCEPT AS PROVIDED IN SUBSECTION N OF THIS SECTION AND EXCEPT FOR  
32 WELLS USED EXCLUSIVELY FOR STOCK WATERING AS DEFINED IN SECTION 45-454, IF  
33 THE PROPOSED WELL IS TO BE DRILLED WITHIN THE BOUNDARIES OF A RIPARIAN AREA  
34 PROTECTION ZONE DELINEATED ON THE MAP IDENTIFIED IN SUBSECTION K OF THIS  
35 SECTION AND THE APPLICATION FOR A WELL PERMIT IS FILED AFTER JANUARY 1, 2005,  
36 THE APPLICANT HAS SUBMITTED A HYDROLOGICAL STUDY UNDER SUBSECTION A,  
37 PARAGRAPH 13 OF THIS SECTION DEMONSTRATING THAT WITHDRAWALS OF GROUNDWATER  
38 FROM THE WELL WILL NOT HAVE AN ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE  
39 RIPARIAN AREA PROTECTION ZONE. FOR THE PURPOSES OF THIS PARAGRAPH, ADVERSE  
40 IMPACTS SHALL BE DETERMINED PURSUANT TO THE CRITERIA ESTABLISHED BY THE  
41 DIRECTOR IN THE RULES ADOPTED PURSUANT TO SUBSECTION M OF THIS SECTION.  
42 NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO AFFECT DECREED AND  
43 APPROPRIATIVE WATER RIGHTS. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO  
44 AFFECT THE DEFINITION OF SURFACE WATER IN SECTION 45-101 AND THE DESCRIPTION

1 OF WATER SUBJECT TO APPROPRIATION IN SECTION 45-141 OR THE PROVISIONS OF  
2 CHAPTER 1, ARTICLE 9 OF THIS TITLE.

3 ~~D.~~ E. Except as provided in subsection ~~E.~~ F of this section, within  
4 sixty days of receipt of a complete and correct application, the director  
5 shall record and endorse the approval or rejection of the application on the  
6 application and return a copy of the application to the applicant.

7 ~~E.~~ F. If the director determines that an administrative hearing  
8 should be held before approving or rejecting an application, the director  
9 shall notify the applicant of the date of the hearing within sixty days of  
10 receipt of the complete and correct application.

11 ~~F.~~ G. If at the request of the applicant the director determines that  
12 an emergency exists, the director shall expedite all decisions under this  
13 section.

14 ~~G.~~ H. If the application is approved, the director shall issue a  
15 permit and the applicant may proceed to construct the well. If the  
16 application is rejected, the applicant shall not proceed with construction of  
17 the well. The well shall be completed within one year of receipt of the  
18 permit, unless the director in granting the permit approves a longer period  
19 to complete the well. If the well is not completed within one year or the  
20 longer period approved by the director, the applicant shall file a new  
21 application before proceeding with construction.

22 ~~H.~~ I. The permit shall state the following:

- 23 1. The legal description of the land upon which the well may be  
24 constructed.
- 25 2. The legal description of the location of the new well on the land.
- 26 3. The depth and diameter of the well and type of casing.
- 27 4. The maximum pumping capacity of the well.
- 28 5. The legal description of the land upon which the groundwater will  
29 be used.
- 30 6. The use of the groundwater to be withdrawn.
- 31 7. The latest date for completing the well.

32 J. IN DETERMINING WHETHER TO APPROVE AN APPLICATION FOR A PERMIT FOR A  
33 NEW WELL OR A REPLACEMENT WELL IN A NEW LOCATION UNDER SUBSECTION D OF THIS  
34 SECTION, THE DIRECTOR SHALL CONSIDER THE CUMULATIVE IMPACTS OF THE PROPOSED  
35 WELL, ANY WELLS INCLUDED IN ANY PERMITS ISSUED TO THE APPLICANT UNDER THIS  
36 SECTION OR SECTION 45-834.01 DURING THE TWELVE MONTH PERIOD PRECEDING THE  
37 DATE THE APPLICATION FOR THE PROPOSED WELL WAS FILED AND ANY WELLS INCLUDED  
38 IN ANY OTHER PENDING APPLICATIONS FILED BY THE APPLICANT UNDER THIS SECTION  
39 OR SECTION 45-834.01 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE  
40 APPLICATION FOR THE PROPOSED WELL WAS FILED, EXCEPT THAT:

41 1. IN DETERMINING WHETHER TO APPROVE AN APPLICATION UNDER SUBSECTION  
42 D, PARAGRAPH 1 OF THIS SECTION:

43 (a) IF THE APPLICATION FOR THE PROPOSED WELL IS FILED BEFORE THE  
44 DIRECTOR ADOPTS THE RULES REQUIRED BY SECTION 45-598, SUBSECTION A, THE  
45 DIRECTOR SHALL CONSIDER ONLY THE IMPACTS OF THE PROPOSED WELL.



1 (b) THE DIRECTOR SHALL NOT CONSIDER THE IMPACTS OF ANY WELL NOT WITHIN  
2 THE AREAL EXTENT OF THE CUMULATIVE IMPACT ANALYSIS FOR THE PROPOSED WELL AS  
3 DETERMINED PURSUANT TO THE RULES ADOPTED UNDER SECTION 45-598, SUBSECTION A,  
4 OR ANY WELL THAT IS INCLUDED IN A PERMIT ISSUED UNDER SECTION 45-834.01 OR  
5 THAT IS INCLUDED IN A PENDING APPLICATION UNDER SECTION 45-834.01, IF THE  
6 WELL IS NOT SUBJECT TO SECTION 45-834.01, SUBSECTION B, PARAGRAPH 1.

7 2. IN DETERMINING WHETHER TO APPROVE AN APPLICATION UNDER SUBSECTION  
8 D, PARAGRAPH 3 OF THIS SECTION, THE DIRECTOR SHALL NOT CONSIDER THE IMPACTS  
9 OF ANY WELL NOT WITHIN THE AREAL EXTENT OF THE CUMULATIVE IMPACT ANALYSIS FOR  
10 THE PROPOSED WELL AS DETERMINED PURSUANT TO THE RULES ADOPTED UNDER SECTION  
11 45-598, SUBSECTION A, OR ANY WELL THAT IS NOT SUBJECT TO EITHER SUBSECTION D,  
12 PARAGRAPH 3 OF THIS SECTION OR SECTION 45-834.01, SUBSECTION B, PARAGRAPH 4.

13 K. THE BOUNDARIES OF THE RIPARIAN AREA PROTECTION ZONES REFERRED TO IN  
14 SUBSECTION D, PARAGRAPH 3 OF THIS SECTION SHALL BE DELINEATED ON A MAP FILED  
15 IN THE OFFICE OF THE SECRETARY OF STATE ON THE EFFECTIVE DATE OF THIS  
16 AMENDMENT TO THIS SECTION. A TRUE COPY OF THE MAP FILED IN THE OFFICE OF THE  
17 SECRETARY OF STATE SHALL BE ON FILE IN THE DEPARTMENT AND SHALL BE AVAILABLE  
18 FOR EXAMINATION BY THE PUBLIC DURING REGULAR BUSINESS HOURS.

19 L. AT LEAST ONCE EVERY FIVE YEARS, THE ARIZONA WATER PROTECTION FUND  
20 COMMISSION, IN CONSULTATION WITH THE DIRECTOR AND OTHER INTERESTED PARTIES,  
21 SHALL REVIEW THE MAP IDENTIFIED IN SUBSECTION K OF THIS SECTION AND MAKE  
22 RECOMMENDATIONS TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER  
23 OF THE HOUSE OF REPRESENTATIVES REGARDING ANY CHANGES THAT THE COMMISSION  
24 DETERMINES SHOULD BE MADE TO THE MAP TO PROTECT RIPARIAN AREAS FROM NEW  
25 WELLS, INCLUDING ANY MODIFICATIONS TO THE BOUNDARIES OF THE RIPARIAN AREA  
26 PROTECTION ZONES SHOWN ON THE MAP AND ANY ADDITIONS OF NEW RIPARIAN AREA  
27 PROTECTION ZONES TO THE MAP.

28 M. NOT LATER THAN JANUARY 1, 2005, THE DIRECTOR SHALL ADOPT RULES  
29 ESTABLISHING CRITERIA FOR DETERMINING WHETHER WITHDRAWALS FROM A WELL LOCATED  
30 WITHIN THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON THE  
31 MAP IDENTIFIED IN SUBSECTION K OF THIS SECTION WILL HAVE AN ADVERSE IMPACT ON  
32 THE RIPARIAN AREA WITHIN THE RIPARIAN AREA PROTECTION ZONE. THE DIRECTOR  
33 SHALL FORM AN ADVISORY COMMITTEE COMPOSED OF TECHNICAL EXPERTS AND AFFECTED  
34 WATER USERS TO ASSIST THE DIRECTOR IN DEVELOPING THE RULES AND IN DEVELOPING  
35 REVIEW STANDARDS FOR IMPLEMENTING THE RULES.

36 N. AN APPLICATION FOR A PERMIT UNDER THIS SECTION FOR A WELL WITHIN  
37 THE BOUNDARIES OF A RIPARIAN AREA PROTECTION ZONE DELINEATED ON THE MAP  
38 IDENTIFIED IN SUBSECTION K OF THIS SECTION IS EXEMPT FROM THE PROVISIONS OF  
39 SUBSECTION A, PARAGRAPH 13 AND SUBSECTION D, PARAGRAPH 3 OF THIS SECTION IF  
40 ONE OF THE FOLLOWING APPLIES:

41 1. THE WELL WILL BE DRILLED PURSUANT TO AN IRRIGATION GRANDFATHERED  
42 RIGHT ON LAND TO WHICH THE RIGHT IS APPURTENANT AND THE DIRECTOR DETERMINES  
43 THAT BOTH OF THE FOLLOWING APPLY:

44 (a) SUFFICIENT GROUNDWATER CANNOT BE WITHDRAWN FOR THE IRRIGATION USE  
45 FROM LAND TO WHICH THE RIGHT IS APPURTENANT OUTSIDE OF THE BOUNDARIES OF THE

1 RIPARIAN AREA PROTECTION ZONE OR FROM LAND THAT IS CONTIGUOUS TO THE  
2 APPURTENANT LAND AND THAT IS OWNED BY THE OWNER OF THE RIGHT OUTSIDE OF THE  
3 BOUNDARIES OF THE RIPARIAN AREA PROTECTION ZONE.

4 (b) WATER FROM ANOTHER SOURCE IS NOT AVAILABLE FOR THE IRRIGATION USE  
5 AT A COST THAT DOES NOT EXCEED BY ONE HUNDRED PER CENT THE COST THE APPLICANT  
6 WOULD OTHERWISE INCUR IN WITHDRAWING GROUNDWATER FROM THE PROPOSED WELL.

7 2. THE WELL WILL BE DRILLED PURSUANT TO A TYPE 1 NON-IRRIGATION  
8 GRANDFATHERED RIGHT ON LAND TO WHICH THE RIGHT IS APPURTENANT AND THE  
9 DIRECTOR DETERMINES THAT BOTH OF THE FOLLOWING APPLY:

10 (a) SUFFICIENT GROUNDWATER CANNOT BE WITHDRAWN FOR THE NON-IRRIGATION  
11 USE FROM LAND TO WHICH THE RIGHT IS APPURTENANT OUTSIDE THE BOUNDARIES OF THE  
12 RIPARIAN AREA PROTECTION ZONE OR FROM LAND THAT IS CONTIGUOUS TO THE  
13 APPURTENANT LAND AND THAT IS OWNED BY THE OWNER OF THE RIGHT OUTSIDE THE  
14 BOUNDARIES OF THE RIPARIAN AREA PROTECTION ZONE.

15 (b) WATER FROM ANOTHER SOURCE IS NOT AVAILABLE FOR THE NON-IRRIGATION  
16 USE AT A COST THAT DOES NOT EXCEED BY ONE HUNDRED PER CENT THE COST THE  
17 APPLICANT WOULD OTHERWISE INCUR IN WITHDRAWING GROUNDWATER FROM THE PROPOSED  
18 WELL.

19 ~~I.~~ 0. Section 45-114, subsections A and B govern administrative  
20 proceedings, rehearing or review and judicial review of final decisions of  
21 the director under this section. If an administrative hearing is held, it  
22 shall be conducted in the active management area in which the use is located.

23 Sec. 27. Title 45, chapter 2, article 10, Arizona Revised Statutes, is  
24 amended by adding section 45-599.01, to read:

25 45-599.01. Responsibility for mitigating damage; conditions;  
26 civil action; burden of proof

27 A. IF PUMPING FROM A NON-EXEMPT WELL FOR WHICH A PERMIT WAS ISSUED  
28 UNDER SECTION 45-599 CAUSES A DECLINE IN GROUNDWATER LEVELS AT THE LOCATION  
29 OF AN EXEMPT WELL TO THE EXTENT THAT THE EXEMPT WELL IS NO LONGER CAPABLE OF  
30 WITHDRAWING GROUNDWATER IN AN AMOUNT SUFFICIENT TO SERVE THE EXISTING USE,  
31 THE OWNER OF THE NON-EXEMPT WELL SHALL MITIGATE THE DAMAGE CAUSED TO THE  
32 EXEMPT WELL IN THE MANNER PRESCRIBED IN SUBSECTION B OF THIS SECTION, IF ALL  
33 OF THE FOLLOWING APPLY:

34 1. THE APPLICATION FOR A WELL PERMIT FOR THE NON-EXEMPT WELL WAS FILED  
35 ON OR AFTER JANUARY 1, 2003 AND THE HYDROLOGICAL STUDY SUBMITTED WITH THE  
36 APPLICATION PURSUANT TO SECTION 45-599, SUBSECTION A, PARAGRAPH 12  
37 INCORRECTLY CONCLUDED THAT THE WELL WOULD NOT CAUSE UNREASONABLY INCREASING  
38 DAMAGE TO THE EXEMPT WELL UNDER THE CRITERIA CONTAINED IN THE RULES ADOPTED  
39 PURSUANT TO SECTION 45-598, SUBSECTION A AT THE TIME THE APPLICATION WAS  
40 FILED.

41 2. THE EXEMPT WELL IS EXEMPT UNDER SECTION 45-454, SUBSECTION A OR  
42 SUBSECTION B, PARAGRAPH 1 OR IS A REPLACEMENT EXEMPT WELL AS DEFINED IN  
43 SECTION 45-454.

1           B. AN OWNER OF A NON-EXEMPT WELL SHALL MITIGATE THE DAMAGE CAUSED TO  
2 AN EXEMPT WELL AS PROVIDED IN SUBSECTION A OF THIS SECTION IN ONE OF THE  
3 FOLLOWING WAYS, AS SELECTED BY THE OWNER OF THE NON-EXEMPT WELL:

4           1. BY ENSURING THAT THE OWNER OF THE EXEMPT WELL HAS ACCESS TO ANOTHER  
5 WATER SUPPLY SUFFICIENT TO SERVE THE USE PREVIOUSLY SERVED BY THE EXEMPT  
6 WELL. MITIGATION UNDER THIS PARAGRAPH MAY BE ACCOMPLISHED BY PAYING THE COST  
7 OF CONNECTING THE USE SERVED BY THE EXEMPT WELL TO THE NEAREST MUNICIPAL  
8 PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, INCLUDING THE COST OF ANY  
9 IMPACT FEES IMPOSED BY THE MUNICIPAL PROVIDER AND ANY COSTS IMPOSED BY THE  
10 MUNICIPAL PROVIDER FOR EXTENDING ITS DISTRIBUTION LINE TO THE EXEMPT WELL  
11 OWNER'S LAND. IF MITIGATION OCCURS UNDER THIS PARAGRAPH, THE EXEMPT WELL  
12 OWNER SHALL ABANDON THE EXEMPT WELL IN ACCORDANCE WITH THE RULES ADOPTED BY  
13 THE DIRECTOR PURSUANT TO SECTION 45-594, SUBSECTION A.

14           2. BY PAYING THE COST OF DEEPENING THE EXEMPT WELL SO THAT GROUNDWATER  
15 MAY BE WITHDRAWN FROM THE WELL IN AN AMOUNT SUFFICIENT TO SERVE THE EXISTING  
16 USE.

17           3. BY PAYING THE COST OF RELOCATING THE EXEMPT WELL TO ANOTHER  
18 LOCATION ON THE SAME PARCEL OF LAND SO THAT GROUNDWATER MAY BE WITHDRAWN IN  
19 AN AMOUNT SUFFICIENT TO SERVE THE USE IN THE SAME MANNER AS PREVIOUSLY SERVED  
20 BY THE EXEMPT WELL. IF MITIGATION OCCURS UNDER THIS PARAGRAPH, THE EXEMPT  
21 WELL OWNER SHALL ABANDON THE ORIGINAL EXEMPT WELL IN ACCORDANCE WITH THE  
22 RULES ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-594, SUBSECTION A.

23           4. BY PAYING DAMAGES TO THE OWNER OF THE EXEMPT WELL IN AN AMOUNT  
24 AGREED TO BY THE PARTIES OR DETERMINED BY A COURT, BUT NOT TO EXCEED THE  
25 LEAST COST OF MITIGATING THE DAMAGE UNDER PARAGRAPHS 1, 2 AND 3 OF THIS  
26 SUBSECTION.

27           C. AN ACTION TO ENFORCE THIS SECTION MAY BE BROUGHT ONLY AS A CIVIL  
28 ACTION IN SUPERIOR COURT BY THE OWNER OF THE EXEMPT WELL. THE OWNER OF THE  
29 EXEMPT WELL SHALL HAVE THE BURDEN OF PROVING THAT PUMPING BY THE NON-EXEMPT  
30 WELL CAUSED THE DAMAGE DESCRIBED IN SUBSECTION A OF THIS SECTION.

31           D. AN ACTION UNDER THIS SECTION MAY NOT BE FILED LATER THAN ONE YEAR  
32 AFTER THE DATE ON WHICH THE OWNER OF THE EXEMPT WELL FIRST HAS A REASONABLE  
33 OPPORTUNITY TO DISCOVER THAT THE EXEMPT WELL IS NO LONGER CAPABLE OF  
34 WITHDRAWING GROUNDWATER IN AN AMOUNT SUFFICIENT TO SERVE THE EXISTING USE OR  
35 TWENTY YEARS AFTER THE DIRECTOR ISSUED THE WELL PERMIT FOR THE NON-EXEMPT  
36 WELL UNDER SECTION 45-599, WHICHEVER IS EARLIER.

37           E. IF AN OWNER OF A NON-EXEMPT WELL IS REQUIRED BY THIS SECTION TO  
38 MITIGATE DAMAGE CAUSED TO AN EXEMPT WELL, NO ACTION SHALL BE BROUGHT OR  
39 MAINTAINED AGAINST THE OWNER OF THE NON-EXEMPT WELL FOR THE DAMAGE IF THE  
40 OWNER OF THE NON-EXEMPT WELL MITIGATES THE DAMAGE IN THE MANNER PROVIDED IN  
41 SUBSECTION B OF THIS SECTION.

42           Sec. 28. Section 45-604, Arizona Revised Statutes, is amended to read:  
43           45-604. Water measuring devices

1           A. Except as provided in subsections B, C and D of this section, **THE**  
2 **FOLLOWING PERSONS SHALL USE A WATER MEASURING DEVICE APPROVED BY THE**  
3 **DIRECTOR:**

4           1. A person who withdraws groundwater from a nonexempt well in an  
5 active management area or an irrigation non-expansion area. ~~—~~

6           2. A person who withdraws water from a non-exempt well in the Santa  
7 Cruz active management area. ~~or~~

8           3. A person who withdraws groundwater for transportation to an initial  
9 active management area pursuant to article 8.1 of this chapter ~~shall use a~~  
10 ~~water measuring device approved by the director.~~

11           4. **A PERSON WHO WITHDRAWS WATER FROM A WELL THAT IS EXEMPT FROM THIS**  
12 **CHAPTER PURSUANT TO SECTION 45-454, SUBSECTION B, PARAGRAPH 4.**

13           5. **A PERSON WHO WITHDRAWS WATER FROM AN EXEMPT WELL APPROVED BY THE**  
14 **DIRECTOR PURSUANT TO SECTION 45-596, SUBSECTION I, PARAGRAPH 4.**

15           B. A person who holds a type 2 non-irrigation grandfathered right or a  
16 groundwater withdrawal permit in the amount of ten or fewer acre-feet per  
17 year is not required to use a water measuring device to measure withdrawals  
18 pursuant to that grandfathered right or groundwater withdrawal permit unless  
19 the person holds more than one such right or permit in the aggregate amount  
20 of more than ten acre-feet per year and withdraws more than ten acre-feet of  
21 groundwater per year pursuant to those rights or permits from one well.

22           C. In an irrigation non-expansion area:

23           1. A person who withdraws ten or fewer acre-feet of groundwater per  
24 year from a non-exempt well for a non-irrigation use is not required to use a  
25 water measuring device to measure withdrawals from that well.

26           2. A person who withdraws groundwater from a non-exempt well for an  
27 irrigation use is not required to use a water measuring device to measure  
28 withdrawals from that well if both of the following apply:

29           (a) Groundwater withdrawn from the well for an irrigation use is used  
30 only on land that is owned by a person who has the right under section 45-437  
31 to irrigate ten or fewer contiguous acres at the place of the use.

32           (b) Groundwater withdrawn from the well is not used on land that is  
33 part of an integrated farming operation.

34           D. In an active management area, a person, other than an irrigation  
35 district, who withdraws groundwater from a non-exempt well for use pursuant  
36 to an irrigation grandfathered right that is appurtenant to ten or fewer  
37 irrigation acres is not required to use a water measuring device to measure  
38 withdrawals from that well unless groundwater withdrawn from the well is also  
39 used pursuant to either a service area right pursuant to article 6 of this  
40 chapter or a grandfathered groundwater right other than an irrigation  
41 grandfathered right that is appurtenant to irrigation acres that are exempt  
42 from irrigation water duties pursuant to section 45-563.02.

43           E. The director shall adopt rules setting forth the requirements and  
44 specifications for water measuring devices.

45           Sec. 29. Section 45-611, Arizona Revised Statutes, is amended to read:

1           45-611. Groundwater withdrawal fee; amounts and purposes of  
2                           fee; exception

3           A. Except as provided in subsection B of this section, the director  
4 shall levy and collect an annual groundwater withdrawal fee from each person  
5 withdrawing groundwater in the Prescott active management area or the person  
6 who owns the right to withdraw the groundwater, in an amount not to exceed  
7 five dollars per acre-foot of groundwater withdrawn and beneficially  
8 used. The director shall levy and collect an annual withdrawal fee from each  
9 person withdrawing water, other than stored water, from a well in the Santa  
10 Cruz active management area or the person who owns the right to withdraw the  
11 water, in an amount not to exceed five dollars per acre-foot of water, other  
12 than stored water, that is withdrawn and beneficially used. For purposes of  
13 this article, the annual withdrawal fee levied and collected in the Santa  
14 Cruz active management area shall be considered a groundwater withdrawal  
15 fee. The actual amount of the fee levied and collected by the director  
16 pursuant to this subsection shall be set by the director as follows:

17           1. For administration and enforcement of this chapter, an amount not  
18 less than fifty cents and not greater than one dollar per acre-foot per year.  
19 The initial fee for administration and enforcement shall be levied as soon as  
20 practicable after the active management area is established.

21           2. For augmentation of the water supply of the active management area,  
22 conservation assistance to water users within the active management area and  
23 monitoring and assessing water availability within the active management  
24 area, an amount not greater than two dollars per acre-foot per year.

25           3. For purchasing and retiring grandfathered rights, an amount not  
26 greater than two dollars per acre-foot per year. The initial fee for  
27 purchasing and retiring grandfathered rights shall be levied in the first  
28 year in which the director develops and implements a program for the purchase  
29 and retirement of grandfathered rights as part of the management plan for the  
30 active management area, but not earlier than January 1, 2006. The director  
31 may not levy a fee under this paragraph on a district member of a groundwater  
32 replenishment district that withdraws groundwater in the district for a  
33 non-irrigation use in the district.

34           B. A person, other than an irrigation district, who withdraws  
35 groundwater in an active management area from a non-exempt well for use  
36 pursuant to an irrigation grandfathered right that is appurtenant to ten or  
37 fewer irrigation acres and the person who owns the right to withdraw the  
38 groundwater are exempt from the groundwater withdrawal fee requirements of  
39 subsections A and C of this section for those withdrawals unless the  
40 irrigation acres are part of an integrated farming operation.

41           C. Except as provided in section 45-411.01, subsection C and  
42 subsection B of this section, the director shall levy and collect an annual  
43 groundwater withdrawal fee from each person who withdraws groundwater in the  
44 Tucson, Phoenix and Pinal active management areas or the person who owns the  
45 right to withdraw the groundwater, in an amount of not more than five dollars

1 per acre-foot of groundwater withdrawn and beneficially used. The director  
2 shall set the actual amount of the fee as follows:

3 1. Beginning in 2017, for administration and enforcement of this  
4 chapter, an amount of at least fifty cents but not more than one dollar per  
5 acre-foot per year.

6 2. Through 2016, for augmentation of the water supply of the active  
7 management area, conservation assistance to water users within the active  
8 management area and monitoring and assessing water availability within the  
9 active management area, an amount of not more than fifty cents per acre-foot  
10 per year, and after 2016, an amount of not more than two dollars per  
11 acre-foot per year. ~~If a permanent board of directors of an active  
12 management area water district assumes office under section 48-4831, the fee  
13 for augmentation under this paragraph shall not be levied in that active  
14 management area.~~

15 3. Through 2016, for Arizona water banking purposes, the amount of two  
16 dollars fifty cents per acre-foot per year, except that for groundwater  
17 withdrawn pursuant to irrigation grandfathered rights within the Pinal active  
18 management area to the extent those rights are used to irrigate lands outside  
19 of the service area of an irrigation district, the amount of seventy-five  
20 cents per acre-foot of groundwater withdrawn in 1997, and a cumulating  
21 additional twenty-five cents per acre-foot each year thereafter, to a maximum  
22 of two dollars fifty cents per acre-foot per year.

23 4. For purchasing and retiring grandfathered rights, an amount of not  
24 more than two dollars per acre-foot per year. The initial fee for purchasing  
25 and retiring grandfathered rights shall be levied in the first year in which  
26 the director develops and implements a program for the purchase and  
27 retirement of grandfathered rights as part of the management plan for the  
28 active management area, but not earlier than January 1, 2006. The director  
29 may not levy a fee pursuant to this paragraph on a district member of a  
30 groundwater replenishment district that withdraws groundwater in the district  
31 for non-irrigation use in the district.

32 Sec. 30. Section 45-613, Arizona Revised Statutes, is amended to read:

33 45-613. Use of withdrawal fees collected for augmentation and  
34 conservation and purchase and retirement of  
35 grandfathered rights

36 A. Except as provided in ~~section 45-615, paragraph 2 and~~ sections  
37 45-1972 and 48-4504, monies collected in an active management area for  
38 purposes of augmentation, conservation assistance and monitoring and  
39 assessing water availability under section 45-611, subsection A, paragraph 2  
40 and subsection C, paragraph 2 shall be used only to finance the augmentation  
41 and conservation assistance programs that are part of the management plan for  
42 the active management area and to fund any projects that are authorized by  
43 the director for monitoring and assessing water availability within the  
44 active management area.

1 B. Monies collected in an active management area for the purpose of  
2 purchasing and retiring grandfathered rights under section 45-611, subsection  
3 A, paragraph 3 and subsection C, paragraph 4 shall be used only to finance  
4 the program for the purchase and retirement of grandfathered rights that is  
5 part of the management plan for the active management area.

6 C. Monies collected in an active management area for the purpose of  
7 Arizona water banking under section 45-611, subsection C, paragraph 3 shall  
8 be used only for the benefit of the active management area in which they are  
9 collected.

10 Sec. 31. Section 45-615, Arizona Revised Statutes, is amended to read:

11 45-615. Deposits; divisions of collections into funds

12 Except as provided in section 45-113, the director shall deposit,  
13 pursuant to sections 35-146 and 35-147, all monies collected by the  
14 department pursuant to section 45-611, subsection A, paragraphs 2 and 3 and  
15 subsection C, paragraphs 2, 3 and 4 and any other monies received for that  
16 purpose. Based on the statement of the director transmitted pursuant to  
17 section 45-614, subsection B, the monies collected shall be allocated as  
18 follows:

19 1. ~~Except as provided in paragraph 2 of this section,~~ Monies received  
20 for the purpose of augmentation of the water supply of the active management  
21 area, conservation assistance to water users within the active management  
22 area and monitoring and assessing water availability within the active  
23 management area shall be kept in an augmentation and conservation assistance  
24 fund. Separate accounts for each active management area shall be maintained  
25 within the fund. On notice from the director, the state treasurer shall  
26 invest and divest monies in the fund as provided by section 35-313, and  
27 monies earned from investment shall be credited to the fund.

28 ~~2. If an active management area water district has been established in~~  
29 ~~an active management area, all monies received pursuant to section 45-611,~~  
30 ~~subsection A, paragraph 2 for the purpose of augmentation of the water supply~~  
31 ~~of that active management area shall be transmitted to the~~  
32 ~~secretary-treasurer of the district for deposit in the general fund of the~~  
33 ~~district.~~

34 ~~3.~~ 2. Monies received for the purpose of purchase and retirement of  
35 grandfathered rights shall be kept in a purchase and retirement fund.  
36 Separate accounts for each active management area shall be maintained within  
37 the fund. On notice from the director, the state treasurer shall invest and  
38 divest monies in the fund as provided by section 35-313, and monies earned  
39 from investment shall be credited to the fund.

40 ~~4.~~ 3. Monies received for the purpose of Arizona water banking shall  
41 be deposited, pursuant to sections 35-146 and 35-147, in the Arizona water  
42 banking fund.

43 Sec. 32. Section 45-632, Arizona Revised Statutes, is amended to read:

1           45-632. Records and annual report of groundwater pumping,  
2                                   transportation and use; penalty

3           A. Each person who is required to file an annual report under this  
4 section or who files an annual report under subsection E of this section  
5 shall maintain current accurate records of the person's withdrawals,  
6 transportation, deliveries and use of groundwater and, in the Santa Cruz  
7 active management area, current accurate records of the person's withdrawals,  
8 deliveries and use of all water withdrawn from a well, as prescribed by the  
9 director under subsection P of this section.

10          B. Except as provided in subsections C and D of this section, an  
11 annual report shall be filed with the director by each person who:

12           1. Owns or leases a right under this chapter to withdraw, receive or  
13 use groundwater in an active management area, unless a report is filed for  
14 that person by an irrigation district under subsection E of this section or  
15 by another person in a form acceptable to the director.

16           2. Uses groundwater which is transported from an active management  
17 area.

18           3. Is an individual user subject to a municipal conservation  
19 requirement for appropriate conservation measures included in a management  
20 plan adopted by the director pursuant to article 9 of this chapter.

21           4. Withdraws groundwater for transportation to an initial active  
22 management area pursuant to article 8.1 of this chapter.

23           5. Withdraws water from a well in the Santa Cruz active management  
24 area or who uses water, other than stored water, withdrawn from a non-exempt  
25 well in the Santa Cruz active management area.

26           6. WITHDRAWS WATER FROM A WELL THAT IS EXEMPT FROM THIS CHAPTER  
27 PURSUANT TO SECTION 45-454, SUBSECTION B, PARAGRAPH 4 OR FROM AN EXEMPT WELL  
28 APPROVED BY THE DIRECTOR PURSUANT TO SECTION 45-596, SUBSECTION I,  
29 PARAGRAPH 4.

30          C. EXCEPT AS PROVIDED IN SUBSECTION B, PARAGRAPH 6 OF THIS SECTION,  
31 persons who withdraw groundwater from exempt wells and non-irrigation  
32 customers of cities, towns, private water companies and irrigation districts,  
33 except customers receiving water pursuant to a permit, are exempt from the  
34 record keeping and reporting requirements of this section for such water.

35          D. A person who owns or leases an irrigation grandfathered right that  
36 is appurtenant to ten or fewer irrigation acres is exempt from the record  
37 keeping and reporting requirements of this section for the irrigation  
38 grandfathered right unless one of the following applies:

39           1. The land to which the irrigation grandfathered right is appurtenant  
40 is part of an integrated farming operation.

41           2. Groundwater is withdrawn from the land to which the irrigation  
42 grandfathered right is appurtenant and delivered for use pursuant to either a  
43 service area right pursuant to article 6 of this chapter or a grandfathered  
44 groundwater right other than an irrigation grandfathered right that is



1 appurtenant to irrigation acres that are exempt from irrigation water duties  
2 pursuant to section 45-563.02.

3 3. Groundwater is withdrawn from land that is both owned by the owner  
4 of the irrigation grandfathered right and contiguous to the land to which the  
5 irrigation grandfathered right is appurtenant and delivered for use pursuant  
6 to either a service area right pursuant to article 6 of this chapter or a  
7 grandfathered groundwater right other than an irrigation grandfathered right  
8 that is appurtenant to irrigation acres that are exempt from irrigation water  
9 duties pursuant to section 45-563.02.

10 E. An irrigation district which delivers and distributes groundwater  
11 in an active management area may file an annual report with the director for  
12 each person who holds an irrigation grandfathered right appurtenant to  
13 irrigation acres within the service area of the irrigation district, if the  
14 irrigation district delivers all the water used on the person's irrigation  
15 acres. If an irrigation district files an annual report for such a person,  
16 the irrigation district shall report the following information for each such  
17 person:

- 18 1. The name of the person and the certificate number of the person's  
19 irrigation grandfathered right.
- 20 2. The quantity of groundwater, if any, delivered during the calendar  
21 year.

22 F. Persons who are required to report under subsection B, ~~paragraph~~  
23 **PARAGRAPHS 1 AND 6** of this section and who withdraw groundwater during the  
24 calendar year in an active management area shall report the following  
25 information for each well:

- 26 1. The registration number and location of the well.
- 27 2. The quantity of groundwater withdrawn from the well during the  
28 calendar year. A person who, under section 45-604, subsection B, is not  
29 required to use and does not use a water measuring device to measure  
30 withdrawals made pursuant to a type 2 non-irrigation grandfathered right or a  
31 groundwater withdrawal permit shall estimate the quantity of groundwater  
32 withdrawn pursuant to the grandfathered right or withdrawal permit.
- 33 3. The quantity of fuel or electricity consumed by the pump during the  
34 calendar year.
- 35 4. The uses to which the groundwater was applied or the persons to  
36 whom the groundwater was delivered during the calendar year.

37 G. Persons who are required to report under subsection B, paragraph 1  
38 of this section and who use groundwater during the calendar year in an active  
39 management area and persons who are required to report under subsection B,  
40 paragraph 2 of this section shall report the following information:

- 41 1. The source of the groundwater, including:
  - 42 (a) The name of the person from whom the groundwater was obtained.
  - 43 (b) The registration number and location of the well, if known.
- 44 2. The quantity of groundwater used during the calendar year.

- 1           3. The specific uses to which the groundwater was applied during the  
2 calendar year.
- 3           H. Persons who are required to report under subsection B, paragraph 4  
4 of this section and who transport groundwater during the calendar year to an  
5 initial active management area under article 8.1 of this chapter shall report  
6 the following information:
- 7           1. The registration number and location of each well.
- 8           2. The quantity of groundwater withdrawn from each well during the  
9 calendar year.
- 10          3. The quantity of groundwater transported during the calendar year to  
11 an initial active management area.
- 12          4. The quantity of groundwater that was withdrawn during the calendar  
13 year and that was not transported to an initial active management area and  
14 the uses to which the groundwater was applied.
- 15          5. The quantity of fuel or electricity consumed by each pump during  
16 the calendar year.
- 17          6. The uses to which the groundwater was applied or the persons to  
18 whom the groundwater was delivered during the calendar year.
- 19          I. Persons who are required to report under subsection B, ~~paragraph~~  
20 ~~PARAGRAPHS 1 AND 6~~ of this section and who neither withdraw nor use  
21 groundwater during the calendar year shall report the following information:
- 22          1. The fact that no groundwater was withdrawn or used during the  
23 calendar year.
- 24          2. The registration number and location of each well, if any.
- 25          J. Persons who are required to report under subsection B, ~~paragraph~~  
26 ~~PARAGRAPHS 5 AND 6~~ of this section and who withdraw water ~~from a non-exempt~~  
27 ~~well~~ in the Santa Cruz active management area during the calendar year shall  
28 report the following information:
- 29          1. The registration number and location of the well.
- 30          2. The quantity of water, by type, withdrawn from the well during the  
31 calendar year.
- 32          3. The quantity of fuel or electricity consumed by the pump during the  
33 calendar year.
- 34          4. The uses to which the water was applied or the persons to whom the  
35 water was delivered during the calendar year.
- 36          K. Persons who are required to report under subsection B, paragraph 5  
37 of this section and who use water withdrawn from a non-exempt well in the  
38 Santa Cruz active management area during the calendar year shall report the  
39 following information:
- 40          1. The source of the water, including:
- 41           (a) The name of the person from whom the water was obtained.
- 42           (b) The registration number and location of the well, if known.
- 43          2. The quantity of the water, by type, used during the calendar year.
- 44          3. The specific uses to which the water was applied during the  
45 calendar year.

1 L. If a person both withdraws groundwater in an active management area  
2 and uses such water, the person may combine the information required by  
3 subsections F and G of this section into one report. If a person both  
4 withdraws water, other than stored water, from a non-exempt well in the Santa  
5 Cruz active management area and uses such water, the person may combine the  
6 information required by subsections J and K of this section into one report.

7 M. The director may require such other information in the report as  
8 may be necessary to accomplish the management goals of the applicable active  
9 management area.

10 N. Each report shall contain either a sworn statement or a  
11 certification, under penalty of perjury, that the information contained in  
12 the report is true and correct according to the best belief and knowledge of  
13 the person filing the report.

14 O. The annual report shall be maintained on a calendar year basis and  
15 shall be filed with the director no later than March 31 of each year for the  
16 preceding calendar year. If a person who is required under this section to  
17 file an annual report for calendar year 1985 or any subsequent calendar year  
18 fails to file a report for the calendar year in question on or before March  
19 31 of the following year, the director may assess and collect a penalty of  
20 twenty-five dollars for each month or portion of a month that the annual  
21 report is delinquent. The total penalty assessed under this subsection shall  
22 not exceed one hundred fifty dollars. The director shall deposit, pursuant  
23 to sections 35-146 and 35-147, all penalties collected under this subsection  
24 in the state general fund.

25 P. The records and reports required to be kept and filed under this  
26 section shall be in such form as the director prescribes. The director shall  
27 prepare blank forms and distribute them on a timely schedule throughout each  
28 active management area and furnish them upon request. Failure to receive or  
29 obtain the forms does not relieve any person from keeping the required  
30 records or making any required report. The director shall cooperate with  
31 cities and towns, private water companies and irrigation districts in  
32 establishing the form of the records and reports to be kept and filed by  
33 them.

34 Sec. 33. Section 45-802.01, Arizona Revised Statutes, is amended to  
35 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, ~~OR~~ OR by a multi-county water

1 conservation district to fulfill its duties under title 48, chapter 22,  
2 article 4 ~~or by an active management area water district to fulfill its~~  
3 ~~duties under title 48, chapter 28, article 7.~~

4 17. "RESERVE TARGET" HAS THE SAME MEANING PRESCRIBED IN SECTION  
5 48-3701.

6 ~~17.~~ 18. "Storage facility" means a groundwater savings facility or an  
7 underground storage facility.

8 ~~18.~~ 19. "Stored water" means water that has been stored or saved  
9 underground pursuant to a storage permit issued under this chapter.

10 ~~19.~~ 20. "Storer" means the holder of a water storage permit issued  
11 pursuant to section 45-831.01 or a person to whom a water storage permit has  
12 been conveyed pursuant to section 45-831.01, subsection F.

13 ~~20.~~ 21. "Underground storage facility" means a constructed underground  
14 storage facility or a managed underground storage facility.

15 ~~21.~~ 22. "Water that cannot reasonably be used directly" means water  
16 that the storer cannot reasonably put to a direct use during the calendar  
17 year, including:

18 (a) Except as provided in subdivision (b) of this paragraph, 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 as prescribed by 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

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

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

32 (d) Surface water made available by dams constructed or modified after  
33 August 13, 1986.

34 (e) Until the year 2025:

35 (i) Effluent.

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

39 (iii) If the storage facility is outside of an active management area,  
40 water from outside the groundwater basin in which the storage facility is  
41 located that would not have reached the groundwater basin without the efforts  
42 of the storer.

43 (f) Water THAT IS delivered through the central Arizona project AND  
44 that is acquired by the Arizona water banking authority.

1           ~~22.~~ 23. "Water storage" means adding water to an aquifer or saving  
2 water in an aquifer pursuant to permits issued under this chapter.

3           ~~23.~~ 24. "Water storage permit" means a permit issued pursuant to  
4 section 45-831.01 to store water at a storage facility.

5           Sec. 34. Section 45-832.01, Arizona Revised Statutes, is amended to  
6 read:

7           45-832.01. Use of stored water

8           A. Water that has been stored pursuant to a water storage permit may  
9 be used or exchanged only in the manner in which it was permissible to use or  
10 exchange the water before it was stored.

11           B. Water that has been stored pursuant to a water storage permit may  
12 be used only in the location in which it was permissible to use the water  
13 before it was stored.

14           C. Water that has been stored pursuant to a water storage permit may  
15 be used for replenishment purposes only in the active management area in  
16 which the water is stored, unless the water is recovered and transported to  
17 another active management area.

18           D. Stored water may be used only as follows:

19           1. The water may be recovered by the storer and used on an annual  
20 basis in accordance with section 45-851.01.

21           2. The water may be credited to the storer's long-term storage  
22 account, if the water meets the requirements of section 45-852.01, and the  
23 long-term storage credits may be used in accordance with the provisions of  
24 this chapter.

25           3. A district that is storing water may have the stored water credited  
26 to its master replenishment account, if the water would meet the requirements  
27 of long-term storage credits as prescribed by section 45-852.01.

28           4. A conservation district that is storing water may have the stored  
29 water credited to its conservation district account, if the water would meet  
30 the requirements of long-term storage credits as prescribed by section  
31 45-852.01.

32           ~~5. A water district that is storing water may have the stored water~~  
33 ~~credited to its water district account, if the water would meet the~~  
34 ~~requirements of long-term storage credits as prescribed by section 45-852.01.~~

35           Sec. 35. Section 45-834.01, Arizona Revised Statutes, is amended to  
36 read:

37           45-834.01. Recovery of stored water; recovery well permit;  
38                                   emergency temporary recovery well permit; well  
39                                   construction

40           A. A person who holds long-term storage credits or who may recover  
41 water on an annual basis may recover the water stored pursuant to a water  
42 storage permit only:

43           1. If the person seeking to recover stored water has applied for and  
44 received a recovery well permit under this article.

1           2. For water stored within an active management area, from wells that  
2 are located:

3           (a) Within the area of impact of the stored water, as determined by  
4 the director, if the person recovering the water is the storer, ~~subject to~~  
5 ~~the following~~ if the stored water to be recovered is effluent that is stored  
6 in a managed underground storage facility AND if the proposed recovery well  
7 is not an already constructed well owned by the person recovering the water  
8 and is located within the exterior boundaries of the service area of a city,  
9 town, private water company or irrigation district, that city, town, private  
10 water company or irrigation district must be notified by the person  
11 recovering the stored water and have the right to offer to recover the water  
12 stored on behalf of that person. If the city, town, private water company or  
13 irrigation district offers to recover the water on behalf of the person  
14 seeking recovery and the water that is offered for recovery is of comparable  
15 quality to the water that the person could recover, the person seeking to  
16 recover the water shall consider accepting the best offer from the city,  
17 town, private water company or irrigation district overlying the area of  
18 impact that has offered to recover the stored water.

19           (b) Within the same active management area as storage, if the director  
20 determines that recovery at the proposed location is consistent with the  
21 management plan and achievement of the management goal for the active  
22 management area subject to the following:

23           (i) If the proposed recovery well is located within the exterior  
24 boundaries of the service area of a city, town, private water company or  
25 irrigation district, that city, town, private water company or irrigation  
26 district is the person seeking to recover the water or has consented to the  
27 location of the recovery well.

28           (ii) If the proposed recovery well is located outside, but within  
29 three miles of, the exterior boundaries of the service area of a city, town,  
30 private water company or irrigation district, the closest city, town, private  
31 water company or irrigation district has consented to the location of the  
32 recovery well.

33           3. For water stored outside of an active management area, if recovery  
34 will occur within the same irrigation non-expansion area, groundwater basin  
35 or groundwater sub-basin, as applicable, in which the water was stored.

36           B. Before recovering from any well water stored pursuant to a water  
37 storage permit, a person shall apply for and receive a recovery well permit  
38 from the director. The director shall issue the recovery well permit if the  
39 director determines that **ALL OF THE FOLLOWING APPLY, AS APPROPRIATE:**

40           1. If the application is for a new well, as defined in section 45-591,  
41 or except as provided in paragraph 2 of this subsection for an existing well,  
42 as defined in section 45-591, the proposed recovery of stored water will not  
43 unreasonably increase damage to surrounding land or other water users from  
44 the concentration of wells. The director shall make this determination  
45 pursuant to rules adopted by the director.



1           2. If the applicant is a city, town, private water company or  
2 irrigation district in an active management area and the application is for  
3 an existing well within the service area of the city, town, private water  
4 company or irrigation district, the applicant has a right to use the existing  
5 well.

6           3. If the applicant is a conservation district and the application is  
7 for an existing well within the conservation district and within the  
8 groundwater basin or sub-basin in which the stored water is located, the  
9 applicant has a right to use the existing well.

10           4. IF THE APPLICATION IS FILED ON OR AFTER JANUARY 1, 2005 AND THE  
11 APPLICATION IS FOR A WELL LOCATED OUTSIDE THE AREA OF IMPACT OF THE STORED  
12 WATER AS DETERMINED BY THE DIRECTOR AND WITHIN THE BOUNDARIES OF A RIPARIAN  
13 AREA PROTECTION ZONE DELINEATED ON THE MAP IDENTIFIED IN SECTION 45-599,  
14 SUBSECTION K, THE APPLICANT HAS SUBMITTED A HYDROLOGICAL STUDY UNDER  
15 SUBSECTION I, PARAGRAPH 2 OF THIS SECTION DEMONSTRATING THAT RECOVERY OF  
16 WATER FROM THE WELL WILL NOT HAVE AN ADVERSE IMPACT ON THE RIPARIAN AREA  
17 WITHIN THE RIPARIAN AREA PROTECTION ZONE. FOR PURPOSES OF THIS PARAGRAPH,  
18 ADVERSE IMPACTS SHALL BE DETERMINED PURSUANT TO THE CRITERIA ESTABLISHED BY  
19 THE DIRECTOR IN THE RULES ADOPTED PURSUANT TO SECTION 45-599, SUBSECTION M.

20           C. A city, town, private water company or irrigation district in an  
21 active management area may apply with a single application to the director to  
22 have all existing wells, as defined in section 45-591, that the applicant has  
23 the right to use within its service area listed as recovery wells on the  
24 recovery well permit, if those wells otherwise meet the requirements of this  
25 section.

26           D. If the applicant is a conservation district, the director may issue  
27 an emergency temporary recovery well permit without complying with section  
28 45-871.01, subsection F if the director determines that all of the following  
29 apply:

30           1. The conservation district cannot reasonably continue to supply  
31 central Arizona project water directly to a city, town, private water company  
32 or irrigation district due to an unplanned failure of a portion of the  
33 central Arizona project delivery system.

34           2. The emergency temporary recovery well permit is necessary to allow  
35 the conservation district to provide immediate delivery of replacement water  
36 to the city, town, private water company or irrigation district.

37           3. The application is for an existing well as defined in section  
38 45-591 that is within the groundwater basin or groundwater sub-basin in which  
39 the stored water is located, is within the conservation district and is  
40 within the service area of the city, town, private water company or  
41 irrigation district.

42           E. An emergency temporary recovery well permit issued pursuant to  
43 subsection D of this section may be issued for a period of up to ninety days  
44 and may be extended for additional ninety day periods if the director

1 determines that the conditions prescribed in subsection D of this section  
2 continue to apply.

3 F. If the application for a recovery well permit is approved, the  
4 director shall issue a permit and the applicant may proceed to construct or  
5 use the well. If the application is rejected, the applicant shall not  
6 proceed to construct or use the well. A new well shall be completed within  
7 one year of receipt of the permit, unless the director in granting the permit  
8 approves a longer period to complete the well. If the well is not completed  
9 within one year or the longer period approved by the director, the applicant  
10 shall file a new application before proceeding with construction.

11 G. IN DETERMINING WHETHER THE REQUIREMENTS IN SUBSECTION B, PARAGRAPH  
12 1 OF THIS SECTION HAVE BEEN MET:

13 1. THE DIRECTOR SHALL NOT CONSIDER ANY IMPACTS THE PROPOSED RECOVERY  
14 OF WATER MAY HAVE ON AN EXEMPT WELL DRILLED PURSUANT TO A NOTICE OF INTENTION  
15 TO DRILL FILED ON OR AFTER JANUARY 1, 2003 UNLESS THE WELL IS A REPLACEMENT  
16 EXEMPT WELL AS DEFINED IN SECTION 45-454.

17 2. IF THE DIRECTOR DETERMINES THAT THE PROPOSED RECOVERY OF WATER WILL  
18 CAUSE UNREASONABLY INCREASING DAMAGE TO A WELL THAT IS EXEMPT UNDER SECTION  
19 45-454, SUBSECTION A OR SUBSECTION B, PARAGRAPH 1 OR A REPLACEMENT EXEMPT  
20 WELL AS DEFINED IN SECTION 45-454, THE DIRECTOR SHALL SEND WRITTEN NOTICE OF  
21 THE APPLICATION FOR THE RECOVERY WELL PERMIT TO THE OWNER OF THE EXEMPT WELL  
22 AT THE OWNER'S LAST ADDRESS ON RECORD WITH THE DEPARTMENT. THE NOTICE SHALL  
23 STATE THAT THE OWNER OF THE EXEMPT WELL MAY FILE A WRITTEN OBJECTION TO THE  
24 APPLICATION WITHIN THIRTY DAYS FROM THE DATE OF THE NOTICE. THE DIRECTOR  
25 SHALL CONSIDER THE IMPACTS ON THE EXEMPT WELL IN DETERMINING WHETHER THE  
26 REQUIREMENTS IN SUBSECTION B, PARAGRAPH 1 OF THIS SECTION HAVE BEEN MET,  
27 EXCEPT THE DIRECTOR SHALL NOT CONSIDER THE IMPACTS ON THE EXEMPT WELL IF ONE  
28 OF THE FOLLOWING APPLIES:

29 (a) THE OWNER OF THE EXEMPT WELL FAILS TO FILE A WRITTEN OBJECTION TO  
30 THE APPLICATION WITHIN THIRTY DAYS FROM THE DATE OF THE NOTICE.

31 (b) THE USE SERVED BY THE EXEMPT WELL IS WITHIN THE SERVICE AREA OF A  
32 MUNICIPAL PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM AND THE APPLICANT  
33 FOR THE RECOVERY WELL PERMIT AGREES TO PAY THE COST OF CONNECTING THE USE TO  
34 THE MUNICIPAL PROVIDER'S DISTRIBUTION SYSTEM, INCLUDING THE COSTS DESCRIBED  
35 IN SECTION 45-837.01, SUBSECTION B, PARAGRAPH 1.

36 3. EXCEPT AS PROVIDED IN THIS PARAGRAPH, IF THE APPLICATION FOR THE  
37 RECOVERY WELL IS FILED AFTER THE DIRECTOR ADOPTS THE RULES REQUIRED BY  
38 SECTION 45-598, SUBSECTION A, THE DIRECTOR SHALL CONSIDER THE CUMULATIVE  
39 IMPACTS OF THE PROPOSED RECOVERY WELL, ANY WELLS INCLUDED IN ANY PERMITS  
40 ISSUED TO THE APPLICANT UNDER THIS SECTION OR SECTION 45-599 DURING THE  
41 TWELVE MONTH PERIOD PRECEDING THE DATE THE APPLICATION FOR THE PROPOSED  
42 RECOVERY WELL WAS FILED AND ANY WELLS INCLUDED IN ANY OTHER PENDING  
43 APPLICATIONS FILED BY THE APPLICANT UNDER THIS SECTION OR SECTION 45-599  
44 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE APPLICATION FOR THE  
45 PROPOSED RECOVERY WELL WAS FILED. THE DIRECTOR SHALL NOT CONSIDER THE

1 IMPACTS OF ANY WELL THAT IS NOT WITHIN THE AREAL EXTENT OF THE CUMULATIVE  
2 IMPACT ANALYSIS FOR THE PROPOSED RECOVERY WELL AS DETERMINED PURSUANT TO THE  
3 RULES ADOPTED UNDER SECTION 45-598, SUBSECTION A OR ANY WELL THAT IS INCLUDED  
4 IN A PERMIT ISSUED UNDER THIS SECTION OR THAT IS INCLUDED IN A PENDING  
5 APPLICATION UNDER THIS SECTION, IF THE WELL IS NOT SUBJECT TO SUBSECTION B,  
6 PARAGRAPH 1 OF THIS SECTION.

7 H. EXCEPT AS PROVIDED IN THIS SUBSECTION, IN DETERMINING WHETHER THE  
8 REQUIREMENTS IN SUBSECTION B, PARAGRAPH 4 OF THIS SECTION HAVE BEEN MET, THE  
9 DIRECTOR SHALL CONSIDER THE CUMULATIVE IMPACTS OF THE PROPOSED RECOVERY WELL,  
10 ANY WELLS INCLUDED IN ANY PERMITS ISSUED TO THE APPLICANT UNDER THIS SECTION  
11 OR SECTION 45-599 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE  
12 APPLICATION FOR THE PROPOSED RECOVERY WELL WAS FILED AND ANY WELLS INCLUDED  
13 IN ANY OTHER PENDING APPLICATIONS FILED BY THE APPLICANT UNDER THIS SECTION  
14 OR SECTION 45-599 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE  
15 APPLICATION FOR THE PROPOSED RECOVERY WELL WAS FILED. THE DIRECTOR SHALL NOT  
16 CONSIDER THE IMPACTS OF ANY WELL THAT IS NOT WITHIN THE AREAL EXTENT OF THE  
17 CUMULATIVE IMPACT ANALYSIS FOR THE PROPOSED RECOVERY WELL AS DETERMINED  
18 PURSUANT TO THE RULES ADOPTED UNDER SECTION 45-598, SUBSECTION A OR ANY WELL  
19 THAT IS NOT SUBJECT TO EITHER SUBSECTION B, PARAGRAPH 4 OF THIS SECTION OR  
20 SECTION 45-599, SUBSECTION D, PARAGRAPH 3.

21 I. IN ADDITION TO ANY INFORMATION REQUIRED PURSUANT TO SECTION  
22 45-871.01, SUBSECTION A, AN APPLICATION FOR A RECOVERY WELL PERMIT SHALL  
23 INCLUDE THE FOLLOWING, IF APPLICABLE:

24 1. IF THE APPLICATION IS FILED AFTER THE DIRECTOR ADOPTS THE RULES  
25 REQUIRED BY SECTION 45-598, SUBSECTION A AND THE APPLICATION IS SUBJECT TO  
26 SUBSECTION B, PARAGRAPH 1 OF THIS SECTION, A HYDROLOGICAL STUDY DEMONSTRATING  
27 THAT THE PROPOSED RECOVERY OF WATER COMPLIES WITH THE RULES. EXCEPT AS  
28 PROVIDED IN THIS PARAGRAPH, THE STUDY SHALL EVALUATE THE CUMULATIVE IMPACTS  
29 OF THE PROPOSED RECOVERY WELL, ANY WELLS INCLUDED IN ANY PERMITS ISSUED TO  
30 THE APPLICANT UNDER THIS SECTION OR SECTION 45-599 DURING THE TWELVE MONTH  
31 PERIOD PRECEDING THE DATE THE APPLICATION FOR THE PROPOSED RECOVERY WELL WAS  
32 FILED AND ANY WELLS INCLUDED IN ANY OTHER PENDING APPLICATIONS FOR A PERMIT  
33 UNDER THIS SECTION OR SECTION 45-599 FILED BY THE APPLICANT DURING THE TWELVE  
34 MONTH PERIOD PRECEDING THE DATE THE APPLICATION FOR THE PROPOSED RECOVERY  
35 WELL WAS FILED. THE STUDY SHALL NOT EVALUATE THE IMPACTS OF ANY WELL THAT IS  
36 NOT WITHIN THE AREAL EXTENT OF THE CUMULATIVE IMPACT ANALYSIS FOR THE  
37 PROPOSED RECOVERY WELL AS DETERMINED PURSUANT TO THE RULES ADOPTED UNDER  
38 SECTION 45-598, SUBSECTION A OR ANY WELL THAT IS INCLUDED IN A PERMIT ISSUED  
39 UNDER THIS SECTION OR THAT IS INCLUDED IN A PENDING APPLICATION UNDER THIS  
40 SECTION IF THE WELL IS NOT SUBJECT TO SUBSECTION B, PARAGRAPH 1 OF THIS  
41 SECTION.

42 2. IF THE APPLICATION IS FILED ON OR AFTER JANUARY 1, 2005 AND THE  
43 RECOVERY WELL IS TO BE LOCATED OUTSIDE THE AREA OF IMPACT OF THE STORED WATER  
44 AS DETERMINED BY THE DIRECTOR AND WITHIN THE BOUNDARIES OF A RIPARIAN AREA  
45 PROTECTION ZONE DELINEATED ON THE MAP IDENTIFIED IN SECTION 45-599,

1 SUBSECTION K, A HYDROLOGICAL STUDY DEMONSTRATING THAT RECOVERY OF WATER FROM  
2 THE WELL WILL NOT HAVE AN ADVERSE IMPACT ON THE RIPARIAN AREA WITHIN THE  
3 RIPARIAN AREA PROTECTION ZONE. EXCEPT AS PROVIDED IN THIS PARAGRAPH, THE  
4 STUDY SHALL EVALUATE THE CUMULATIVE IMPACTS OF THE PROPOSED RECOVERY WELL,  
5 ANY WELLS INCLUDED IN ANY PERMITS ISSUED TO THE APPLICANT UNDER THIS SECTION  
6 OR SECTION 45-599 DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THE  
7 APPLICATION FOR THE PROPOSED RECOVERY WELL WAS FILED AND ANY WELLS INCLUDED  
8 IN ANY OTHER PENDING APPLICATIONS FOR A PERMIT UNDER THIS SECTION OR SECTION  
9 45-599 FILED BY THE APPLICANT DURING THE TWELVE MONTH PERIOD PRECEDING THE  
10 DATE THE APPLICATION FOR THE PROPOSED RECOVERY WELL WAS FILED. THE  
11 HYDROLOGICAL STUDY SHALL NOT EVALUATE THE IMPACTS OF ANY WELL THAT IS NOT  
12 WITHIN THE AREAL EXTENT OF THE CUMULATIVE IMPACT ANALYSIS FOR THE PROPOSED  
13 RECOVERY WELL AS DETERMINED PURSUANT TO THE RULES ADOPTED UNDER SECTION  
14 45-598, SUBSECTION A OR ANY WELL THAT IS NOT SUBJECT TO SUBSECTION B,  
15 PARAGRAPH 4 OF THIS SECTION OR SECTION 45-599, SUBSECTION D, PARAGRAPH 3.

16 ~~G.~~ J. A recovery well permit shall include the following information:

- 17 1. The name and mailing address of the person to whom the permit is  
18 issued.
- 19 2. The legal description of the location of the existing well or  
20 proposed new well from which stored water may be recovered pursuant to the  
21 permit.
- 22 3. The purpose for which the stored water will be recovered.
- 23 4. The depth and diameter of the existing well or proposed new well  
24 from which stored water may be recovered pursuant to the permit.
- 25 5. The legal description of the land on which the stored water will be  
26 used.
- 27 6. The maximum pumping capacity of the existing well or proposed new  
28 well.
- 29 7. If the permit is for a proposed new well, the latest date for  
30 completing the proposed new well.
- 31 8. Any other information as the director may determine.

32 Sec. 36. Title 45, chapter 3.1, article 3, Arizona Revised Statutes,  
33 is amended by adding section 45-837.01, to read:

34 45-837.01. Responsibility for mitigating damage; conditions;  
35 civil action; burden of proof

36 A. IF RECOVERY OF WATER PURSUANT TO A RECOVERY WELL PERMIT ISSUED  
37 UNDER SECTION 45-834.01 CAUSES A DECLINE IN GROUNDWATER LEVELS AT THE  
38 LOCATION OF AN EXEMPT WELL TO THE EXTENT THAT THE EXEMPT WELL IS NO LONGER  
39 CAPABLE OF WITHDRAWING GROUNDWATER IN AN AMOUNT SUFFICIENT TO SERVE THE  
40 EXISTING USE, THE HOLDER OF THE RECOVERY WELL PERMIT SHALL MITIGATE THE  
41 DAMAGE CAUSED TO THE EXEMPT WELL IN THE MANNER DESCRIBED IN SUBSECTION B OF  
42 THIS SECTION IF ALL OF THE FOLLOWING APPLY:

- 43 1. THE APPLICATION FOR THE RECOVERY WELL PERMIT WAS FILED ON OR AFTER  
44 JANUARY 1, 2003 AND THE APPLICANT WAS REQUIRED BY SECTION 45-834.01,  
45 SUBSECTION I, PARAGRAPH 1 TO SUBMIT A HYDROLOGICAL STUDY DEMONSTRATING THAT

1 THE PROPOSED RECOVERY OF WATER COMPLIES WITH THE RULES ADOPTED BY THE  
2 DIRECTOR PURSUANT TO SECTION 45-598, SUBSECTION A.

3 2. THE HYDROLOGICAL STUDY SUBMITTED WITH THE APPLICATION FOR THE  
4 RECOVERY WELL PERMIT INCORRECTLY CONCLUDED THAT THE WELL WOULD NOT CAUSE  
5 UNREASONABLY INCREASING DAMAGE TO THE EXEMPT WELL UNDER THE CRITERIA  
6 CONTAINED IN THE RULES ADOPTED PURSUANT TO SECTION 45-598, SUBSECTION A AT  
7 THE TIME THE APPLICATION WAS FILED.

8 3. THE WELL IS EXEMPT UNDER SECTION 45-454, SUBSECTION A OR SUBSECTION  
9 B, PARAGRAPH 1 OR IS A REPLACEMENT EXEMPT WELL AS DEFINED IN SECTION 45-454.

10 B. A HOLDER OF A RECOVERY WELL PERMIT SHALL MITIGATE THE DAMAGE CAUSED  
11 TO AN EXEMPT WELL AS PROVIDED IN SUBSECTION A OF THIS SECTION IN ONE OF THE  
12 FOLLOWING WAYS, AS SELECTED BY THE HOLDER OF THE RECOVERY WELL PERMIT:

13 1. BY ENSURING THAT THE OWNER OF THE EXEMPT WELL HAS ACCESS TO ANOTHER  
14 WATER SUPPLY SUFFICIENT TO SERVE THE USE PREVIOUSLY SERVED BY THE EXEMPT  
15 WELL. MITIGATION UNDER THIS PARAGRAPH MAY BE ACCOMPLISHED BY PAYING THE COST  
16 OF CONNECTING THE USE SERVED BY THE EXEMPT WELL TO THE NEAREST MUNICIPAL  
17 PROVIDER WITH A POTABLE WATER DISTRIBUTION SYSTEM, INCLUDING THE COST OF ANY  
18 IMPACT FEES IMPOSED BY THE MUNICIPAL PROVIDER AND ANY COSTS IMPOSED BY THE  
19 MUNICIPAL PROVIDER FOR EXTENDING ITS DISTRIBUTION LINE TO THE EXEMPT WELL  
20 OWNER'S LAND. IF MITIGATION OCCURS UNDER THIS PARAGRAPH, THE EXEMPT WELL  
21 OWNER SHALL ABANDON THE EXEMPT WELL IN ACCORDANCE WITH THE RULES ADOPTED BY  
22 THE DIRECTOR PURSUANT TO SECTION 45-594, SUBSECTION A.

23 2. BY PAYING THE COST OF DEEPENING THE EXEMPT WELL SO THAT GROUNDWATER  
24 MAY BE WITHDRAWN FROM THE WELL IN AN AMOUNT SUFFICIENT TO SERVE THE EXISTING  
25 USE.

26 3. BY PAYING THE COST OF RELOCATING THE EXEMPT WELL TO ANOTHER  
27 LOCATION ON THE SAME PARCEL OF LAND SO THAT GROUNDWATER MAY BE WITHDRAWN IN  
28 AN AMOUNT SUFFICIENT TO SERVE THE USE IN THE SAME MANNER PREVIOUSLY SERVED BY  
29 THE EXEMPT WELL. IF MITIGATION OCCURS UNDER THIS PARAGRAPH, THE EXEMPT WELL  
30 OWNER SHALL ABANDON THE ORIGINAL EXEMPT WELL IN ACCORDANCE WITH THE RULES  
31 ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-594, SUBSECTION A.

32 4. BY PAYING DAMAGES TO THE OWNER OF THE EXEMPT WELL IN AN AMOUNT  
33 AGREED TO BY THE PARTIES OR DETERMINED BY A COURT, BUT NOT TO EXCEED THE  
34 LEAST COST OF MITIGATING THE DAMAGE UNDER PARAGRAPHS 1, 2 AND 3 OF THIS  
35 SUBSECTION.

36 C. AN ACTION TO ENFORCE THIS SECTION MAY BE BROUGHT ONLY AS A CIVIL  
37 ACTION IN SUPERIOR COURT BY THE OWNER OF THE EXEMPT WELL. THE OWNER OF THE  
38 EXEMPT WELL SHALL HAVE THE BURDEN OF PROVING THAT RECOVERY OF WATER FROM THE  
39 RECOVERY WELL CAUSED THE DAMAGE DESCRIBED IN SUBSECTION A OF THIS SECTION.

40 D. AN ACTION UNDER THIS SECTION MAY NOT BE FILED LATER THAN ONE YEAR  
41 AFTER THE DATE ON WHICH THE OWNER OF THE EXEMPT WELL FIRST HAS A REASONABLE  
42 OPPORTUNITY TO DISCOVER THAT THE EXEMPT WELL IS NO LONGER CAPABLE OF  
43 WITHDRAWING GROUNDWATER IN AN AMOUNT SUFFICIENT TO SERVE THE EXISTING USE OR  
44 TWENTY YEARS AFTER THE DIRECTOR ISSUED THE RECOVERY WELL PERMIT UNDER SECTION  
45 45-834.01, WHICHEVER IS EARLIER.

1 E. IF A HOLDER OF A RECOVERY WELL PERMIT IS REQUIRED BY THIS SECTION  
2 TO MITIGATE DAMAGE CAUSED TO AN EXEMPT WELL, NO ACTION SHALL BE BROUGHT OR  
3 MAINTAINED AGAINST THE HOLDER OF THE PERMIT FOR THE DAMAGE IF THE HOLDER OF  
4 THE PERMIT MITIGATES THE DAMAGE IN THE MANNER PROVIDED IN SUBSECTION B OF  
5 THIS SECTION.

6 Sec. 37. Section 45-852.01, Arizona Revised Statutes, is amended to  
7 read:

8 45-852.01. Long-term storage accounts

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

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

19 1. The water that was stored was water that cannot reasonably be used  
20 directly.

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

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

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

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

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

35 1. If the water was stored at a managed underground storage facility  
36 that had not been designated at the time of storage as a facility that could  
37 add value to a national park, national monument or state park and the water  
38 stored is effluent, the director shall credit to the storer's long-term  
39 storage account fifty per cent of the recoverable amount of water that meets  
40 the requirements of subsection B of this section.

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

1 of this section and that was proven to the director's satisfaction as being  
2 used on a gallon-for-gallon substitute basis for groundwater.

3 3. Except as otherwise provided in paragraphs 1 and 2 of this  
4 subsection, the director shall credit to the storer's long-term storage  
5 account one hundred per cent of the recoverable amount of water that meets  
6 the requirements of subsection B of this section if any of the following  
7 apply:

8 (a) The water stored was effluent.

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

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

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

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

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

25 2. The amount of long-term storage credits that the person has  
26 assigned to another person or transferred to a master replenishment account,  
27 ~~OR conservation district account~~ ~~or water district account~~.

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

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

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

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

1 F. To the extent the total amount of water withdrawn by a person from  
2 wells designated as recovery wells pursuant to section 45-834.01 during a  
3 calendar year exceeds the amount of stored water recovered by the person on  
4 an annual basis pursuant to section 45-851.01 and the amount of long-term  
5 storage credits recovered by the person, the excess amount of water recovered  
6 shall be considered groundwater withdrawn pursuant to chapter 2 of this  
7 title.

8 Sec. 38. Section 45-854.01, Arizona Revised Statutes, is amended to  
9 read:

10 45-854.01. Assignability of long-term storage credits

11 A. Except as provided in section 45-855.01, subsection C, the holder  
12 of long-term storage credits may assign by grant, gift, sale, lease or  
13 exchange all or part of the holder's long-term storage credits.

14 B. Except as provided in subsection C of this section, an assignment  
15 of long-term storage credits from one person to another is valid on receipt  
16 by the director of notification of the assignment in writing on a form that  
17 is provided by the director and that has been signed by both the assignor and  
18 assignee.

19 C. EXCEPT FOR THE ASSIGNMENT OF LONG-TERM STORAGE CREDITS BY THE  
20 ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2457, SUBSECTION B,  
21 PARAGRAPHS 2, 7 AND 8, the director may reject and invalidate any assignment  
22 of long-term storage credits in which the stored water would not have met the  
23 requirements for long-term storage credits as prescribed by section 45-852.01  
24 if the assignee had stored the water.

25 Sec. 39. Section 45-859.01, Arizona Revised Statutes, is amended to  
26 read:

27 45-859.01. Conservation district account; replenishment reserve  
28 subaccount; debits and credits

29 A. The director shall establish a long-term storage account and a  
30 conservation district account for each active management area in which a  
31 member land, ~~or~~ member service area, LIMITED MEMBER LAND OR LIMITED MEMBER  
32 SERVICE AREA is or may be located. THE DIRECTOR SHALL ESTABLISH A  
33 REPLENISHMENT RESERVE SUBACCOUNT WITHIN THE LONG-TERM STORAGE ACCOUNT FOR  
34 EACH ACTIVE MANAGEMENT AREA IN WHICH A MEMBER LAND OR MEMBER SERVICE AREA IS  
35 OR MAY BE LOCATED.

36 B. For each reporting year, the groundwater replenishment obligation  
37 as defined in section 48-3701 for each active management area shall be  
38 debited from the conservation district account for that active management  
39 area.

40 C. For each reporting year, the contract replenishment obligation as  
41 defined in section 48-3701 for each active management area shall be debited  
42 from the conservation district account for that active management area.

43 D. On application by a conservation district to the director, credits  
44 in the conservation district's long-term storage account for an active  
45 management area, including credits earned through the use of excess capacity



1 of each project permitted under article 6 of this chapter, shall be  
2 transferred and credited to its conservation district account for the same  
3 active management area.

4 E. BEGINNING ON JANUARY 1, 2030, ON APPLICATION BY A CONSERVATION  
5 DISTRICT TO THE DIRECTOR, CREDITS IN THE CONSERVATION DISTRICT'S  
6 REPLENISHMENT RESERVE SUBACCOUNT FOR AN ACTIVE MANAGEMENT AREA SHALL BE  
7 TRANSFERRED AND CREDITED TO ITS CONSERVATION DISTRICT ACCOUNT FOR THE SAME  
8 ACTIVE MANAGEMENT AREA, PROVIDED THAT ANY SUCH TRANSFER THAT WOULD CAUSE THE  
9 BALANCE IN THE REPLENISHMENT RESERVE SUBACCOUNT FOR AN ACTIVE MANAGEMENT AREA  
10 TO FALL BELOW TWENTY-FIVE PER CENT OF THE RESERVE TARGET FOR THAT ACTIVE  
11 MANAGEMENT AREA SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR.

12 ~~E.~~ F. For each reporting year, the director shall credit the  
13 conservation district's conservation district account by the amount of water  
14 stored by the conservation district during the reporting year, if the  
15 conservation district has requested the director to credit the stored water  
16 directly to its conservation district account and the stored water would  
17 otherwise be eligible for credits in a long-term storage account.

18 G. FOR EACH REPORTING YEAR, THE DIRECTOR SHALL CREDIT THE CONSERVATION  
19 DISTRICT'S REPLENISHMENT RESERVE SUBACCOUNT FOR EACH ACTIVE MANAGEMENT AREA  
20 BY THE AMOUNT OF LONG-TERM STORAGE CREDITS DEVELOPED BY THE CONSERVATION  
21 DISTRICT IN THAT ACTIVE MANAGEMENT AREA DURING THE REPORTING YEAR USING  
22 MONIES COLLECTED PURSUANT TO SECTION 48-3772, SUBSECTION E.

23 ~~F.~~ H. By October 31 of each year, the director shall determine  
24 whether the conservation district has completed the groundwater replenishment  
25 obligation for each active management area as prescribed by section 48-3771.

26 ~~G.~~ I. Credits in a conservation district account may not be assigned  
27 or transferred out of the conservation district account.

28 Sec. 40. Repeal

29 Section 45-860.01, Arizona Revised Statutes, is repealed.

30 Sec. 41. Section 45-871.01, Arizona Revised Statutes, is amended to  
31 read:

32 45-871.01. Permit application; fee; notice of application;  
33 objections; hearing; appeal

34 A. The director shall prescribe and furnish application forms for the  
35 permits prescribed by articles 2 and 3 of this chapter. The application  
36 forms shall require the applicant to submit the information needed by the  
37 director to determine whether the permit may be issued, INCLUDING, IF  
38 APPLICABLE, A HYDROLOGICAL STUDY REQUIRED BY SECTION 45-834.01,  
39 SUBSECTION I. The director shall establish and collect a reasonable fee from  
40 the applicant to cover the cost of administrative services and other expenses  
41 associated with evaluating and issuing each permit. All fees collected  
42 pursuant to this subsection shall be remitted pursuant to section 45-615,  
43 paragraph 1.

44 B. On receipt of an application for a permit pursuant to this chapter,  
45 the director shall endorse on the application the date of its receipt and

1 shall keep a record of the application. The director shall conduct a review  
2 of the application within one hundred days of receipt of the application. If  
3 the director determines in the review that the application is incomplete or  
4 incorrect, the director shall notify the applicant and the review period is  
5 extended by fifteen days. The application is incomplete or incorrect until  
6 the applicant files the information requested in the application. The  
7 director may conduct independent investigations as necessary to determine  
8 whether the application should be approved or rejected.

9 C. If the application is for water storage at an underground storage  
10 facility that is exempt from the requirement for an aquifer protection permit  
11 under section 49-250, subsection B, paragraph 12, 13 or 24, the director of  
12 water resources shall consult with the director of environmental quality and  
13 shall develop a coordinated and unified permit review process, which conforms  
14 to the time schedule prescribed by this section, to determine whether the  
15 permit application is correct and whether the development of a plan of action  
16 for monitoring and data analysis shall be required.

17 D. Except as provided in subsection E of this section, if the  
18 application is determined to be complete and correct and the application is  
19 for a storage facility permit or a water storage permit, the director, within  
20 fifteen days of that determination or a longer period if requested by the  
21 applicant, shall give notice of the application once each week for two  
22 consecutive weeks in a newspaper of general circulation in the county or  
23 counties in which persons reside who could reasonably be expected to be  
24 affected by the water storage. The director shall also give notice by first  
25 class mail to each city, town, private water company, irrigation district and  
26 electrical district that serves land within the area of impact of the stored  
27 water. The notice shall state that persons who may be adversely affected by  
28 the water storage may file written objections to the issuance of the permit  
29 with the director for fifteen days after the last publication of notice. An  
30 objection shall state the name and mailing address of the objector, shall be  
31 signed by the objector or the objector's agent or attorney and shall clearly  
32 set forth the reasons why the permit should not be issued. The grounds for  
33 objection are limited to whether the application meets the criteria for  
34 issuing the permit being requested as prescribed by articles 2 and 3 of this  
35 chapter.

36 E. If the application is determined to be complete and correct and the  
37 application is for a water storage permit to store Colorado river water at a  
38 storage facility where storage of Colorado river water has previously been  
39 permitted, the director may issue the permit within twenty days of that  
40 determination if all of the following apply:

41 1. The holder of the storage facility permit with which the water  
42 storage permit will be affiliated has consented to the water storage.

43 2. The water storage permit will not require a modification of an  
44 affiliated water storage facility permit.

1           3. Colorado river water will be the only type of water stored under  
2 the water storage permit.

3           4. The applicant has the right to use the Colorado river water.

4           F. Except as provided in section 45-834.01, subsection D, if the  
5 application is determined to be complete and correct and the application is  
6 for a recovery well permit, the director, within fifteen days of the  
7 determination or a longer period if requested by the applicant, shall give  
8 notice of the application once each week for two consecutive weeks in a  
9 newspaper of general circulation in the county in which the applicant  
10 proposes to recover stored water. If the application is for a well located  
11 inside of or within three miles of the exterior boundaries of the service  
12 area of a city, town, private water company or irrigation district, the  
13 applicant shall give notice of the application by first class mail to each  
14 city, town, private water company or irrigation district within that  
15 distance. The applicant shall file proof of the notice with the  
16 director. The notice shall state that persons who may be adversely affected  
17 by the recovery well may file written objections to the issuance of the  
18 permit with the director for fifteen days after the last publication of  
19 notice. An objection shall state the name and mailing address of the  
20 objector, shall be signed by the objector or the objector's agent or attorney  
21 and shall clearly set forth reasons why the permit should not be issued. The  
22 grounds for objection are limited to whether the application meets the  
23 criteria for issuing a recovery well permit as set forth in section  
24 45-834.01, subsection B. For the purposes of this subsection, if the  
25 proposed recovery well is located within three miles outside of the exterior  
26 boundaries of the service area of a city, town, private water company or  
27 irrigation district, a city, town, private water company or irrigation  
28 district within that distance shall be considered a person who may be  
29 adversely affected by the recovery well.

30           G. In appropriate cases, including cases in which a proper objection  
31 to the permit application has been filed, an administrative hearing may be  
32 held before the director's decision on the application if the director deems  
33 a hearing necessary. At least thirty days before the hearing, the director  
34 shall notify the applicant and any person who filed a proper objection to the  
35 issuance of the permit. The hearing shall be scheduled for at least sixty  
36 days but not more than ninety days after the expiration of the time in which  
37 to file objections.

38           H. If a hearing is not held, the director shall issue a decision and  
39 order within six months of the date notice of the application is first given  
40 pursuant to subsection D or F of this section, or within ninety days in the  
41 case of an application under article 6 of this chapter. The director shall  
42 record and endorse the approval or rejection of the application on the  
43 application. If the permit is denied, the director shall return a copy of  
44 the application to the applicant specifically stating the reasons for denial.

1 I. The applicant or any person who filed a proper objection to the  
2 application may seek judicial review of the final decision of the director as  
3 provided in section 45-114, subsection B in superior court as provided in  
4 section 45-405.

5 J. Section 45-114, subsections A and B govern administrative  
6 proceedings, rehearings or review and judicial review of final decisions of  
7 the director under this section. If an administrative hearing is held, it  
8 shall be conducted in the active management area in which the storage or  
9 recovery is located.

10 K. On receipt of an application for a permit pursuant to this section,  
11 the director shall provide written notice of the proposed permit to the city,  
12 town or county that has land use jurisdiction over the site that is the  
13 subject of the permit. The notice shall be given at the same time and in the  
14 same manner as the notices prescribed by subsections D and F in order to  
15 provide the city, town or county with the opportunity to comment on the  
16 proposed facility's or well's compliance with site planning and operational  
17 requirements of the city, town or county. This subsection shall not be  
18 construed to limit the exclusive authority of the director to determine the  
19 issuance of the permit or the site of the facility or well or to reduce the  
20 authority of the city, town or county to enforce its applicable ordinances  
21 governing site planning and operational requirements.

22 Sec. 42. Section 45-877.01, Arizona Revised Statutes, is amended to  
23 read:

24 45-877.01. Annual reports by conservation districts; penalties

25 A. Each conservation district shall file an annual report with the  
26 director that includes for each active management area in which a member  
27 land, ~~or~~ member service area, **LIMITED MEMBER LAND OR LIMITED MEMBER SERVICE**  
28 **AREA** is or may be located:

29 1. The total amount of water that was stored by the conservation  
30 district during the reporting year pursuant to each water storage permit  
31 issued to it under this chapter.

32 2. The amount of water stored by the conservation district during the  
33 reporting year to be credited to the conservation district's conservation  
34 district account.

35 3. The amount of water stored by the conservation district during the  
36 reporting year to be credited to the conservation district's long-term  
37 storage account.

38 **4. THE AMOUNT OF WATER STORED BY THE CONSERVATION DISTRICT DURING THE**  
39 **REPORTING YEAR TO BE CREDITED TO THE CONSERVATION DISTRICT'S REPLENISHMENT**  
40 **RESERVE SUBACCOUNT.**

41 ~~4.~~ 5. The amount of long-term storage credits the conservation  
42 district has transferred and credited to its conservation district account  
43 during the reporting year.

44 ~~5.~~ 6. The groundwater replenishment obligation as defined in section  
45 48-3701 for the reporting year.

1           ~~6.~~ 7. The contract replenishment obligation as defined in section  
2 48-3701 for the reporting year.

3           ~~7.~~ 8. The information required under section 48-3775.

4           ~~8.~~ 9. Other information as the director may require.

5           B. The annual report required under subsection A of this section shall  
6 be maintained on a calendar year basis and shall be filed with the director  
7 no later than August 31 of each year for the preceding calendar year, which  
8 is the reporting year.

9           C. If the conservation district fails to file the report when due, the  
10 director may assess and collect a penalty of up to one hundred dollars for  
11 each day the annual report is delinquent. The director shall deposit,  
12 pursuant to sections 35-146 and 35-147, all penalties collected pursuant to  
13 this subsection in the state general fund.

14           D. If a municipal provider as defined in section 48-3701 does not  
15 timely file the annual report required by section 48-3775, the director may  
16 assess and collect a penalty of up to one thousand dollars for each day the  
17 annual report is delinquent. The director shall deposit, pursuant to  
18 sections 35-146 and 35-147, all penalties collected pursuant to this  
19 subsection in the state general fund.

20           Sec. 43. Repeal

21           Section 45-878.01, Arizona Revised Statutes, is repealed.

22           Sec. 44. Section 45-896.01, Arizona Revised Statutes, is amended to  
23 read:

24           45-896.01. Assumption of responsibility for stored water

25           A. Notwithstanding section 45-895.01, if a groundwater replenishment  
26 district is established pursuant to title 48, chapter 27 on or before July 1,  
27 1996 in the Phoenix active management area:

28           1. The multi-county water conservation district and the groundwater  
29 replenishment district shall share equally any water that is stored in a  
30 state demonstration project in that active management area. The shares shall  
31 be calculated after the director has determined the amount of stored water to  
32 be reserved pursuant to paragraph 2 of this subsection.

33           2. The director shall determine the quantity of any water that is  
34 stored for the benefit of municipal and industrial users that are not member  
35 lands, ~~or~~ member service areas, **LIMITED MEMBER LANDS OR LIMITED MEMBER**  
36 **SERVICE AREAS** of the multi-county water conservation district and that are  
37 located in Maricopa county and the right to use that amount of water is  
38 reserved to those municipal and industrial users. Those municipal and  
39 industrial users may recover and use the water as otherwise provided by  
40 statute or rule but shall apply to the multi-county water conservation  
41 district for the use of the water.

42           3. On or before December 31, 1996, unexpended and unencumbered monies,  
43 liabilities, facilities and equipment of a state demonstration project shall  
44 be transferred to the multi-county water conservation district and the  
45 groundwater replenishment district in equal shares.

1 ~~B. Notwithstanding section 45-895.01, if a permanent active management~~  
2 ~~area water district is established pursuant to title 48, chapter 28 on or~~  
3 ~~before July 1, 1996 in the Tucson active management area:~~

4 ~~1. The multi-county water conservation district and the active~~  
5 ~~management area water district shall share equally any water that is stored~~  
6 ~~in a state demonstration project located in that active management area. The~~  
7 ~~shares shall be calculated after the director has determined the amount of~~  
8 ~~stored water to be reserved pursuant to paragraph 2 of this subsection.~~

9 ~~2. The director shall determine the quantity of any water that is~~  
10 ~~stored for the benefit of municipal and industrial users that are not member~~  
11 ~~lands or member service areas of the multi-county water conservation district~~  
12 ~~and that are located in Pima county and the right to use that amount of water~~  
13 ~~is reserved to those municipal and industrial users. Those municipal and~~  
14 ~~industrial users may recover and use the water as otherwise provided by~~  
15 ~~statute or rule but shall apply to the multi-county water conservation~~  
16 ~~district for the use of the water.~~

17 ~~3. On or before December 31, 1996, unexpended and unencumbered monies,~~  
18 ~~liabilities, facilities and equipment of a state demonstration project shall~~  
19 ~~be transferred to the multi-county water conservation district and the active~~  
20 ~~management area water district in equal shares.~~

21 ~~C.~~ B. Notwithstanding section 45-895.01 and only to the extent that  
22 subsection A ~~or B~~ of this section does not apply:

23 1. Not later than December 31, 1996, facilities, equipment and  
24 liabilities of a state demonstration project located in a multi-county water  
25 conservation district shall be transferred to the multi-county water  
26 conservation district.

27 2. The multi-county water conservation district shall use the monies  
28 in the state water storage fund established by section 45-897.01 to  
29 expediently store water and construct underground storage facilities until  
30 that fund is exhausted.

31 3. On July 1, 1996 the multi-county water conservation district shall  
32 assume responsibility for water that is stored by that date in a state  
33 demonstration project located in the district. Before July 1, 1996 the  
34 director shall determine the quantity of water that has been stored for the  
35 benefit of municipal and industrial users that are located in Maricopa or  
36 Pima counties but that are not member lands, ~~or~~ member service areas, **LIMITED**  
37 **MEMBER LANDS OR LIMITED MEMBER SERVICE AREAS** of the multi-county water  
38 conservation district. The right to use that quantity of water is reserved  
39 for the benefit of those municipal and industrial users. The water not  
40 reserved for this purpose shall be used for the benefit of member lands, ~~or~~  
41 member service areas, **LIMITED MEMBER LANDS OR LIMITED MEMBER SERVICE AREAS** of  
42 the multi-county water conservation district.

43 4. Periodically after July 1, 1996, until the state water storage fund  
44 is exhausted, the director shall determine the quantity of water that has  
45 been stored with the use of monies from the state water storage fund for the

1 benefit of municipal and industrial users that are located in Maricopa or  
2 Pima county but that are not member lands, ~~or~~ member service areas, LIMITED  
3 MEMBER LANDS OR LIMITED MEMBER SERVICE AREAS of the multi-county water  
4 conservation district. The director shall transfer those quantities of  
5 long-term storage credits to the Arizona water banking authority. The  
6 Arizona water banking authority shall use the long-term storage credits  
7 transferred pursuant to this paragraph in accordance with section 45-2457,  
8 subsection B, paragraph 7.

9 5. Long-term storage credits THAT ARE earned after July 1, 1996 with  
10 the use of monies in the state water storage fund established by section  
11 45-897.01 AND that are not transferred to the Arizona water banking authority  
12 pursuant to paragraph 4 of this subsection shall be transferred to the  
13 multi-county water conservation district and shall be used for the benefit of  
14 member lands or member service areas of the multi-county water conservation  
15 district.

16 Sec. 45. Section 45-2104, Arizona Revised Statutes, is amended to  
17 read:

18 45-2104. Powers and duties; limitations

19 A. The powers and authority vested in and the duties imposed on the  
20 members of the commission shall be exercised by a quorum of members, which  
21 consists of a majority of members then in office, except that a lesser number  
22 may hold public meetings without taking legal action.

23 B. The commission shall:

24 1. Adopt rules necessary to perform its duties.

25 2. Administer the expenditure of monies in accordance with section  
26 45-2113.

27 3. Coordinate its staffing needs with the director and the state land  
28 commissioner.

29 4. Make and execute all necessary contracts, including grants and  
30 intergovernmental agreements pursuant to title 11, chapter 7, article 3.

31 5. Adopt an official seal for the authentication of its records,  
32 decisions and resolutions.

33 6. Keep the minutes of its meetings, ~~and~~ AND all records, reports and  
34 other information relating to its work and programs in permanent form,  
35 systematically indexed and filed.

36 7. Designate the person or persons who shall execute all documents and  
37 instruments on behalf of the commission.

38 8. Each year elect two members to act as a chair and a vice-chair for  
39 the commission.

40 9. Manifest and record its actions by motion, resolution, order or  
41 other appropriate means.

42 10. In addition to those meetings required by law to be open, hold open  
43 public meetings as the commission considers appropriate.

44 11. Prepare an annual report of its activities.

45 C. The commission may:

1           1. Sue and be sued.

2           2. Contract with any person for the expenditure of monies, including  
3 the granting of monies, consistent with ~~section~~ SECTIONS 45-2113 AND 45-2114.

4           3. Meet jointly with federal or state authorities to consider matters  
5 of mutual interest.

6           4. Secure from any federal or state agency or department information  
7 necessary to enable the commission to carry out its purposes.

8           5. Accept, use and dispose of appropriations, gifts or grants of money  
9 or other property or donations of services, from whatever source, only to  
10 carry out the purposes authorized in this chapter.

11          6. Perform all other acts necessary to carry out the purposes of this  
12 chapter.

13          D. Nothing in this chapter shall be construed to authorize the  
14 commission to purchase real property or to use this state's right of eminent  
15 domain to acquire water or water rights using monies derived from the Arizona  
16 water protection fund established by section 45-2111.

17          Sec. 46. Section 45-2113, Arizona Revised Statutes, is amended to  
18 read:

19           45-2113. Fund grants; applications

20          A. The commission shall grant monies from the fund consistent with the  
21 application guidelines developed pursuant to section 45-2105. The commission  
22 shall establish a procedure by which monies may be granted annually which  
23 shall include a maximum of six months between the receipt of the proposal by  
24 the commission and the disbursement of monies. The commission shall give  
25 priority in funding to the following:

26           1. Projects for which matching monies or assets of comparable value  
27 including in-kind contributions will be provided by other sources.

28           2. Projects that provide for the continued maintenance of the portion  
29 of the river and stream and associated riparian habitat that are enhanced by  
30 the project.

31           3. Projects that include broad based local involvement.

32           4. Projects that directly benefit perennial or intermittent rivers or  
33 streams.

34          B. The commission shall require as a condition of approval of any  
35 proposal all of the following provisions:

36           1. Allowing access for inspection and evaluation of the project.

37           2. Controlling the expenditure of and accounting for any monies  
38 granted by the commission.

39           3. Requiring that those persons responsible for the project submit all  
40 pertinent information and research gained from the project to the commission.

41           4. Requiring that any person receiving a grant spend no more than five  
42 per cent of the grant on costs of administration.

43          C. The commission shall provide for public involvement regarding the  
44 applications submitted to the commission which shall include notice to any  
45 person who requests notice of applications and which shall provide a



1 reasonable opportunity for comment on the application which shall not be less  
2 than forty-five days.

3 D. On receipt of an application the commission shall notify cities,  
4 towns, counties, natural resource conservation districts, special districts  
5 and Indian communities affected by the proposal and shall provide a  
6 reasonable opportunity for comment on the application which shall not be less  
7 than forty-five days.

8 E. Any person, state or federal agency or political subdivision of  
9 this state may submit a request for funding from the fund for purposes  
10 prescribed by this section. Requests for funding shall be made to the  
11 commission. Requests for funding submitted to the commission may be  
12 accompanied by expressions of support from affected cities, towns, counties,  
13 natural resource conservation districts, special districts or Indian  
14 communities.

15 F. As a condition of approval by the commission, the applicant shall  
16 commit to work jointly with the affected cities, towns, counties, natural  
17 resource conservation districts, special districts and Indian communities  
18 that have contacted the commission pursuant to subsection D of this section  
19 on all aspects of the proposal's implementation and monitoring, unless the  
20 jurisdiction chooses not to participate.

21 G. Monies in the fund may only be spent to finance programs located in  
22 this state.

23 H. Monies in the fund may be spent for any of the following,  
24 CONSISTENT WITH THE DECLARED POLICY AND PURPOSES OF THE ARIZONA WATER  
25 PROTECTION FUND:

26 1. Granting monies to entities ~~for the acquisition of~~ IN ORDER TO  
27 PURCHASE, LEASE OR ACQUIRE WATER, INCLUDING central Arizona project water or  
28 effluent OR WATER RIGHTS that will protect or restore rivers or streams AND  
29 ASSOCIATED RIPARIAN HABITATS consistent with state water law. ~~No entity may~~  
30 ~~exercise the right of eminent domain to acquire water or water rights using~~  
31 ~~monies derived from this fund.~~

32 2. GRANTING MONIES TO QUALIFIED ENTITIES FOR ACQUISITION OF  
33 CONSERVATION EASEMENTS PURSUANT TO TITLE 33, CHAPTER 2, ARTICLE 4.

34 ~~2-~~ 3. Granting monies to assist in developing, promoting and  
35 implementing water conservation programs, directly related to the purposes of  
36 this chapter, outside of the active management areas, except that no more  
37 than five per cent of the monies spent in any fiscal year may be spent for  
38 this purpose.

39 ~~3-~~ 4. Granting monies in support of research and data collection,  
40 compilation and analysis directly related to the purposes of this chapter  
41 except that no more than five per cent of the monies deposited in the fund in  
42 any fiscal year may be spent for this purpose. Prior to the approval of any  
43 such project, the commission shall consult with the department of water  
44 resources and the state land department to determine whether any research of  
45 a similar nature has been or is in the process of being performed and is

1 already available. The commission shall not approve a proposal if either  
2 department determines that sufficient data exists and notifies the commission  
3 in writing.

4 ~~4.~~ 5. Granting monies for the development and implementation of  
5 capital projects or specific measures consistent with the purposes of this  
6 chapter.

7 I. Monies in the fund may not be spent for remedial action purposes  
8 undertaken pursuant to the comprehensive environmental response,  
9 compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat.  
10 2767; 42 United States Code section 9601) or title 49, chapter 2, article 5.

11 J. NO ENTITY MAY EXERCISE THE RIGHT OF EMINENT DOMAIN TO ACQUIRE WATER  
12 OR WATER RIGHTS USING MONIES DERIVED FROM THIS FUND.

13 Sec. 47. Section 45-2114, Arizona Revised Statutes, is amended to  
14 read:

15 ~~45-2114.~~ Administration

16 A. The director shall provide administrative, technical and legal  
17 support to the commission to the extent funding is available as prescribed by  
18 subsection B of this section and from legislative appropriations. This  
19 support may include the hiring of a contract administrator, an attorney,  
20 office support and technical support staff, who shall be employees of the  
21 department of water resources.

22 B. Interest may be spent by the department of water resources and the  
23 state land department for the administration of this chapter. The department  
24 of water resources and the state land department shall apply for grants from  
25 the fund for any additional monies necessary for the administration of this  
26 chapter. ~~Any interest in excess of administration costs may be spent for the~~  
27 ~~purposes prescribed in section 45-2113.~~

28 C. In addition to the expenditures from the fund authorized by section  
29 45-2113, the commission may use five per cent of the total monies deposited  
30 in the fund during the previous calendar year to grant to the department of  
31 water resources and the state land department additional monies for  
32 administration of this chapter.

33 D. ON OR BEFORE JUNE 30 OF EACH YEAR, THE DIRECTOR OF THE DEPARTMENT  
34 OF WATER RESOURCES AND THE CHAIRMAN OF THE COMMISSION SHALL MEET AND MUTUALLY  
35 DETERMINE THE ADMINISTRATIVE BUDGET FOR EXPENSES PURSUANT TO SUBSECTIONS A  
36 AND B OF THIS SECTION. TO THE EXTENT THAT INTEREST MONIES EXCEED THE AMOUNT  
37 NEEDED FOR ADMINISTRATIVE EXPENSES PURSUANT TO SUBSECTIONS A AND B OF THIS  
38 SECTION AS DETERMINED BY THE DIRECTOR OF WATER RESOURCES IN CONSULTATION WITH  
39 THE CHAIRMAN OF THE COMMISSION, THE COMMISSION MAY USE INTEREST MONIES FOR  
40 THE FOLLOWING PURPOSES:

41 1. FOR PAYMENT OF COMPENSATION TO COMMISSION MEMBERS WHO ARE NOT EX  
42 OFFICIO MEMBERS PURSUANT TO SECTION 38-611 AND SUBJECT TO THE LIMITATION  
43 PRESCRIBED IN SECTION 45-2103, SUBSECTION C AND FOR REIMBURSEMENT FOR  
44 EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

1           2. IF INTEREST MONIES ARE AVAILABLE TO THE COMMISSION FOLLOWING  
2 PAYMENT OF COMPENSATION AND REIMBURSEMENT EXPENSES PURSUANT TO PARAGRAPH 1,  
3 FOR PAYMENT OF CONFERENCE COSTS ASSOCIATED WITH ARIZONA WATER PROTECTION FUND  
4 INFORMATION TRANSFER MEETINGS AND FOR PAYMENT TO OUTSIDE ADVISORS,  
5 CONSULTANTS, AIDES OR LEGISLATIVE LIAISONS.

6           3. IF INTEREST MONIES ARE AVAILABLE TO THE COMMISSION FOLLOWING  
7 PAYMENT OF COMPENSATION, REIMBURSEMENT OF EXPENSES AND PAYMENT OF COSTS  
8 PURSUANT TO PARAGRAPHS 1 AND 2, FOR PURPOSES PRESCRIBED IN SECTION 45-2113.

9           Sec. 48. Section 45-2427, Arizona Revised Statutes, is amended to  
10 read:

11           45-2427. Limitation on powers

12           A. This chapter does not authorize the authority to exercise any right  
13 of eminent domain.

14           B. The authority shall not store Colorado river water that would  
15 otherwise have been used in this state PURSUANT TO A CONTRACT ENTERED INTO  
16 PURSUANT TO SECTION 48-3703, PARAGRAPH 2, A SECTION 5 CONTRACT UNDER THE  
17 BOULDER CANYON PROJECT ACT (43 UNITED STATES CODE SECTIONS 617 THROUGH 617t)  
18 WITH A PRIORITY EQUAL TO OR HIGHER THAN A CONTRACT ENTERED INTO PURSUANT TO  
19 SECTION 48-3703, PARAGRAPH 2 OR ANY OTHER SECTION 5 CONTRACT UNDER THE  
20 BOULDER CANYON PROJECT ACT ENTERED INTO BEFORE THE EFFECTIVE DATE OF THIS  
21 AMENDMENT TO THIS SECTION. THE AUTHORITY SHALL NOT STORE FOR INTERSTATE  
22 WATER BANKING PURPOSES COLORADO RIVER WATER THAT WOULD OTHERWISE HAVE BEEN  
23 USED IN THIS STATE.

24           C. The authority shall not enter into contracts with agencies in  
25 California and Nevada for the storage of water on their behalf until both of  
26 the following occur:

27           1. Regulations are in effect, promulgated by the secretary of the  
28 interior of the United States, that facilitate and allow the contractual  
29 distribution of unused entitlement under article II(b)(6) of the decree.

30           2. The director finds that the rules promulgated by the secretary of  
31 the interior adequately protect this state's rights to Colorado river water,  
32 as those rights are defined by the decree.

33           D. The authority shall not enter into water banking services  
34 agreements that will provide water for use outside this state. The authority  
35 may cancel any water banking services agreement without penalty or further  
36 obligation if after entering into a water banking services agreement, the  
37 authority finds that the agreement will provide water for use outside of this  
38 state. Notice of this subsection shall be included in every water banking  
39 services agreement entered into by the authority. The cancellation under  
40 this subsection shall be effective when written notice from the authority is  
41 received by all other parties to the water banking services agreement.

42           Sec. 49. Section 45-2457, Arizona Revised Statutes, is amended to  
43 read:

1           45-2457. Accounting; rules of operation

2           A. The authority shall develop an accounting system for the long-term  
3 storage credits accrued by the authority. The accounting system shall be  
4 designed to allow the authority to determine which funding source of the  
5 banking fund paid for each long-term storage credit accrued by the authority.

6           B. The authority shall operate in accordance with all of the following  
7 rules of operation:

8           1. The authority shall reserve a reasonable number of long-term  
9 storage credits accrued with general fund appropriations for the benefit of  
10 municipal and industrial users of Colorado river water in this state that are  
11 outside of the service area of CAWCD.

12           2. The authority may distribute long-term storage credits accrued with  
13 general fund appropriations for both of the following:

14           (a) To make water available to a municipal and industrial user of  
15 Colorado river water in this state that is outside of the service area of  
16 CAWCD, if both of the following apply:

17           (i) The municipal and industrial user would otherwise suffer a water  
18 shortage. The authority may distribute long-term credits to the extent  
19 reasonably necessary to offset the water shortage.

20           (ii) The authority collects reimbursement for the cost to the  
21 authority of replacing the long-term storage credits distributed. The  
22 authority may replace the long-term storage credits in any year it deems  
23 appropriate but shall use good faith efforts to replace the long-term storage  
24 credits at a reasonable cost to the person who is responsible for reimbursing  
25 the authority for the credits distributed.

26           (b) To make water available to CAWCD to the extent necessary for CAWCD  
27 to meet the demands of its municipal and industrial subcontractors, if all of  
28 the following apply:

29           (i) CAWCD's normal diversions from the Colorado river have been or  
30 will be disrupted by shortages on the river or by disruptions in the  
31 operation of the central Arizona project.

32           (ii) The authority does not distribute for this purpose the long-term  
33 storage credits reserved in accordance with paragraph 1.

34           (iii) The authority collects reimbursement from CAWCD for the cost to  
35 the authority of replacing the long-term storage credits distributed. The  
36 authority may replace the long-term storage credits in any year it deems  
37 appropriate but shall use good faith efforts to replace the long-term storage  
38 credits at a reasonable cost to CAWCD.

39           3. The authority may distribute or extinguish long-term storage  
40 credits accrued with general fund appropriations to implement the settlement  
41 of water right claims by Indian communities in this state.

42           4. On request from the director, the authority may extinguish  
43 long-term storage credits accrued with general fund appropriations to fulfill  
44 the water management objectives set forth in chapter 2 of this title.

1           5. The authority may exchange long-term storage credits accrued with  
2 general fund appropriations for long-term storage credits held by other  
3 persons if the long-term storage credits received by the authority were  
4 stored in a location that better enables the authority to fulfill the  
5 purposes and policies of this chapter than were the long-term storage credits  
6 exchanged by the authority. For the purposes of this paragraph, the  
7 authority may make exchanges of long-term storage credits stored in one  
8 active management area for long-term storage credits stored in a different  
9 active management area or of long-term storage credits stored in one  
10 groundwater basin for long-term storage credits stored in a different  
11 groundwater basin.

12           6. The authority shall distribute or extinguish long-term storage  
13 credits accrued with monies collected in accordance with section 45-611,  
14 subsection C, paragraph 3 only for the benefit of the active management area  
15 in which the monies were collected. The authority may distribute or  
16 extinguish these long-term storage credits to implement the settlement of  
17 water right claims by Indian communities in this state or, on request from  
18 the director, to meet the water management objectives set forth in chapter 2  
19 of this title.

20           7. The authority shall distribute long-term storage credits accrued  
21 with monies deposited in the fund in accordance with section 48-3715.03,  
22 subsection B only for the benefit of the county in which the monies were  
23 collected. AFTER CONSULTATION WITH THE DIRECTOR, the authority shall  
24 distribute these long-term storage credits to CAWCD to the extent necessary  
25 AS DETERMINED BY CAWCD, to meet the demands of CAWCD's municipal and  
26 industrial subcontractors during times in which CAWCD's diversions from the  
27 Colorado river have been or will be disrupted by shortages on the Colorado  
28 river or by disruptions in operation of the central Arizona project. NOTHING  
29 IN THIS PARAGRAPH REQUIRES THE AUTHORITY TO DISTRIBUTE LONG-TERM STORAGE  
30 CREDITS TO CAWCD IN ANY YEAR IN AN AMOUNT GREATER THAN TWENTY PER CENT OF THE  
31 TOTAL MUNICIPAL AND INDUSTRIAL WATER SUBCONTRACT ENTITLEMENTS.

32           8. For each county within the CAWCD service area, on a determination  
33 by the authority that the number of long-term storage credits accrued with  
34 monies deposited in the fund in accordance with section 48-3715.03,  
35 subsection B exceeds the needs specified in paragraph 7 for that county, the  
36 authority shall distribute those excess long-term storage credits to  
37 municipal water providers within that county that are at the time of  
38 distribution experiencing surface water supply shortages not associated with  
39 the central Arizona project. The authority shall distribute to each such  
40 municipal water provider the lesser of the following number of long-term  
41 storage credits:

42           (a) The total number of credits determined to be available by the  
43 authority under this paragraph multiplied by the percentage produced by  
44 dividing a numerator equaling the amount of revenues paid pursuant to section  
45 48-3715.02, subsections B and C by taxpayers that are within both the

1 boundaries of the municipal provider that is experiencing the shortage and  
2 the boundaries of the surface water supply system that is experiencing the  
3 shortage by a denominator equaling the total revenues paid pursuant to  
4 section 48-3715.02, subsections B and C by all taxpayers that are located  
5 within both the boundaries of a municipal water provider and the boundaries  
6 of a surface water supply system in the county. In making these  
7 computations, the authority shall use the amounts of revenue paid by  
8 taxpayers during the most recent tax year for which this information is  
9 available.

10 (b) Twenty per cent of the total surface water shortage that the  
11 municipal and industrial water provider is experiencing.

12 9. The authority shall distribute or replace long-term storage credits  
13 accrued with monies collected pursuant to water banking services agreements  
14 in accordance with the terms of those agreements.

15 C. Any other long-term storage credits accrued by the authority may be  
16 distributed or extinguished by the authority in accordance with the policy  
17 and purposes of this chapter.

18 D. Except as provided by subsection B, paragraph 7 of this section and  
19 except as provided by agreements entered into by the authority, the decision  
20 to distribute or extinguish any long-term storage credit accrued by the  
21 authority is at the complete discretion of the authority.

22 Sec. 50. Section 48-264, Arizona Revised Statutes, is amended to read:  
23 48-264. Dissolution of inactive special taxing districts; board  
24 of supervisors action; exceptions

25 A. If a special taxing district is found to have been inactive for at  
26 least five consecutive years, and upon investigation the board of supervisors  
27 finds that the district has no future purpose as determined by the district  
28 board of directors and no current indebtedness, the board of supervisors  
29 shall dissolve the district by board resolution.

30 B. Dissolution action pursuant to subsection A does not apply to  
31 districts formed under chapters 4, 21, 22, ~~AND 27 and 28~~ of this title.

32 Sec. 51. Section 48-909, Arizona Revised Statutes, is amended to read:  
33 48-909. Purposes for which public improvements may be  
34 undertaken; powers incidental to public improvements

35 A. When the public interest or convenience requires, the board of  
36 directors of an improvement district may order:

37 1. The whole or any portion, either in length or width, of one or more  
38 of the streets of the district graded or regraded, paved or repaved,  
39 landscaped or otherwise maintained, improved or reimproved.

40 2. The acquisition, construction, reconstruction or repair of any  
41 street, tunnel, subway, viaduct or conduit in, on, under or over which the  
42 district may have an easement or right-of-way therefor.

43 3. The construction or reconstruction of sidewalks, crosswalks, curbs,  
44 gutters, culverts, bridges, tunnels, siphons, manholes, steps, parkings and  
45 parkways.

1           4. The placement, replacement or repair of pipes, hydrants and  
2 appliances for fire protection.

3           5. The acquisition, construction, reconstruction, maintenance or  
4 repair of wastewater treatment facilities, sewers, ditches, drains, conduits,  
5 pipelines and channels for sanitary and drainage purposes, with outlets,  
6 cesspools, manholes, catch basins, flush tanks, septic tanks, connecting  
7 sewers, ditches, drains, conduits, channels and other appurtenances in,  
8 under, over or through any street or any land of the district or any  
9 right-of-way granted or obtained for such purpose, either within or without  
10 the district limits.

11           6. The acquisition, construction, reconstruction or repair of  
12 waterworks for the delivery of water for domestic purposes, and of wells,  
13 ditches, canals, channels, conduits, pipelines and siphons, together with the  
14 necessary or usual appurtenances for carrying storm water or water from  
15 irrigation ditches, watercourses, streams or springs into, through or out of  
16 such district in, under, over or through any street, or any land of the  
17 district or any right-of-way granted or obtained for such purpose, either  
18 within or without the district limits. Nothing in this section shall be  
19 construed to prohibit the board of directors of an improvement district from  
20 purchasing an existing domestic water delivery system within the district or  
21 outside the district or constructing an initial or improving an existing  
22 domestic water delivery system inside or outside the district.

23           7. The construction, reconstruction or repair of breakwater levees or  
24 walls, riverbank protection or replacement of riverbanks and supporting land.  
25 A district established for this purpose shall cooperate and coordinate its  
26 plans and activities with the county flood control district established in  
27 the county and any incorporated city or town in which the district is  
28 established.

29           8. The acquisition, construction, reconstruction or repair of lighting  
30 plants and poles, wire conduits, lamps, standards and other appliances for  
31 the purpose of lighting and beautifying streets or other public lands.

32           9. The construction, reconstruction or repair of any work incidental  
33 to or connected with any such improvement.

34           10. The acquisition, in the name of the district, by gift, purchase or  
35 otherwise and the maintenance, repair, improvement or disposal of any real or  
36 personal property necessary or convenient for district operation for a  
37 community center, park or recreational area.

38           11. Pursuant to the provisions of section 48-902, the board of  
39 directors of an improvement district may contract for or in any other manner  
40 provide transportation services within the district.

41           B. In addition to the powers specifically granted by or reasonably  
42 inferred from the provisions of this article, an improvement district through  
43 its board of directors may:

44           1. Acquire by gift, purchase, condemnation or otherwise in the name of  
45 the district and own, control, manage and dispose of any real or personal

1 property or interest in such property necessary or convenient for the  
2 construction, operation and maintenance of any of the improvements provided  
3 for by this article.

4 2. Join with any other improvement district, any city, town,  
5 governmental agency or Indian tribe, or any agency or instrumentality of an  
6 Indian tribe, or any person in the construction, operation or maintenance of  
7 any of the improvements hereby authorized.

8 3. Join with any other improvement district or any city, town, county  
9 or Indian tribe, or any agency or instrumentality of an Indian tribe, in  
10 improving streets running upon or along the boundary of the district and levy  
11 assessments and issue bonds for the district's part of the cost of such  
12 improvements.

13 4. Sell, lease or otherwise dispose of any property of the district or  
14 interest in such property when the property is no longer required for the  
15 purposes of the district or the use of which may be permitted without  
16 interfering with the use thereof by the district.

17 5. Sell or otherwise dispose of any property or material acquired in  
18 the construction or operation of any improvements as a by-product or  
19 otherwise, and acquire rights-of-way for such disposal by condemnation or  
20 otherwise.

21 6. Accept from the state of Arizona or the federal government, or any  
22 agency, department or instrumentality of either, grants for or in aid of the  
23 construction of any of the improvements provided for by this chapter.

24 7. Notwithstanding any other law, sell improvement bonds to the  
25 federal government, or any agency, department or instrumentality of the  
26 federal government, for the construction of any of the improvements provided  
27 by this chapter.

28 8. Enter into contracts with the state of Arizona or the federal  
29 government, or any agency, department or instrumentality of either or both,  
30 for the construction or supervision of construction by the state of Arizona  
31 or the federal government, or any agency, department or instrumentality of  
32 either or both, but reserving to the district the right to assess against the  
33 property benefited by the improvement, and located within the district, that  
34 portion of the cost of the improvement which does not qualify for aid under a  
35 state or federal grant.

36 9. Operate, maintain and repair the streets within the district and  
37 any improvements made pursuant to this chapter.

38 10. Do all things incidental to the exercise of the powers granted by  
39 this article.

40 C. A county improvement district formed for the purpose of purchasing  
41 an existing or constructing a new domestic water delivery system within the  
42 district or outside the district shall have the same authority and  
43 responsibility as an incorporated city or town pursuant to the provisions of  
44 title 45 and ~~chapters~~ CHAPTER 22 ~~and 28~~ of this title.



1 D. An improvement district which proposes to provide domestic water  
2 service within the certificated area of a public service corporation serving  
3 domestic water shall provide just compensation to the public service  
4 corporation pursuant to section 9-516 for the facilities or certificated area  
5 taken. The right to compensation for a public service corporation from an  
6 improvement district shall not apply if no facilities of the public service  
7 corporation are actually acquired by the improvement district and either of  
8 the following conditions exist:

9 1. At the time the law providing for compensation became effective the  
10 certificated area for which compensation is sought is an area which was  
11 within the boundaries of an improvement district.

12 2. A certificate is issued to a public service corporation for any  
13 area which is within an improvement district at the time the certificate is  
14 issued.

15 Sec. 52. Section 48-2978, Arizona Revised Statutes, is amended to  
16 read:

17 48-2978. General powers of board of directors

18 In order to accomplish the purposes of the district the board may:

19 1. Purchase or acquire water rights.

20 2. Acquire or lease real estate and personal property when necessary.

21 3. Acquire and hold stock in irrigation ditch and reservoir companies.

22 4. Lease, sell and otherwise dispose of real estate and personal  
23 property.

24 5. Construct, acquire or purchase canals, ditches, reservoirs,  
25 reservoir sites, water, water rights, rights-of-way or other property deemed  
26 necessary for the use of the district.

27 6. Acquire the right to enlarge any ditch, canal or reservoir already  
28 constructed or partially constructed.

29 7. Provide for the construction, operation, leasing and control of  
30 plants for the generation, distribution, sale and lease of electrical energy,  
31 including sale to municipalities, corporations, public utility districts or  
32 individuals of electrical energy so generated.

33 8. Make appropriations of water for irrigation and power purposes.

34 9. Refer to the qualified electors of the district any optional or  
35 administrative measure or method of procedure or any other matter or  
36 proposition the board deems necessary or advisable.

37 10. Establish tolls or charges for service of irrigation, domestic  
38 water, electricity and other commodities.

39 11. Control the finances and property of the district.

40 12. Appropriate money and provide for the payment of district debts and  
41 expenses.

42 13. Exercise exclusive control over the laterals, ditches, canals,  
43 rights-of-way and other property of the district, prevent encumbering  
44 thereof, abate and remove all encumbrances and obstructions thereon, make  
45 improvements thereon, vacate any right-of-way not necessary for the further

1 use of the district and protect such right-of-way from encroachment and  
2 injuries.

3 14. Erect and maintain transmission lines and pipelines, culverts,  
4 roads and crossways, and prevent obstructions thereon.

5 15. Provide the district with water, electricity and other public  
6 conveniences and necessities, and engage in any and all activities,  
7 enterprises and occupations within the powers and privileges of  
8 municipalities generally.

9 16. Apply surplus money in the district treasury to liquidation of  
10 district debts or to the creation of a sinking fund pursuant to section  
11 48-2979.

12 17. Make, amend or repeal resolutions, bylaws and rules necessary for  
13 the government of or for carrying into effect the powers vested in irrigation  
14 districts or any department or officer thereof, and enforce observance  
15 thereof by imposition of penalties. The board may impose penalties not  
16 exceeding:

17 (a) Five hundred dollars for violations by persons who use water for  
18 domestic purposes, as defined by section 45-454, ~~subsection I~~.

19 (b) Five thousand dollars for violations by persons who use water for  
20 purposes other than domestic purposes.

21 Sec. 53. Section 48-3701, Arizona Revised Statutes, is amended to  
22 read:

23 48-3701. Definitions

24 In this chapter, unless the context otherwise requires:

25 1. "Active management area" means an active management area  
26 established under title 45, chapter 2, article 2.

27 2. "Board" means the board of directors of a multi-county water  
28 conservation district.

29 3. "Contract replenishment obligation" means an amount of groundwater  
30 that the district contracts to replenish in a year on behalf of a municipal  
31 provider pursuant to a contract authorized under section 48-3772, subsection  
32 B, paragraph 9.

33 4. "Credits" means any groundwater in addition to the amount of  
34 groundwater that may be used at a member land or delivered within a member  
35 service area for use within the member service area pursuant to the  
36 applicable assured water supply rules adopted by the department of water  
37 resources.

38 5. "Declaration" means an instrument recorded against real property  
39 and conforming to the requirements prescribed by section 48-3774, subsection  
40 A, paragraph ~~5~~ 4.

41 6. "District" means a multi-county water conservation district  
42 organized under the authority of this chapter.

43 7. "Excess groundwater" means an amount of groundwater equal to that  
44 amount of groundwater delivered to a member land in a calendar year or  
45 delivered within a member service area by the municipal provider for that

1 member service area in a calendar year in excess of the amount of groundwater  
2 that may be used at the member land in that calendar year or that may be  
3 delivered by the municipal provider for use within the member service area in  
4 that calendar year and consistent with the applicable assured water supply  
5 rules adopted by the department of water resources for the active management  
6 area where the member land or the member service area is located.

7 8. "EXCESS GROUNDWATER INCREMENT" MEANS THE AMOUNT BY WHICH EXCESS  
8 GROUNDWATER REPORTED FOR A MEMBER SERVICE AREA UNDER SECTION 48-3775,  
9 SUBSECTION B IN ANY YEAR EXCEEDS THE MAXIMUM AMOUNT OF EXCESS GROUNDWATER  
10 REPORTED FOR THAT MEMBER SERVICE AREA IN ANY PRIOR YEAR.

11 ~~8.~~ 9. "Groundwater replenishment obligation" means, for each active  
12 management area in which member lands, ~~or~~ member service areas, LIMITED  
13 MEMBER LANDS OR LIMITED MEMBER SERVICE AREAS are or may be located, the total  
14 SUM of the FOLLOWING:

15 (a) THE cumulative parcel replenishment obligation of all parcels of  
16 member land in that active management area for a particular calendar year.  
17 plus

18 (b) The cumulative service area replenishment obligation of all member  
19 service areas in that active management area for a particular calendar year.

20 (c) THE CUMULATIVE LIMITED MEMBER LAND REPLENISHMENT OBLIGATION OF ALL  
21 PARCELS OF LIMITED MEMBER LANDS IN THAT ACTIVE MANAGEMENT AREA FOR A  
22 PARTICULAR CALENDAR YEAR.

23 (d) THE CUMULATIVE LIMITED MEMBER SERVICE AREA REPLENISHMENT  
24 OBLIGATION OF ALL LIMITED MEMBER SERVICE AREAS IN THAT ACTIVE MANAGEMENT AREA  
25 FOR A PARTICULAR CALENDAR YEAR.

26 10. "LIMITED GROUNDWATER" HAS THE MEANINGS PRESCRIBED IN SECTIONS  
27 45-579 AND 45-580.

28 11. "LIMITED GROUNDWATER RIGHT" HAS THE SAME MEANING PRESCRIBED IN  
29 SECTION 45-402.

30 12. "LIMITED MEMBER LAND" MEANS ANY REAL PROPERTY THAT MEETS THE  
31 REQUIREMENTS OF SECTION 48-3774.01.

32 13. "LIMITED MEMBER LAND REPLENISHMENT OBLIGATION" MEANS, WITH RESPECT  
33 TO ANY PARTICULAR PARCEL OF LIMITED MEMBER LAND, THE AMOUNT OF LIMITED  
34 GROUNDWATER WITHDRAWN OR RECEIVED FOR USE ON THAT PARCEL IN A CALENDAR YEAR.

35 14. "LIMITED MEMBER SERVICE AREA" MEANS THE LIMITED SERVICE AREA OF A  
36 MUNICIPAL PROVIDER THAT QUALIFIES AS A LIMITED MEMBER SERVICE AREA UNDER  
37 SECTION 48-3780.01, INCLUDING ANY ADDITIONS TO OR EXTENSIONS OF THE LIMITED  
38 SERVICE AREA.

39 15. "LIMITED MEMBER SERVICE AREA REPLENISHMENT OBLIGATION" MEANS, WITH  
40 RESPECT TO ANY PARTICULAR LIMITED MEMBER SERVICE AREA, THE AMOUNT OF LIMITED  
41 GROUNDWATER USED IN THAT LIMITED MEMBER SERVICE AREA IN A PARTICULAR CALENDAR  
42 YEAR.

43 16. "LIMITED SERVICE AREA" HAS THE SAME MEANING PRESCRIBED IN SECTION  
44 45-402.

1           ~~9.~~ 17. "Member land" means any real property that meets the  
2 requirements of section 48-3774.  
3           ~~10.~~ 18. "Member service area" means the service area of a municipal  
4 provider that qualifies as a member service area under section 48-3780,  
5 including any additions to or extensions of the service area.  
6           ~~11.~~ 19. "Multi-county water conservation district" means a district  
7 composed of three or more counties which have joined together for the  
8 creation of a district.  
9           ~~12.~~ 20. "Municipal provider" means a city, town or private water  
10 company or an irrigation district that supplies water for non-irrigation use.  
11           ~~13.~~ 21. "Parcel of member land" means any portion of member land for  
12 which the tax assessor for the county in which the member land is located has  
13 issued a separate county parcel number.  
14           ~~14.~~ 22. "Parcel replenishment obligation" means, with respect to any  
15 particular parcel of member land, an amount of groundwater that is equal to  
16 the amount of groundwater delivered to the parcel of member land in a  
17 calendar year multiplied by the percentage that the excess groundwater of the  
18 applicable member land for that year bears to the total amount of groundwater  
19 delivered to the applicable member land during that year.  
20           ~~15.~~ 23. "Population" means the population determined in the most  
21 recent United States decennial census.  
22           ~~16.~~ 24. "Private water company" has the same meaning prescribed in  
23 section 45-402.  
24           ~~17.~~ 25. "Replenish" means to increase the amount of groundwater in an  
25 aquifer through water storage pursuant to title 45, chapter 3.1 for the  
26 purpose of meeting the obligations of article 4 of this chapter.  
27           26. "RESERVE TARGET" MEANS FOR EACH ACTIVE MANAGEMENT AREA, TWENTY  
28 TIMES THE SUM OF THE DISTRICT'S TOTAL PROJECTED ANNUAL REPLENISHMENT  
29 OBLIGATIONS AS REPORTED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO  
30 SECTIONS 45-576 AND 45-578, FOR ALL PARCELS OF CATEGORY 1 MEMBER LAND AS  
31 PRESCRIBED IN SECTION 48-3774.02 AND ALL MEMBER SERVICE AREAS IN THAT ACTIVE  
32 MANAGEMENT AREA. RESERVE TARGET DOES NOT INCLUDE REPLENISHMENT OBLIGATIONS  
33 UNDER RESOLUTIONS ADOPTED PURSUANT TO SECTION 48-3772, SUBSECTION B,  
34 PARAGRAPH 10 OR REPLENISHMENT OBLIGATIONS THAT WILL BE MET USING WATER  
35 SUPPLIES THAT ARE CURRENTLY HELD BY THE DISTRICT AND DETERMINED BY THE  
36 DIRECTOR OF WATER RESOURCES TO BE CONSISTENT WITH ASSURED WATER SUPPLY  
37 REQUIREMENTS PURSUANT TO SECTION 45-576.  
38           ~~18.~~ 27. "Resolution" means a resolution adopted by the governing body  
39 of a city or town, by the board of directors of a private water company that  
40 is a corporation, by the general partners of a private water company that is  
41 a partnership or by the individual owners of a private water company that is  
42 individually owned.  
43           ~~19.~~ 28. "Secretary" means the secretary of the interior of the United  
44 States of America.

1       ~~20-~~ 29. "Service area" has the same meaning prescribed in section  
2 45-402.

3       ~~21-~~ 30. "Service area replenishment obligation" means, with respect to  
4 any particular member service area, the excess groundwater of that member  
5 service area in a particular calendar year reduced by the replenishment  
6 credits, if any, applied by the municipal provider with respect to the member  
7 service area under section 48-3772, subsection ~~I-~~ H.

8       ~~22-~~ 31. "Water storage" has the same meaning prescribed in section  
9 45-802.01.

10       Sec. 54. Section 48-3713, Arizona Revised Statutes, as amended by Laws  
11 2000, chapter 142, section 2, is amended to read:

12       48-3713. Powers of district

13       A. The district, acting through its board, shall:

14       1. Enter into a contract or contracts with the secretary to accomplish  
15 the purposes of this chapter.

16       2. Provide for the repayment of construction costs, interest and  
17 annual operation, maintenance and replacement costs allocated to the district  
18 and payment of administrative costs and expenses of the district.

19       3. Levy an annual tax to defray district costs and expenses and to  
20 effect repayment of a portion of the district's obligation to the United  
21 States. Such tax levy shall not exceed ten cents per each one hundred  
22 dollars of assessed valuation of the taxable property within the district.

23       4. Establish and cause to be collected charges for water consistent  
24 with federal reclamation law and contracts entered into between the district  
25 and the secretary pursuant to this chapter.

26       5. Cooperate and contract with the secretary to carry out the  
27 provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts  
28 amendatory thereof or supplementary thereto, including the Colorado river  
29 basin project act (82 Stat. 885).

30       6. Establish and maintain reserve accounts in amounts which may be  
31 required by any contract between the district and the secretary and in such  
32 additional amounts as may be deemed necessary to accomplish the purposes of  
33 this chapter.

34       7. Coordinate and cooperate with the Arizona water banking authority.

35       B. The district, acting through its board, may:

36       1. Contract with the United States to be the operating agent of the  
37 central Arizona project and to maintain all or portions of the project and  
38 subcontract with others for the operation or maintenance of portions of the  
39 project.

40       2. Acquire in any lawful manner real and personal property of every  
41 kind necessary or convenient for the uses and purposes of the district.

42       3. Acquire electricity or other forms of energy necessary for the  
43 operation of the central Arizona project.

44       4. Contract for or perform feasibility studies of water storage,  
45 storage facilities and recovery wells.

1           5. Acquire, develop, construct, operate, maintain and acquire permits  
2 for water storage, storage facilities and recovery wells pursuant to title  
3 45, chapter 3.1 using surplus central Arizona project water.

4           6. Enter into contracts to acquire, permit, develop, construct,  
5 operate and maintain water storage, storage facilities and recovery wells  
6 with any person pursuant to title 45, chapter 3.1. Such projects may utilize  
7 water, including central Arizona project water, which such persons have the  
8 right to store pursuant to title 45, chapter 3.1.

9           7. Plan, analyze, propose, apply for, construct, operate, maintain and  
10 dismantle state demonstration projects for water storage and recovery under  
11 title 45, chapter 3.1, article 6.

12           8. Acquire real property for state demonstration projects for water  
13 storage and recovery under title 45, chapter 3.1 by purchase, lease,  
14 donation, dedication, exchange, **CONDEMNATION AS PRESCRIBED BY SECTION 48-3719**  
15 or other lawful means in areas suitable for demonstration projects for water  
16 storage and recovery of state water in counties in which the district has  
17 water transportation facilities.

18           9. Advance monies necessary for the installation, construction,  
19 repair, maintenance or replacement of capital improvements related to any  
20 water storage, storage facilities and recovery wells or any other  
21 replenishment activities of the district undertaken pursuant to article 4 of  
22 this chapter. Monies advanced under this paragraph bear interest as  
23 determined by the board. Repayment of the advances shall be amortized over  
24 the useful life of the capital improvements, as determined by the  
25 board. Utilization of excess capacity in a state demonstration project for  
26 replenishment purposes pursuant to section 48-3772, subsection B, paragraph 8  
27 does not constitute the advancement of monies under this paragraph.

28           10. Advance monies for the payment of the operation and administrative  
29 costs and expenses of the district relating to performance of the groundwater  
30 replenishment obligations under article 4 of this chapter, **INCLUDING**  
31 **REPLENISHMENT RESERVE ACTIVITIES** and ~~including~~ reasonable reserves. Monies  
32 advanced under this paragraph shall bear interest as determined by the board.  
33 Repayment of the advances may be amortized over a reasonable period, as  
34 determined by the board.

35           11. Assign to the account of the district at fair value long-term  
36 storage credits, as defined in section 45-802.01, held by the district.

37           12. Provide technical and operational support to the Arizona water  
38 banking authority and shall be reimbursed by the Arizona water banking  
39 authority for providing that support.

40           13. Appoint certain employees of the district as peace officers only  
41 for purposes of providing law enforcement on property which is under the  
42 control of the district. The district shall not have any more than ten  
43 employees designated as peace officers at any one time.

44           C. The authority granted under title 45, chapter 3.1, article 6 does  
45 not authorize the district to withdraw and use groundwater that exists

1 naturally in the basin in which the stored water is located. The authority  
2 provided in subsection B, paragraph 7 of this section is in addition to and  
3 distinct from any authority granted to the district by subsection B,  
4 paragraphs 5 and 6 of this section.

5 D. The functions of the district under subsection B, paragraph 5 of  
6 this section may be performed on behalf of the district by other persons  
7 under contract with the district.

8 E. The district may enter into and carry out subcontracts with water  
9 users for the delivery of water through the facilities of the central Arizona  
10 project. Such contracts as may be entered into between the district and the  
11 secretary and between the district and water users shall be subject to the  
12 provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat.  
13 885). Before entering into such contracts the district shall determine that  
14 the proposed contract or proposed amendment, and all related exhibits and  
15 agreements, have been submitted to the director OF WATER RESOURCES as  
16 required by section 45-107, subsection D.

17 F. The district may not sell, resell, deliver or distribute  
18 electricity to others. The district may, ~~in~~ conjunction with any other  
19 marketing entity or entities, ~~be~~ a marketing entity under section 107 of the  
20 Hoover power plant act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for the  
21 limited purposes of establishing and collecting the additional rate  
22 components authorized by that act and may enter into contracts for that  
23 purpose. This subsection does not limit the authority of the district under  
24 subsection B, paragraph 3 of this section and does not prohibit the United  
25 States western area power administration or the Arizona power authority from  
26 making incidental disposition of power acquired by the district for purposes  
27 of operating the central Arizona project but not needed by the district for  
28 such purposes.

29 G. Persons who are appointed as peace officers by the district  
30 pursuant to subsection B of this section shall provide law enforcement on the  
31 property which is under the control of the district. District peace officers  
32 shall not preempt the authority and jurisdiction of other police agencies of  
33 this state or its political subdivisions. A district peace officer shall  
34 notify appropriate agencies of this state and its political subdivisions  
35 after making a felony arrest or beginning a felony investigation within the  
36 jurisdiction of that agency. District peace officers shall have at least  
37 those qualifications prescribed by section 41-1822 and are not eligible to  
38 participate in the public safety personnel retirement system. The district  
39 is not eligible to receive funds from the peace officers' training fund  
40 specified in section 41-1825. The district shall reimburse the Arizona peace  
41 officer standards and training board for all training expenses incurred by  
42 the board for the district and all audit expenses incurred by the board in  
43 reviewing compliance by the district with peace officer standards and law  
44 enforcement standards established by the board.

1           Sec. 55. Section 48-3713, Arizona Revised Statutes, as amended by Laws  
2 2000, chapter 142, section 3, is amended to read:

3           48-3713. Powers of district

4           A. The district, acting through its board, shall:

5           1. Enter into a contract or contracts with the secretary to accomplish  
6 the purposes of this chapter.

7           2. Provide for the repayment of construction costs, interest and  
8 annual operation, maintenance and replacement costs allocated to the district  
9 and payment of administrative costs and expenses of the district.

10          3. Levy an annual tax to defray district costs and expenses and to  
11 effect repayment of a portion of the district's obligation to the United  
12 States. Such tax levy shall not exceed ten cents per each one hundred  
13 dollars of assessed valuation of the taxable property within the district.

14          4. Establish and cause to be collected charges for water consistent  
15 with federal reclamation law and contracts entered into between the district  
16 and the secretary pursuant to this chapter.

17          5. Cooperate and contract with the secretary to carry out the  
18 provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts  
19 amendatory thereof or supplementary thereto, including the Colorado river  
20 basin project act (82 Stat. 885).

21          6. Establish and maintain reserve accounts in amounts which may be  
22 required by any contract between the district and the secretary and in such  
23 additional amounts as may be deemed necessary to accomplish the purposes of  
24 this chapter.

25          7. Coordinate and cooperate with the Arizona water banking authority.

26          B. The district, acting through its board, may:

27          1. Contract with the United States to be the operating agent of the  
28 central Arizona project and to maintain all or portions of the project and  
29 subcontract with others for the operation or maintenance of portions of the  
30 project.

31          2. Acquire in any lawful manner real and personal property of every  
32 kind necessary or convenient for the uses and purposes of the district.

33          3. Acquire electricity or other forms of energy necessary for the  
34 operation of the central Arizona project.

35          4. Contract for or perform feasibility studies of water storage,  
36 storage facilities and recovery wells.

37          5. Acquire, develop, construct, operate, maintain and acquire permits  
38 for water storage, storage facilities and recovery wells pursuant to title  
39 45, chapter 3.1 using surplus central Arizona project water.

40          6. Enter into contracts to acquire, permit, develop, construct,  
41 operate and maintain water storage, storage facilities and recovery wells  
42 with any person pursuant to title 45, chapter 3.1. Such projects may utilize  
43 water, including central Arizona project water, which such persons have the  
44 right to store pursuant to title 45, chapter 3.1.



1           7. Plan, analyze, propose, apply for, construct, operate, maintain and  
2 dismantle state demonstration projects for water storage and recovery under  
3 title 45, chapter 3.1, article 6.

4           8. Acquire real property for state demonstration projects for water  
5 storage and recovery under title 45, chapter 3.1 by purchase, lease,  
6 donation, dedication, exchange, condemnation as prescribed by section 48-3719  
7 or other lawful means in areas suitable for demonstration projects for water  
8 storage and recovery of state water in counties in which the district has  
9 water transportation facilities.

10          9. Advance monies necessary for the installation, construction,  
11 repair, maintenance or replacement of capital improvements related to any  
12 water storage, storage facilities and recovery wells or any other  
13 replenishment activities of the district undertaken pursuant to article 4 of  
14 this chapter. Monies advanced under this paragraph bear interest as  
15 determined by the board. Repayment of the advances shall be amortized over  
16 the useful life of the capital improvements, as determined by the board.  
17 Utilization of excess capacity in a state demonstration project for  
18 replenishment purposes pursuant to section 48-3772, subsection B, paragraph 8  
19 does not constitute the advancement of monies under this paragraph.

20          10. Advance monies for the payment of the operation and administrative  
21 costs and expenses of the district relating to performance of the groundwater  
22 replenishment obligations under article 4 of this chapter, **INCLUDING**  
23 **REPLENISHMENT RESERVE ACTIVITIES** and ~~including~~ reasonable reserves. Monies  
24 advanced under this paragraph shall bear interest as determined by the board.  
25 Repayment of the advances may be amortized over a reasonable period, as  
26 determined by the board.

27          11. Assign to the account of the district at fair value long-term  
28 storage credits, as defined in section 45-802.01, held by the district.

29          12. Provide technical and operational support to the Arizona water  
30 banking authority and shall be reimbursed by the Arizona water banking  
31 authority for providing that support.

32          C. The authority granted under title 45, chapter 3.1, article 6 does  
33 not authorize the district to withdraw and use groundwater that exists  
34 naturally in the basin in which the stored water is located. The authority  
35 provided in subsection B, paragraph 7 of this section is in addition to and  
36 distinct from any authority granted to the district by subsection B,  
37 paragraphs 5 and 6 of this section.

38          D. The functions of the district under subsection B, paragraph 5 of  
39 this section may be performed on behalf of the district by other persons  
40 under contract with the district.

41          E. The district may enter into and carry out subcontracts with water  
42 users for the delivery of water through the facilities of the central Arizona  
43 project. Such contracts as may be entered into between the district and the  
44 secretary and between the district and water users shall be subject to the  
45 provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat.

1 885). Before entering into such contracts the district shall determine that  
2 the proposed contract or proposed amendment, and all related exhibits and  
3 agreements, have been submitted to the director OF WATER RESOURCES as  
4 required by section 45-107, subsection D.

5 F. The district may not sell, resell, deliver or distribute  
6 electricity to others. The district may in conjunction with any other  
7 marketing entity or entities be a marketing entity under section 107 of the  
8 Hoover power plant act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for the  
9 limited purposes of establishing and collecting the additional rate  
10 components authorized by that act and may enter into contracts for that  
11 purpose. This subsection does not limit the authority of the district under  
12 subsection B, paragraph 3 of this section and does not prohibit the United  
13 States western area power administration or the Arizona power authority from  
14 making incidental disposition of power acquired by the district for purposes  
15 of operating the central Arizona project but not needed by the district for  
16 such purposes.

17 Sec. 56. Repeal

18 Section 48-3713, Arizona Revised Statutes, as amended by Laws 2000,  
19 chapter 145, section 1, is repealed.

20 Sec. 57. Section 48-3771, Arizona Revised Statutes, is amended to  
21 read:

22 48-3771. District replenishment obligations; replenishment  
23 location; source of replenishment; exception

24 A. For each active management area in which member lands or member  
25 service areas are or may be located, the district shall replenish groundwater  
26 in an amount equal to the groundwater replenishment obligation for that  
27 active management area. The district shall complete the replenishment of the  
28 groundwater replenishment obligation of that active management area  
29 applicable to a particular year within three full calendar years after the  
30 year that the district incurs the groundwater replenishment obligation.  
31 Replenishment of the groundwater replenishment obligation of an active  
32 management area applicable to a particular year is complete when the amount  
33 of water added to aquifers through water storage that has been credited  
34 directly to the district's conservation district account pursuant to title  
35 45, chapter 3.1, plus long-term storage credits that have been transferred  
36 from the district's long-term storage account to its conservation district  
37 account pursuant to title 45, chapter 3.1, less the groundwater replenishment  
38 obligation of member lands, LIMITED MEMBER LANDS, LIMITED MEMBER SERVICE  
39 AREAS and member service areas located in the active management area and  
40 applicable to previous years, less the contract replenishment obligations  
41 relative to municipal providers in the active management area for previous  
42 years and the year of the calculation, equals or exceeds the groundwater  
43 replenishment obligation of the active management area for that year.

44 B. With respect to the portion of the groundwater replenishment  
45 obligation attributable to a parcel of member land, A PARCEL OF LIMITED

1 MEMBER LAND, A LIMITED MEMBER SERVICE AREA or a member service area, the  
2 district shall replenish groundwater in the active management area where the  
3 parcel of member land, PARCEL OF LIMITED MEMBER LAND, THE LIMITED MEMBER  
4 SERVICE AREA or the member service area is located in an amount equal to the  
5 groundwater replenishment obligation applicable to that parcel of member  
6 land, THAT PARCEL OF LIMITED MEMBER LAND, THAT LIMITED MEMBER SERVICE AREA or  
7 that member service area.

8 C. Except as provided by title 45, chapter 3.1, the district may  
9 replenish groundwater with central Arizona project water or water from any  
10 other lawfully available source except groundwater withdrawn from within an  
11 active management area.

12 D. Notwithstanding any other provision of this chapter, if a parcel of  
13 member land is included in the service area of a municipal provider that is  
14 not a member service area but that has been designated as having an assured  
15 water supply under section 45-576, the parcel of member land has no parcel  
16 replenishment obligation and the district has no groundwater replenishment  
17 obligation attributable to that parcel of member land for as long as the  
18 designation remains in effect.

19 E. Notwithstanding any other provision of this chapter, if a parcel of  
20 member land is included in the service area of a municipal provider that is a  
21 member service area and that has been designated as having an assured water  
22 supply under section 45-576, the parcel of member land has no further parcel  
23 replenishment obligation.

24 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, IF A PARCEL OF  
25 LIMITED MEMBER LAND RECEIVES ALL GROUNDWATER USED ON THE PARCEL FROM A  
26 MUNICIPAL PROVIDER THAT HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY  
27 UNDER SECTION 45-576 OR THAT REPORTS THE WATER USED ON THE PARCEL UNDER  
28 SECTION 48-3775, SUBSECTION D AS WATER USE IN A LIMITED MEMBER SERVICE AREA,  
29 THE PARCEL OF LIMITED MEMBER LAND HAS NO LIMITED MEMBER LAND REPLENISHMENT  
30 OBLIGATION FOR AS LONG AS IT CONTINUES TO RECEIVE ALL OF ITS GROUNDWATER FROM  
31 THAT SOURCE.

32 Sec. 58. Section 48-3772, Arizona Revised Statutes, is amended to  
33 read:

34 48-3772. Duties and powers of district regarding replenishment

35 A. The district shall:

36 1. Establish annually the costs and expenses to replenish groundwater  
37 pursuant to this article with respect to all parcels of member lands, ~~and ALL~~  
38 ~~PARCELS OF LIMITED MEMBER LANDS~~, all member service areas ~~AND ALL LIMITED~~  
39 ~~MEMBER SERVICE AREAS THAT ARE~~ located in each active management area,  
40 including capital expenses, ~~and~~ the operation, maintenance, replacement and  
41 administrative costs and expenses of the district, REPLENISHMENT RESERVE  
42 COSTS AND EXPENSES AS PROVIDED IN SUBSECTION E OF THIS SECTION and ~~including~~  
43 reasonable reserves. Separate calculations of costs and expenses shall be  
44 made for each active management area in which member lands or member service  
45 areas are ~~or may be~~ located ~~AND FOR EACH MEMBERSHIP CATEGORY~~. Costs and

1 expenses attributed by the district to contract replenishment obligations  
2 shall not be included in ~~this calculation~~ THESE CALCULATIONS.

3 2. Provide for the payment of all costs and expenses to replenish  
4 groundwater pursuant to this chapter and the payment of operation,  
5 maintenance, replacement and administrative costs and expenses of the  
6 district.

7 3. Levy an annual replenishment assessment against ~~all parcels~~ EACH  
8 PARCEL of member land AND LIMITED MEMBER LAND IN ACCORDANCE WITH SECTION  
9 48-3778 and an annual replenishment tax against ~~all~~ EACH municipal ~~providers~~  
10 PROVIDER that ~~have~~ HAS A member service ~~areas located in each active~~  
11 ~~management~~ area IN ACCORDANCE WITH SECTION 48-3781 to pay the district's  
12 costs and expenses ~~to replenish groundwater~~ as established pursuant to  
13 paragraph 1 of this subsection. ~~Separate calculations of the replenishment~~  
14 ~~assessment shall be made for each active management area in which member~~  
15 ~~lands are located based on the costs and expenses of replenishment~~  
16 ~~established for that active management area.~~

17 4. Levy a contract replenishment tax against municipal providers that  
18 are parties to contracts authorized under subsection B, paragraph 9 of this  
19 section to pay the district's costs and expenses to replenish groundwater  
20 based on contract replenishment obligations.

21 5. Establish and maintain reserve accounts in amounts as may be deemed  
22 necessary to perform the groundwater replenishment obligation.

23 6. Fulfill all obligations under resolutions adopted pursuant to  
24 subsection B, paragraph 10 of this section.

25 B. The district may:

26 1. Acquire, develop, construct, operate, maintain, replace and acquire  
27 permits for water storage, storage facilities and recovery wells for  
28 replenishment purposes.

29 2. Acquire, transport, hold, exchange, own, lease, store or replenish  
30 water, except groundwater withdrawn from an active management area, subject  
31 to the provisions of title 45, for the benefit of member lands, ~~and~~ member  
32 service areas, LIMITED MEMBER LANDS AND LIMITED MEMBER SERVICE AREAS.

33 3. Acquire, hold, exchange, own, lease, retire or dispose of water  
34 rights for the benefit of member lands, ~~and~~ member service areas, LIMITED  
35 MEMBER LANDS AND LIMITED MEMBER SERVICE AREAS.

36 4. Require municipal providers to provide such information, in such  
37 form and within the time limits prescribed by the district, as may be  
38 necessary to carry out the purpose of this chapter.

39 5. Levy and collect assessments, fees, charges, taxes and other  
40 revenues as are provided in this chapter for the financing of replenishment  
41 activities.

42 6. Contract for or perform feasibility studies of water storage,  
43 storage facilities and recovery wells for replenishment purposes.

1           7. Acquire real and personal property for water storage, storage  
2 facilities and recovery wells for replenishment purposes by purchase, lease,  
3 donation, dedication, exchange or other lawful means.

4           8. Use any facilities and any excess storage capacity of any state  
5 demonstration projects undertaken pursuant to title 45, chapter 3.1 for water  
6 storage for replenishment purposes.

7           9. Subject to subsection ~~H~~ G of this section, contract with any  
8 municipal provider having a member service area to replenish groundwater on  
9 behalf of the municipal provider and with respect to the member service area  
10 in an amount in excess of the sum of the service area replenishment  
11 obligations applicable to the member service area for all years in which the  
12 district has not completed the replenishment of the groundwater replenishment  
13 obligation for the member service area.

14          10. Adopt resolutions granting water availability status to a member  
15 service area of a city, town or private water company and committing to  
16 replenish a specified average annual volume of water in a location where the  
17 city, town or private water company may physically access the water for  
18 service to its customers, if all of the following apply:

19           (a) The district has reviewed its requirements for transportation of  
20 central Arizona project water, its contracts, subcontracts, letter  
21 agreements, excess water contracts, and other contractual obligations, ~~AND~~  
22 its member service area, ~~and~~ member land, LIMITED MEMBER SERVICE AREA AND  
23 LIMITED MEMBER LAND requirements and has determined that the district can  
24 meet those obligations and that capacity remains in the central Arizona  
25 project to meet the obligations undertaken through the resolution.

26           (b) The resolution acknowledges that the commitment to replenish the  
27 specified average annual volume of water in the location cited in the  
28 resolution shall be a permanent obligation of the district, unless one of the  
29 following ~~apply~~ APPLIES:

30           (i) A permanent substitute supply of water is found for the city, town  
31 or private water company and the substitution is approved by the director of  
32 water resources, thus terminating the water availability status of the member  
33 service area.

34           (ii) The requirements of section 45-576.07, subsection A, ~~are~~ are not  
35 met, and thus the director of water resources does not issue an order  
36 granting or maintaining the city, town or private water company as having an  
37 assured water supply based in whole or in part on section 45-576.07. If no  
38 order is issued within two years of the district adopting the resolution, the  
39 resolution may be repealed, and the district shall be relieved of all  
40 obligations under the resolution.

41           (c) The average annual volume of water specified in the resolution,  
42 when added to the average annual volume of water specified in all other  
43 resolutions adopted pursuant to this paragraph, does not exceed twenty  
44 thousand acre-feet.

1 (d) The district has entered into an agreement with the city, town or  
2 private water company under which the city, town or private water company  
3 will hold for the district's future use, and provide to the district when  
4 needed, sufficient water to meet the obligations undertaken by the district  
5 through the resolution.

6 (e) The district determines that the obligations undertaken by the  
7 district through the resolution will not increase annual replenishment  
8 assessment rates or costs to central Arizona project contract and subcontract  
9 holders, ~~AND~~ its member service area and member lands.

10 (f) The director of water resources has found pursuant to section  
11 45-576.07, subsection H, that the district has the capability to grant water  
12 availability status to member service areas.

13 11. Provide in resolutions adopted pursuant to paragraph 10 of this  
14 subsection that the district may fulfill its obligations under the resolution  
15 in any year by directly delivering to the city, town or private water company  
16 the water that otherwise would have been replenished pursuant to the  
17 resolution, if all of the following apply:

18 (a) The district has reviewed its requirements for transportation of  
19 central Arizona project water, its contracts, subcontracts, letter  
20 agreements, excess water contracts, ~~and~~ other contractual obligations, its  
21 member service area, ~~and~~ member land, **LIMITED MEMBER SERVICE AREA AND LIMITED**  
22 **MEMBER LAND** requirements and has determined that the district can meet those  
23 obligations and that capacity remains in the central Arizona project to make  
24 direct deliveries pursuant to this paragraph.

25 (b) The district determines that the delivery will not increase annual  
26 replenishment assessment rates or costs to central Arizona project contract  
27 and subcontract holders, its member service ~~area and~~ **AREAS**, member lands,  
28 **LIMITED MEMBER SERVICE AREAS AND LIMITED MEMBER LANDS**.

29 12. Enter into agreements with a city, town or private water company  
30 that will have water made available to it through a resolution adopted  
31 pursuant to paragraph 10 **OF THIS SUBSECTION AND** under which the city, town or  
32 private water company ~~compensate~~ **COMPENSATES** the district for the costs and  
33 fair value of the water supply provided by the district.

34 C. The functions of the district under subsection B, paragraph 1 of  
35 this ~~subsection~~ **SECTION** may be performed on behalf of the district by other  
36 persons under contract with the district.

37 D. For purposes of determining the annual costs and expenses of the  
38 district under subsection A, paragraph 1 of this subsection, the district  
39 shall amortize capital costs and expenses, including interest as determined  
40 by the district, over the useful life of the capital improvements, as  
41 determined by the district. The capital costs of the facilities of any state  
42 demonstration projects used by the district pursuant to subsection B,  
43 paragraph 8 of this section shall not be included in the capital costs and  
44 expenses amortized by the district under this subsection.

1           ~~E. The district may replenish in advance an amount of groundwater in~~  
2 ~~addition to the amount of groundwater required to complete replenishment of~~  
3 ~~the groundwater replenishment obligation for all active management areas~~  
4 ~~applicable to the calendar year of the determination and the three~~  
5 ~~immediately preceding calendar years if all of the following apply:~~

6           ~~1. The amount of additional groundwater replenished in advance by the~~  
7 ~~district during a calendar year shall not exceed the groundwater~~  
8 ~~replenishment obligation for all active management areas for the immediately~~  
9 ~~preceding year, multiplied by twenty per cent.~~

10           ~~2. The total amount of additional groundwater replenished in advance~~  
11 ~~by the district at a particular time and not applied by the district to~~  
12 ~~complete replenishment of a groundwater replenishment obligation shall not~~  
13 ~~exceed the estimated groundwater replenishment obligation for all active~~  
14 ~~management areas, as determined by the district, for the year of the~~  
15 ~~determination.~~

16           E. THE DISTRICT SHALL ESTABLISH AND MAINTAIN A REPLENISHMENT RESERVE  
17 AS FOLLOWS:

18           1. THE DISTRICT SHALL INCLUDE A REPLENISHMENT RESERVE CHARGE IN THE  
19 ANNUAL REPLENISHMENT ASSESSMENT LEVIED AGAINST ALL PARCELS OF CATEGORY 1  
20 MEMBER LAND AS PROVIDED IN SECTION 48-3774.02 AND IN THE ANNUAL REPLENISHMENT  
21 TAX LEVIED AGAINST ALL MUNICIPAL PROVIDERS THAT HAVE MEMBER SERVICE AREAS AS  
22 PROVIDED IN SECTION 48-3780.02. THE REPLENISHMENT RESERVE CHARGE FOR EACH  
23 ACTIVE MANAGEMENT AREA SHALL BE ESTABLISHED ANNUALLY BY THE DISTRICT BASED ON  
24 THE RESERVE TARGET FOR THAT ACTIVE MANAGEMENT AREA.

25           2. THE DISTRICT SHALL LEVY A REPLENISHMENT RESERVE FEE AGAINST  
26 CATEGORY 1 MEMBER LANDS IN ACCORDANCE WITH SECTION 48-3774.02 AND AGAINST  
27 MEMBER SERVICE AREAS IN ACCORDANCE WITH SECTION 48-3780.02. FOR CATEGORY 1  
28 MEMBER LANDS THE FEE SHALL BE EQUAL TO TWICE THE APPLICABLE REPLENISHMENT  
29 RESERVE CHARGE MULTIPLIED BY THE TOTAL PROJECTED ANNUAL GROUNDWATER DEMAND  
30 FOR THE MEMBER LANDS AS CONFIRMED BY THE DIRECTOR OF WATER RESOURCES PURSUANT  
31 TO SECTION 45-578, SUBSECTION F. FOR MEMBER SERVICE AREAS, THE FEE SHALL BE  
32 EQUAL TO TWICE THE APPLICABLE REPLENISHMENT RESERVE CHARGE MULTIPLIED BY THE  
33 EXCESS GROUNDWATER INCREMENT. WITH THE APPROVAL OF THE DISTRICT AND THE  
34 DIRECTOR OF WATER RESOURCES, LONG-TERM STORAGE CREDITS AS DEFINED IN SECTION  
35 45-802.01 MAY BE ASSIGNED TO THE DISTRICT'S REPLENISHMENT RESERVE SUBACCOUNT  
36 IN LIEU OF PAYING THE REPLENISHMENT RESERVE FEE.

37           3. THE DISTRICT SHALL USE REPLENISHMENT RESERVE CHARGES AND  
38 REPLENISHMENT RESERVE FEES COLLECTED WITHIN EACH ACTIVE MANAGEMENT AREA,  
39 TOGETHER WITH ALL INTEREST ACCUMULATED ON THEM, TO STORE WATER IN THAT ACTIVE  
40 MANAGEMENT AREA IN ADVANCE OF GROUNDWATER REPLENISHMENT OBLIGATIONS FOR THE  
41 PURPOSE OF DEVELOPING LONG-TERM STORAGE CREDITS AS DEFINED IN SECTION  
42 45-802.01 THAT SHALL BE CREDITED TO THE REPLENISHMENT RESERVE SUBACCOUNT FOR  
43 THAT ACTIVE MANAGEMENT AREA AS PROVIDED IN SECTION 45-859.01.

44           4. BEGINNING ON JANUARY 1, 2030, THE DISTRICT MAY TRANSFER CREDITS  
45 FROM A REPLENISHMENT RESERVE SUBACCOUNT TO A CONSERVATION DISTRICT ACCOUNT AS

1 PROVIDED IN SECTION 45-859.01 TO SATISFY ITS GROUNDWATER REPLENISHMENT  
2 OBLIGATIONS.

3 5. IF THE DISTRICT TRANSFERS CREDITS FROM THE REPLENISHMENT RESERVE  
4 SUBACCOUNT FOR AN ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-859.01,  
5 SUBSECTION E, THE DISTRICT SHALL INCLUDE IN THE ANNUAL REPLENISHMENT  
6 ASSESSMENT LEVIED AGAINST ALL PARCELS OF CATEGORY 1 MEMBER LAND IN THAT  
7 ACTIVE MANAGEMENT AREA AND, EXCEPT AS PROVIDED IN SECTION 48-3780.03, IN THE  
8 ANNUAL REPLENISHMENT TAX LEVIED AGAINST ALL MUNICIPAL PROVIDERS THAT HAVE  
9 MEMBER SERVICE AREAS IN THAT ACTIVE MANAGEMENT AREA A RESERVE REPLACEMENT  
10 COMPONENT TO FUND THE REPLACEMENT OF THE TRANSFERRED CREDITS. THE DISTRICT  
11 SHALL USE ALL MONIES FROM THE RESERVE REPLACEMENT COMPONENT COLLECTED IN AN  
12 ACTIVE MANAGEMENT AREA, TOGETHER WITH ALL INTEREST ACCUMULATED ON THE MONIES,  
13 TO DEVELOP LONG-TERM STORAGE CREDITS AS DEFINED IN SECTION 45-802.01 IN THAT  
14 ACTIVE MANAGEMENT AREA TO BE CREDITED TO THE REPLENISHMENT RESERVE SUBACCOUNT  
15 FOR THAT ACTIVE MANAGEMENT AREA AS PROVIDED IN SECTION 45-859.01.

16 6. FOR PURPOSES OF ESTABLISHING AND MAINTAINING THE REPLENISHMENT  
17 RESERVE, THE DISTRICT SHALL HAVE ACCESS TO EXCESS CENTRAL ARIZONA PROJECT  
18 WATER EQUIVALENT TO BUT NOT GREATER THAN THE ACCESS THE ARIZONA WATER BANKING  
19 AUTHORITY HAS FOR THE PURPOSES SPECIFIED IN SECTION 45-2401, SUBSECTION H,  
20 PARAGRAPH 2.

21 F. Groundwater replenished by the district pursuant to a contract to  
22 replenish groundwater under subsection B, paragraph 9 of this section ~~is~~  
23 ~~SHALL not additional groundwater replenished in advance~~ BE CREDITED TO A  
24 REPLENISHMENT RESERVE SUBACCOUNT ESTABLISHED under ~~subsection E of this~~  
25 section 45-859.01.

26 ~~G. Groundwater replenished by the district is not additional~~  
27 ~~groundwater replenished in advance under subsection E of this section for as~~  
28 ~~long as the costs and expenses of replenishing the groundwater are not~~  
29 ~~included in the costs and expenses of replenishment established under~~  
30 ~~subsection A, paragraph 1 of this section.~~

31 ~~H.~~ G. The district shall not enter into a contract authorized under  
32 subsection B, paragraph 9 of this section unless the district has determined  
33 that the contract will not adversely affect the district's ability to fulfill  
34 its obligations under this chapter. For each contract entered into under  
35 subsection B, paragraph 9 of this section, the district shall perform its  
36 contract replenishment obligations in the active management area in which the  
37 service area of the municipal provider that is the party to the contract is  
38 located.

39 ~~I.~~ H. If the district replenishes groundwater on behalf of a  
40 municipal provider pursuant to a contract to replenish groundwater under  
41 subsection B, paragraph 9 of this section, the amount of groundwater so  
42 replenished shall be a replenishment credit to the municipal provider that  
43 may be applied by the municipal provider on notice to the district to reduce  
44 the service area replenishment obligations applicable to the municipal  
45 provider.



1           ~~J.~~ I. In the Phoenix active management area, the district, to the  
2 extent reasonably feasible, shall replenish groundwater in the east portion  
3 of the active management area and in the west portion of the active  
4 management area in the approximate proportion that the groundwater  
5 replenishment obligation attributable in a particular year to member lands,  
6 ~~and~~ member service areas, LIMITED MEMBER LANDS AND LIMITED MEMBER SERVICE  
7 AREAS located in the east portion of the active management area bears to the  
8 groundwater replenishment obligation attributable in that year to member  
9 lands, ~~and~~ member service areas, LIMITED MEMBER LANDS AND LIMITED MEMBER  
10 SERVICE AREAS located in the west portion of the active management area. For  
11 purposes of this subsection, the boundary between the east Salt river valley  
12 sub-basin and the west Salt river valley sub-basin is the boundary between  
13 the east and west portions of the active management area.

14           ~~K. The costs and expenses charged by the district to an active  
15 management area water district established under chapter 28 of this title for  
16 delivery of surplus central Arizona project water to such active management  
17 area water district for replenishment purposes shall not exceed the costs and  
18 expenses for delivery of such water that are or would be included by the  
19 district in the costs and expenses of replenishment for member lands and  
20 member service areas within the active management area in which such active  
21 management area water district is situated.~~

22           Sec. 59. Section 48-3774, Arizona Revised Statutes, is amended to  
23 read:

24           48-3774. Qualification as member land

25           A. Real property qualifies as member land only if all of the following  
26 apply:

27           1. The real property is located in an active management area in which  
28 a part of the central Arizona project aqueduct is located.

29           2. The real property is not in a member service area or in a  
30 groundwater replenishment district under chapter 27 of this title.

31           ~~3. The real property is not a water district member land or a parcel  
32 of water district member land, or in a water district member service area  
33 established under chapter 28 of this title.~~

34           ~~4.~~ 3. The conditions stated in section 45-576.01, subsection B,  
35 paragraphs 2 and 3 are satisfied with respect to the district at the time of  
36 the qualification.

37           ~~5.~~ 4. The owner of the real property, or other person or entity, such  
38 as a property owners' or homeowners' association, if the person or entity has  
39 proper authority, records a declaration against the real property in the  
40 official records of the county where the real property is located that:

41           (a) Contains the legal description of the real property.

42           (b) Declares the intent of the owner that the real property qualify as  
43 member land under this chapter.

44           (c) Declares that, in order to permit the delivery of excess  
45 groundwater to the real property, each parcel of member land thereafter

1 established at the real property is subject to a parcel replenishment  
2 obligation and to a replenishment assessment to be determined by the  
3 district.

4 (d) Declares that qualifying as member land and subjecting the real  
5 property to the parcel replenishment obligation and the replenishment  
6 assessment directly benefits the real property by increasing the potential of  
7 the property to qualify for a certificate of assured water supply issued by  
8 the department of water resources pursuant to title 45, chapter 2, article 9,  
9 thereby allowing the development, use and enjoyment of the real property.

10 (e) Contains a covenant that is binding against the real property and  
11 each parcel of member land thereafter established at the real property to pay  
12 to the district a replenishment assessment based on the parcel replenishment  
13 obligation in an amount determined by the district ~~as necessary to allow the~~  
14 ~~district to perform the groundwater replenishment obligation~~ IN ACCORDANCE  
15 WITH SECTION 48-3772, SUBSECTION A.

16 (f) Declares that the district may impose a lien on the real property  
17 and each parcel of member land thereafter established at the real property to  
18 secure payment of the replenishment assessment AND THE REPLENISHMENT RESERVE  
19 FEE.

20 (g) Declares that the covenants, conditions and restrictions contained  
21 in the declaration run with the land and bind all successors and assigns of  
22 the owner.

23 B. The declaration may contain covenants, conditions and restrictions  
24 in addition to those prescribed by this section. The declaration may be an  
25 amendment or supplement to covenants, conditions and restrictions recorded  
26 against developed or undeveloped land.

27 C. Notwithstanding subsection A of this section, no real property  
28 qualifies as member land unless the municipal provider that will provide  
29 water to the real property that is subject to the declaration records in the  
30 official records of the county where the real property is located an  
31 instrument that contains both of the following:

32 1. The legal description of the real property and the tax ~~assessor~~  
33 parcel numbers for the real property.

34 2. An agreement by the municipal provider to submit TO THE DISTRICT,  
35 by March 31 of each year after the recordation of the instrument, ~~to the~~  
36 ~~district and to the property tax assessor and treasurer of the county where~~  
37 ~~the real property is located,~~ the information prescribed by section 48-3775,  
38 subsection A and such other information as the district may reasonably  
39 request.

40 Sec. 60. Title 48, chapter 22, article 4, Arizona Revised Statutes, is  
41 amended by adding sections 48-3774.01, 48-3774.02 and 48-3774.03, to read:

42 48-3774.01. Qualification as limited member land

43 A. REAL PROPERTY QUALIFIES AS LIMITED MEMBER LAND ONLY IF ALL OF THE  
44 FOLLOWING APPLY:

- 1           1. THE REAL PROPERTY IS LOCATED IN AN ACTIVE MANAGEMENT AREA IN WHICH  
2 A PART OF THE CENTRAL ARIZONA PROJECT AQUEDUCT IS LOCATED.
- 3           2. A LIMITED GROUNDWATER RIGHT WILL OR MAY BE USED ON THE REAL  
4 PROPERTY.
- 5           3. THE CONDITIONS STATED IN SECTION 45-576.01, SUBSECTION B,  
6 PARAGRAPHS 2 AND 3 ARE SATISFIED WITH RESPECT TO THE DISTRICT AT THE TIME OF  
7 THE QUALIFICATION.
- 8           4. THE OWNER OF THE REAL PROPERTY, OR ANOTHER PERSON OR ENTITY, SUCH  
9 AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS  
10 PROPER AUTHORITY, COMPLIES WITH THE DISTRICT'S APPLICATION PROCESS REGARDING  
11 QUALIFICATION AS A LIMITED MEMBER LAND.
- 12           5. THE OWNER OF THE REAL PROPERTY, OR ANOTHER PERSON OR ENTITY, SUCH  
13 AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS  
14 PROPER AUTHORITY, RECORDS A DECLARATION AGAINST THE REAL PROPERTY IN THE  
15 OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED THAT:
- 16           (a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY AND THE TAX  
17 PARCEL NUMBERS FOR THE REAL PROPERTY.
- 18           (b) DECLARES THE INTENT OF THE OWNER THAT THE REAL PROPERTY QUALIFY AS  
19 LIMITED MEMBER LAND UNDER THIS CHAPTER.
- 20           (c) DECLARES THAT, IN ORDER TO PERMIT THE DELIVERY OF LIMITED  
21 GROUNDWATER TO THE REAL PROPERTY, EACH PARCEL OF LIMITED MEMBER LAND  
22 THEREAFTER ESTABLISHED AT THE REAL PROPERTY IS SUBJECT TO A LIMITED MEMBER  
23 LAND REPLENISHMENT OBLIGATION AND TO A REPLENISHMENT ASSESSMENT TO BE  
24 DETERMINED BY THE DISTRICT.
- 25           (d) DECLARES THAT QUALIFYING AS LIMITED MEMBER LAND AND SUBJECTING THE  
26 REAL PROPERTY TO THE LIMITED MEMBER LAND REPLENISHMENT OBLIGATION AND THE  
27 REPLENISHMENT ASSESSMENT DIRECTLY BENEFITS THE REAL PROPERTY BY ALLOWING THE  
28 USE OF LIMITED GROUNDWATER ON THE REAL PROPERTY, THEREBY ALLOWING THE  
29 DEVELOPMENT, USE AND ENJOYMENT OF THE REAL PROPERTY.
- 30           (e) CONTAINS A COVENANT THAT IS BINDING AGAINST THE REAL PROPERTY AND  
31 EACH PARCEL OF LIMITED MEMBER LAND THEREAFTER ESTABLISHED AT THE REAL  
32 PROPERTY THAT REQUIRES THE OWNER OF EACH PARCEL TO SUBMIT TO THE DISTRICT BY  
33 MARCH 31 OF EACH YEAR AFTER THE RECORDATION OF THE INSTRUMENT OR FROM AND  
34 AFTER DECEMBER 31, 2005, WHICHEVER IS LATER, THE INFORMATION PRESCRIBED BY  
35 SECTION 48-3775, SUBSECTION C AND SUCH OTHER INFORMATION AS THE DISTRICT MAY  
36 REASONABLY REQUEST.
- 37           (f) CONTAINS A COVENANT THAT IS BINDING AGAINST THE REAL PROPERTY AND  
38 EACH PARCEL OF LIMITED MEMBER LAND THEREAFTER ESTABLISHED AT THE REAL  
39 PROPERTY TO PAY TO THE DISTRICT A REPLENISHMENT ASSESSMENT BASED ON THE  
40 LIMITED MEMBER LAND REPLENISHMENT OBLIGATION IN AN AMOUNT DETERMINED BY THE  
41 DISTRICT IN ACCORDANCE WITH SECTION 48-3772, SUBSECTION A.
- 42           (g) DECLARES THAT THE DISTRICT MAY IMPOSE A LIEN ON THE REAL PROPERTY  
43 AND EACH PARCEL OF LIMITED MEMBER LAND THEREAFTER ESTABLISHED AT THE REAL  
44 PROPERTY TO SECURE PAYMENT OF THE REPLENISHMENT ASSESSMENT.

1 (h) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED  
2 IN THE DECLARATION RUN WITH THE LAND AND BIND ALL SUCCESSORS AND ASSIGNS OF  
3 THE OWNER.

4 B. THE DECLARATION MAY CONTAIN COVENANTS, CONDITIONS AND RESTRICTIONS  
5 IN ADDITION TO THOSE PRESCRIBED BY THIS SECTION. THE DECLARATION MAY BE AN  
6 AMENDMENT OR SUPPLEMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED  
7 AGAINST DEVELOPED OR UNDEVELOPED LAND.

8 48-3774.02. Category 1 member lands; category 2 member lands

9 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ALL REAL  
10 PROPERTY THAT QUALIFIES UNDER SECTION 48-3774 SHALL BE CATEGORY 1 MEMBER  
11 LAND. THE DISTRICT SHALL LEVY ANNUAL REPLENISHMENT RESERVE CHARGES AND  
12 ONE-TIME REPLENISHMENT RESERVE FEES FOR CATEGORY 1 MEMBER LANDS AS PROVIDED  
13 IN SECTION 48-3772, SUBSECTION E AND AS FOLLOWS:

14 1. FOR CATEGORY 1 MEMBER LANDS THAT QUALIFIED BEFORE JANUARY 1, 2003  
15 THE DISTRICT SHALL LEVY ANNUAL REPLENISHMENT RESERVE CHARGES FOR 25 YEARS  
16 BEGINNING IN 2003.

17 2. FOR CATEGORY 1 MEMBER LAND THAT QUALIFIES ON OR AFTER JANUARY 1,  
18 2003 A REPLENISHMENT RESERVE FEE SHALL BE PAID BEFORE ISSUANCE OF A PUBLIC  
19 REPORT FOR EACH FINAL PLAT WITHIN THE MEMBER LAND AS PROVIDED IN SECTION  
20 45-576, SUBSECTION C AND THE DISTRICT SHALL LEVY ANNUAL REPLENISHMENT RESERVE  
21 CHARGES AGAINST THE LAND INCLUDED WITHIN THE FINAL PLAT FOR 23 YEARS  
22 BEGINNING IN THE YEAR AFTER PAYMENT OF THE CORRESPONDING REPLENISHMENT  
23 RESERVE FEE.

24 B. A PARCEL OF MEMBER LAND SHALL BE A CATEGORY 2 MEMBER LAND IF ALL OF  
25 THE FOLLOWING APPLY:

26 1. THE PARCEL OF MEMBER LAND IS OR WILL BE USED AS A GOLF COURSE.

27 2. THE PARCEL OF MEMBER LAND IS NOT SERVED BY A WATER PROVIDER THAT  
28 HAS BEEN DESIGNATED BY THE DIRECTOR OF WATER RESOURCES AS HAVING AN ASSURED  
29 WATER SUPPLY PURSUANT TO SECTION 45-576.

30 3. THE OWNER OF THE PARCEL NOTIFIES THE DISTRICT IN WRITING AT THE  
31 TIME OF QUALIFICATION THAT THE PARCEL IS TO BE CATEGORY 2 MEMBER LAND. FOR  
32 MEMBER LAND THAT QUALIFIED UNDER SECTION 48-3774 BEFORE JANUARY 1, 2003, THE  
33 NOTIFICATION MUST BE MADE NOT LATER THAN JANUARY 30, 2003.

34 48-3774.03. Exclusion from charges, fees and benefits of  
35 replenishment reserve; category 2 member lands;  
36 limited member lands

37 A. THE DISTRICT SHALL NOT LEVY REPLENISHMENT RESERVE FEES,  
38 REPLENISHMENT RESERVE CHARGES OR A RESERVE REPLACEMENT COMPONENT AGAINST  
39 LIMITED MEMBER LANDS.

40 B. THE DISTRICT MAY NOT USE CREDITS FROM A REPLENISHMENT RESERVE  
41 SUBACCOUNT ESTABLISHED UNDER SECTION 45-859.01 TO SATISFY ITS LIMITED MEMBER  
42 LAND REPLENISHMENT OBLIGATION. IF AS A RESULT THE DISTRICT INCURS ADDITIONAL  
43 COSTS AND EXPENSES IN MEETING ITS LIMITED MEMBER LAND REPLENISHMENT  
44 OBLIGATION, THEN SUCH ADDITIONAL COSTS AND EXPENSES SHALL BE ATTRIBUTED

1 SOLELY TO LIMITED MEMBER LANDS FOR PURPOSES OF SECTION 48-3772, SUBSECTION A,  
2 PARAGRAPH 1.

3 C. THE DISTRICT SHALL NOT LEVY REPLENISHMENT RESERVE FEES,  
4 REPLENISHMENT RESERVE CHARGES OR A RESERVE REPLACEMENT COMPONENT AGAINST  
5 CATEGORY 2 MEMBER LANDS.

6 D. THE DISTRICT MAY NOT USE CREDITS FROM A REPLENISHMENT RESERVE  
7 SUBACCOUNT ESTABLISHED UNDER SECTION 45-859.01 TO SATISFY ITS GROUNDWATER  
8 REPLENISHMENT OBLIGATIONS FOR CATEGORY 2 MEMBER LANDS. IF AS A RESULT THE  
9 DISTRICT INCURS ADDITIONAL COSTS AND EXPENSES IN MEETING ITS REPLENISHMENT  
10 OBLIGATIONS FOR CATEGORY 2 MEMBER LANDS, THEN SUCH ADDITIONAL COSTS AND  
11 EXPENSES SHALL BE ATTRIBUTED SOLELY TO CATEGORY 2 MEMBER LANDS FOR PURPOSES  
12 OF SECTION 48-3772, SUBSECTION A, PARAGRAPH 1.

13 Sec. 61. Section 48-3775, Arizona Revised Statutes, is amended to  
14 read:

15 48-3775. Reports

16 A. Except as provided in subsection ~~H~~-J of this section, on or before  
17 March 31 of each year after the recordation of the instrument described in  
18 section 48-3774, subsection C, each municipal provider delivering water to  
19 member land shall file a report with the district, with the director of water  
20 resources and with the assessor and treasurer of the county where the member  
21 lands are located that contains the following information for the preceding  
22 calendar year, which is the reporting year:

23 1. The amount of groundwater delivered by the municipal provider to  
24 each parcel of member land, identified by the applicable tax parcel number,  
25 and the basis for the calculation of the amount of groundwater delivered.

26 2. The amount of groundwater delivered by the municipal provider to  
27 the member land~~,~~ and the basis for the calculation of the amount of  
28 groundwater delivered.

29 3. The amount of excess groundwater delivered by the municipal  
30 provider to the member land~~,~~ and the basis for the calculation of the amount  
31 of excess groundwater delivered.

32 4. The parcel replenishment obligation of each parcel of the member  
33 land, identified by the applicable tax parcel number.

34 5. Such other information as the district may reasonably require.

35 B. On or before March 31 of each year after the qualification of a  
36 municipal provider's service area as a member service area, the municipal  
37 provider shall file a report with the district and with the director of water  
38 resources that contains the following information for the preceding calendar  
39 year, which is the reporting year:

40 1. The amount of groundwater delivered by the municipal provider to  
41 all customers within the member service area~~,~~ and the basis for the  
42 calculation of the amount of groundwater delivered.

43 2. The amount of excess groundwater delivered by the municipal  
44 provider to all customers within the member service area~~,~~ and the basis for  
45 the calculation of the amount of excess groundwater delivered.

1           3. Such other information as the district may require.

2           C. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, ON OR BEFORE  
3 MARCH 31 OF EACH YEAR AFTER THE RECORDATION OF THE INSTRUMENT DESCRIBED IN  
4 SECTION 48-3774.01, OR AFTER DECEMBER 31, 2005, WHICHEVER IS LATER, EACH  
5 OWNER OF LIMITED MEMBER LAND SHALL FILE A REPORT WITH THE DISTRICT AND WITH  
6 THE DIRECTOR OF WATER RESOURCES THAT CONTAINS THE FOLLOWING INFORMATION FOR  
7 THE PRECEDING CALENDAR YEAR, WHICH IS THE REPORTING YEAR:

8           1. THE AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED PURSUANT TO A  
9 LIMITED GROUNDWATER RIGHT FOR USE ON THE PARCEL OF LIMITED MEMBER LAND,  
10 IDENTIFIED BY THE APPLICABLE TAX PARCEL NUMBER, AND THE BASIS FOR THE  
11 CALCULATION OF THE AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED.

12           2. THE AMOUNT OF THE LIMITED MEMBER LAND REPLENISHMENT OBLIGATION ON  
13 EACH PARCEL OF LIMITED MEMBER LAND, IDENTIFIED BY THE APPLICABLE TAX PARCEL  
14 NUMBER, AND THE BASIS FOR THE CALCULATION OF THE AMOUNT OF THE LIMITED MEMBER  
15 LAND REPLENISHMENT OBLIGATION.

16           3. SUCH OTHER INFORMATION AS THE DISTRICT MAY REASONABLY REQUIRE.

17           D. ON OR BEFORE MARCH 31 OF EACH YEAR AFTER THE QUALIFICATION OF A  
18 LIMITED MEMBER SERVICE AREA, OR AFTER DECEMBER 31, 2005, WHICHEVER IS LATER,  
19 THE MUNICIPAL PROVIDER THAT PROVIDES WATER TO THE LIMITED MEMBER SERVICE AREA  
20 SHALL FILE A REPORT WITH THE DISTRICT AND WITH THE DIRECTOR OF WATER  
21 RESOURCES THAT CONTAINS THE FOLLOWING INFORMATION FOR THE PRECEDING CALENDAR  
22 YEAR, WHICH IS THE REPORTING YEAR:

23           1. THE AMOUNT OF GROUNDWATER WITHDRAWN OR RECEIVED FOR DELIVERY BY THE  
24 MUNICIPAL PROVIDER TO ALL CUSTOMERS WITHIN THE LIMITED MEMBER SERVICE AREA  
25 AND THE BASIS FOR THE CALCULATION OF THE AMOUNT OF GROUNDWATER WITHDRAWN OR  
26 RECEIVED.

27           2. THE AMOUNT OF LIMITED GROUNDWATER WITHDRAWN OR RECEIVED FOR  
28 DELIVERY BY THE MUNICIPAL PROVIDER WITHIN THE LIMITED MEMBER SERVICE AREA AND  
29 THE BASIS FOR THE CALCULATION OF THE AMOUNT OF LIMITED GROUNDWATER WITHDRAWN  
30 OR RECEIVED.

31           3. SUCH OTHER INFORMATION AS THE DISTRICT MAY REQUIRE.

32           ~~C~~ E. The district shall confirm the calculation of the parcel  
33 replenishment obligation of each parcel of the member land, ~~and~~ the service  
34 area replenishment obligation of each member service area, ~~THE LIMITED MEMBER~~  
35 ~~LAND REPLENISHMENT OBLIGATION OF EACH PARCEL OF LIMITED MEMBER LAND AND THE~~  
36 ~~LIMITED MEMBER SERVICE AREA REPLENISHMENT OBLIGATION OF EACH LIMITED MEMBER~~  
37 ~~SERVICE AREA~~ using the information provided in subsections A, ~~and~~ B, C AND D  
38 of this section.

39           ~~D~~ F. To the extent allowed by the assured water supply rules adopted  
40 by the department of water resources pursuant to section 45-576, subsection  
41 H, in calculating the excess groundwater of a member land or a member service  
42 area, the municipal provider shall reduce the amount of groundwater that may  
43 be used, consistent with such rules, at a member land or delivered for use  
44 within the member service area and that is not derived from credits on a  
45 straight line basis over the applicable period of years prescribed in such

1 rules. The municipal provider may apply any credits applicable to the member  
2 land or the member service area as permitted under such rules.

3 ~~E.~~ G. The district shall prepare and file with the director of water  
4 resources on or before August 31 of each year for the prior calendar year,  
5 which is the reporting year, an annual report that includes the following  
6 information:

7 1. The total amount of water that was stored by the district during  
8 the reporting year pursuant to each water storage permit issued to it under  
9 title 45, chapter 3.1.

10 2. The amount of water stored by the district during the reporting  
11 year to be credited to the district's conservation district account pursuant  
12 to title 45, chapter 3.1.

13 3. THE AMOUNT OF WATER STORED BY THE DISTRICT DURING THE REPORTING  
14 YEAR TO BE CREDITED TO THE DISTRICT'S REPLENISHMENT RESERVE SUBACCOUNT  
15 PURSUANT TO TITLE 45, CHAPTER 3.1.

16 ~~3.~~ 4. The groundwater replenishment obligations for the reporting  
17 year and for the two calendar years preceding the reporting year, and the  
18 extent to which the district has completed the groundwater replenishment  
19 obligations applicable to each of those years.

20 ~~4.~~ 5. The information required under section 45-877.01.

21 ~~5.~~ 6. The amount of water stored by the district during the reporting  
22 year to be credited to the district's long-term storage account pursuant to  
23 title 45, chapter 3.1.

24 ~~6.~~ 7. The amount of long-term storage credits the district has  
25 transferred and credited to its conservation district account pursuant to  
26 title 45, chapter 3.1 during the reporting year.

27 ~~F.~~ H. The district, ~~and~~ the municipal providers AND THE OWNERS OF  
28 LIMITED MEMBER LAND required to file reports under this section shall  
29 maintain current, accurate records of the information required to be included  
30 in the reports.

31 ~~G.~~ I. If a municipal provider OR OWNER OF LIMITED MEMBER LAND fails  
32 to file a report as required by the district, the district may assess a  
33 penalty of up to one thousand dollars per day that the report is overdue.

34 ~~H.~~ J. A municipal provider shall not file the report required by  
35 subsection A of this section for a parcel of member land that is included in  
36 the service area of a municipal provider that is a member service area that  
37 has been designated as having an assured water supply under section 45-576.

38 K. THE OWNER OF LIMITED MEMBER LAND SHALL NOT FILE THE REPORT REQUIRED  
39 BY SUBSECTION C OF THIS SECTION FOR A PARCEL OF LIMITED MEMBER LAND THAT  
40 RECEIVES ALL GROUNDWATER USED ON THE PARCEL FROM A MUNICIPAL PROVIDER THAT  
41 HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER SECTION 45-576 OR  
42 THAT HAS REPORTED THE WATER USED ON THE PARCEL UNDER SUBSECTION D OF THIS  
43 SECTION AS WATER USED IN A LIMITED MEMBER SERVICE AREA.

44 L. ON OR BEFORE JANUARY 1, 2004 AND WITHIN ONE YEAR BEFORE JANUARY 1  
45 OF EVERY TENTH CALENDAR YEAR THEREAFTER, EACH OWNER OF LIMITED MEMBER LAND

1 AND EACH MUNICIPAL PROVIDER THAT SERVES WATER TO A MEMBER LAND, MEMBER  
2 SERVICE AREA OR A LIMITED MEMBER SERVICE AREA SHALL FILE A REPORT WITH THE  
3 DISTRICT STATING THE PROJECTED ANNUAL VOLUME OF LIMITED GROUNDWATER AND  
4 EXCESS GROUNDWATER THAT IT EXPECTS TO USE OR DELIVER, AS APPLICABLE, FOR THE  
5 FOLLOWING TWENTY YEAR AND ONE HUNDRED YEAR PERIODS AND SUCH OTHER INFORMATION  
6 THE DISTRICT MAY REQUIRE TO ASSIST IN ITS PREPARATION OF THE PLAN DESCRIBED  
7 IN SECTION 45-576.02, SUBSECTION C.

8 Sec. 62. Section 48-3776, Arizona Revised Statutes, is amended to  
9 read:

10 48-3776. Storage and recovery outside the district

11 In order to efficiently manage sources of water for replenishment, the  
12 district may store and recover water outside of active management areas.  
13 ~~Subject to section 48-3772, subsections E and G,~~ The costs of operating  
14 storage and recovery facilities outside the active management areas shall be  
15 included as part of the costs incurred by the district.

16 Sec. 63. Section 48-3777, Arizona Revised Statutes, is amended to  
17 read:

18 48-3777. Municipal provider reporting requirements

19 The district shall determine the form of any reports to be submitted by  
20 a municipal provider OR OWNER OF LIMITED MEMBER LAND in order to carry out  
21 the purposes of this chapter. Each report required by the district shall  
22 contain either a sworn statement or a certification, under penalty of  
23 perjury, that the information contained in the report is true and correct  
24 according to the best belief and knowledge of the person submitting the  
25 report.

26 Sec. 64. Section 48-3778, Arizona Revised Statutes, is amended to  
27 read:

28 48-3778. Annual assessment; general revenue law

29 A. On or before the third Monday of August of each year after the  
30 qualification of any real property as member land OR LIMITED MEMBER LAND, the  
31 district shall charge an annual replenishment assessment against each parcel  
32 of member land that is subject to a parcel replenishment obligation AND  
33 AGAINST EACH PARCEL OF LIMITED MEMBER LAND THAT IS SUBJECT TO A LIMITED  
34 MEMBER LAND REPLENISHMENT OBLIGATION. This charge becomes a lien on the  
35 parcel and shall be collected in the same manner as an ad valorem tax. The  
36 assessment shall be ~~charged for each active management area at a rate per~~  
37 ~~acre-foot of groundwater~~ CALCULATED BY THE DISTRICT IN ACCORDANCE WITH THE  
38 PROVISIONS IN THIS ARTICLE AND SHALL BE sufficient to produce the amount of  
39 money estimated as needed to pay the costs and expenses to replenish  
40 groundwater established under section 48-3772, subsection A and taking into  
41 account any annual replenishment tax levied against municipal providers under  
42 section 48-3781.

43 B. The district shall promptly certify the assessment ~~rate~~ RATES to  
44 the board of supervisors of each county in which member lands are located,  
45 and these boards of supervisors at the time of levying general county taxes



1 shall take the necessary steps for collection of replenishment assessments  
2 against the parcels of member land AND LIMITED MEMBER LAND within such county  
3 ~~at the assessment rate fixed by the district. The replenishment assessment~~  
4 ~~collected against a parcel of member land shall equal the assessment rate per~~  
5 ~~acre-foot of groundwater fixed by the district for the applicable active~~  
6 ~~management area multiplied by the parcel replenishment obligation of the~~  
7 ~~parcel.~~

8 C. The assessment when collected shall be deposited, pursuant to  
9 sections 35-146 and 35-147, in the special fund established under section  
10 48-3773, subsection A, paragraph 3 to be spent by the district only for the  
11 purposes authorized by this article.

12 D. All provisions of the general revenue laws for the collection of  
13 taxes on real estate for ~~state and~~ county purposes apply to the collection of  
14 the replenishment assessment imposed by this article, including all remedies  
15 of the revenue laws for collecting delinquent taxes and provisions relating  
16 to sales of real property for delinquent taxes. The exemptions applicable to  
17 ad valorem taxes do not apply to assessments charged pursuant to this  
18 section.

19 E. IF THE DISTRICT IS NOTIFIED BY A COUNTY THAT THE OWNER OF A LIMITED  
20 GROUNDWATER RIGHT IS DELINQUENT IN THE PAYMENT OF ITS ANNUAL REPLENISHMENT  
21 ASSESSMENT, THE DISTRICT SHALL NOTIFY THE DIRECTOR OF WATER RESOURCES OF THE  
22 DELINQUENCY WITHIN THIRTY DAYS OF RECEIVING THE NOTICE FROM THE COUNTY.

23 Sec. 65. Section 48-3780, Arizona Revised Statutes, is amended to  
24 read:

25 48-3780. Member service area; qualification; termination

26 A. The service area of a municipal provider qualifies as a member  
27 service area only if all of the following apply:

28 1. The service area is located in an active management area in which a  
29 part of the central Arizona project aqueduct is located.

30 2. The municipal provider is not a member of a groundwater  
31 replenishment district established pursuant to chapter 27 of this title.

32 ~~3. The service area of the municipal provider is not a water district~~  
33 ~~member service area under chapter 28 of this title.~~

34 3. IF THE MUNICIPAL PROVIDER OR ITS PREDECESSOR PREVIOUSLY TERMINATED  
35 MEMBER SERVICE AREA STATUS IN ACCORDANCE WITH SUBSECTION B OF THIS SECTION,  
36 ALL OF THE FOLLOWING APPLY:

37 (a) THE SERVICE AREA, OR ANY PORTION OF THE SERVICE AREA, HAS NOT BEEN  
38 A MEMBER SERVICE AREA FOR AT LEAST TEN YEARS. THE DISTRICT MAY WAIVE THIS  
39 REQUIREMENT IF THE DISTRICT AND THE DIRECTOR OF WATER RESOURCES DETERMINE  
40 THAT PREVIOUSLY UNFORESEEN CIRCUMSTANCES NECESSITATE REQUALIFICATION OF THE  
41 SERVICE AREA.

42 (b) THE MUNICIPAL PROVIDER AGREES TO PAY TO THE DISTRICT ALL CHARGES  
43 THAT WOULD HAVE OTHERWISE BEEN IMPOSED BY THE DISTRICT HAD THE MEMBER SERVICE  
44 AREA STATUS REMAINED IN EFFECT DURING THE PERIOD SINCE TERMINATION BECAME  
45 EFFECTIVE.

1           4. The conditions stated in section 45-576.01, subsection B,  
2 paragraphs 2 and 3 are satisfied with respect to the district at the time of  
3 the qualification.

4           5. The municipal provider publishes a resolution once each week for  
5 two consecutive weeks in a newspaper of general circulation in the county or  
6 counties where the service area is located that:

7           (a) Has attached to it a current map of the municipal provider's  
8 service area.

9           (b) Declares the intent of the municipal provider that the service  
10 area qualify as a member service area under this chapter.

11           (c) Declares that, for the privilege of withdrawing and delivering  
12 excess groundwater within its service area and to ensure the continued  
13 exercise of that privilege, the municipal provider shall pay an annual  
14 replenishment tax to be determined by the district.

15           (d) Contains a covenant, binding against the municipal provider, to  
16 pay to the district an annual replenishment tax based on the service area  
17 replenishment obligation in an amount determined by the district as necessary  
18 to allow the district to perform the groundwater replenishment obligations.

19           (e) Authorizes the municipal provider to enter into a written  
20 commitment with the district in the form and substance satisfactory to the  
21 district regarding payment of the annual replenishment tax.

22           (f) Declares that the resolution applies to the service area of the  
23 municipal provider as it currently exists and to all additions to and  
24 extensions of the service area.

25           (g) Declares that the resolution is irrevocable for as long as the  
26 district is obligated to perform the groundwater replenishment obligations.

27           B. A SERVICE AREA PREVIOUSLY ACCEPTED AS A MEMBER SERVICE AREA IN  
28 ACCORDANCE WITH SUBSECTION A OF THIS SECTION MAY TERMINATE ITS MEMBER SERVICE  
29 AREA STATUS ONLY IF ALL OF THE FOLLOWING APPLY:

30           1. THE MUNICIPAL PROVIDER FOR THE MEMBER SERVICE AREA HAS SUBMITTED AN  
31 APPLICATION TO THE DISTRICT REQUESTING TERMINATION OF MEMBER SERVICE AREA  
32 STATUS.

33           2. THE MUNICIPAL PROVIDER FOR THE MEMBER SERVICE AREA HAS SUBMITTED AN  
34 APPLICATION TO THE DIRECTOR OF WATER RESOURCES REQUESTING MODIFICATION OF THE  
35 MUNICIPAL PROVIDER'S ASSURED WATER SUPPLY DESIGNATION UNDER SECTION 45-576  
36 THAT ELIMINATES THE MUNICIPAL PROVIDER'S RELIANCE ON MEMBER SERVICE AREA  
37 STATUS.

38           3. THE APPLICATIONS PROVIDE EVIDENCE SATISFACTORY TO THE DIRECTOR OF  
39 WATER RESOURCES THAT THE MUNICIPAL PROVIDER HAS OBTAINED A SUBSTITUTE SUPPLY  
40 OF WATER OTHER THAN GROUNDWATER THAT IS DETERMINED BY THE DIRECTOR OF WATER  
41 RESOURCES TO BE CONSISTENT WITH ASSURED WATER SUPPLY REQUIREMENTS PURSUANT TO  
42 SECTION 45-576 AND THAT IS SUFFICIENT TO ELIMINATE THE MUNICIPAL PROVIDER'S  
43 RELIANCE ON MEMBER SERVICE AREA STATUS.

1           4. THE DIRECTOR OF WATER RESOURCES HAS APPROVED THE MUNICIPAL  
2 PROVIDER'S APPLICATION TO MODIFY ITS ASSURED WATER SUPPLY DESIGNATION BASED  
3 ON THE ADDITION OF THE SUBSTITUTE WATER SUPPLY.

4           5. THE MUNICIPAL PROVIDER PUBLISHES A RESOLUTION ONCE EACH WEEK FOR  
5 TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR  
6 COUNTIES WHERE THE SERVICE AREA IS LOCATED THAT:

7           (a) HAS ATTACHED TO IT A CURRENT MAP OF THE MUNICIPAL PROVIDER'S  
8 SERVICE AREA.

9           (b) DECLARES THE INTENT OF THE MUNICIPAL PROVIDER TO TERMINATE THE  
10 SERVICE AREA'S MEMBER SERVICE AREA STATUS.

11           (c) DECLARES THAT THE DISTRICT IS NO LONGER OBLIGATED TO PERFORM THE  
12 GROUNDWATER REPLENISHMENT OBLIGATIONS ON BEHALF OF THE SERVICE AREA.

13           (d) REVOKES THE RESOLUTION ADOPTED FOR THE MEMBER SERVICE AREA AS  
14 PROVIDED IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION.

15           6. ALL AMOUNTS OWED BY THE WATER PROVIDER ON BEHALF OF THE MEMBER  
16 SERVICE AREA TO THE DISTRICT HAVE BEEN PAID.

17           7. THE MUNICIPAL PROVIDER HAS PAID OR MADE ARRANGEMENTS SUITABLE TO  
18 THE DISTRICT FOR REPAYMENT OF ANY CAPITAL COSTS INCURRED BY THE DISTRICT  
19 SPECIFICALLY ON BEHALF OF THE MEMBER SERVICE AREA.

20           Sec. 66. Title 48, chapter 22, article 4, Arizona Revised Statutes, is  
21 amended by adding sections 48-3780.01, 48-3780.02 and 48-3780.03, to read:

22           48-3780.01. Qualification as limited member service area

23           THE LIMITED SERVICE AREA OF A MUNICIPAL PROVIDER QUALIFIES AS A LIMITED  
24 MEMBER SERVICE AREA ONLY IF ALL OF THE FOLLOWING APPLY:

25           1. THE LIMITED SERVICE AREA IS LOCATED IN AN ACTIVE MANAGEMENT AREA IN  
26 WHICH A PART OF THE CENTRAL ARIZONA PROJECT AQUEDUCT IS LOCATED.

27           2. THE MUNICIPAL PROVIDER IS NOT A MEMBER OF A GROUNDWATER  
28 REPLENISHMENT DISTRICT ESTABLISHED PURSUANT TO CHAPTER 27 OF THIS TITLE.

29           3. THE CONDITIONS PRESCRIBED IN SECTION 45-576.01, SUBSECTION B,  
30 PARAGRAPHS 2 AND 3 ARE SATISFIED WITH RESPECT TO THE DISTRICT AT THE TIME OF  
31 THE QUALIFICATION.

32           4. THE MUNICIPAL PROVIDER PUBLISHES A RESOLUTION ONCE EACH WEEK FOR  
33 TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR  
34 COUNTIES WHERE THE SERVICE AREA IS LOCATED THAT:

35           (a) HAS ATTACHED TO IT A MAP OF THE MUNICIPAL PROVIDER'S LIMITED  
36 SERVICE AREA.

37           (b) DECLARES THE INTENT OF THE MUNICIPAL PROVIDER THAT THE LIMITED  
38 SERVICE AREA QUALIFY AS A LIMITED MEMBER SERVICE AREA UNDER THIS CHAPTER.

39           (c) DECLARES THAT, FOR THE PRIVILEGE OF WITHDRAWING AND DELIVERING  
40 LIMITED GROUNDWATER WITHIN ITS LIMITED SERVICE AREA AND TO ENSURE THE  
41 CONTINUED EXERCISE OF THAT PRIVILEGE, THE MUNICIPAL PROVIDER SHALL PAY AN  
42 ANNUAL REPLENISHMENT TAX TO BE DETERMINED BY THE DISTRICT.

43           (d) CONTAINS A COVENANT, BINDING AGAINST THE MUNICIPAL PROVIDER, TO  
44 PAY TO THE DISTRICT AN ANNUAL REPLENISHMENT TAX BASED ON THE LIMITED SERVICE  
45 AREA REPLENISHMENT OBLIGATION IN AN AMOUNT DETERMINED BY THE DISTRICT AS

1 NECESSARY TO ALLOW THE DISTRICT TO PERFORM THE GROUNDWATER REPLENISHMENT  
2 OBLIGATIONS.

3 (e) AUTHORIZES THE MUNICIPAL PROVIDER TO ENTER INTO A WRITTEN  
4 COMMITMENT WITH THE DISTRICT IN THE FORM AND SUBSTANCE SATISFACTORY TO THE  
5 DISTRICT REGARDING PAYMENT OF THE ANNUAL REPLENISHMENT TAX.

6 (f) DECLARES THAT THE RESOLUTION APPLIES TO THE LIMITED SERVICE AREA  
7 OF THE MUNICIPAL PROVIDER AS IT IS CURRENTLY PROJECTED AND TO ALL ADDITIONS  
8 TO AND EXTENSIONS OF THE LIMITED SERVICE AREA.

9 (g) DECLARES THAT THE RESOLUTION IS IRREVOCABLE FOR AS LONG AS THE  
10 DISTRICT IS OBLIGATED TO PERFORM THE GROUNDWATER REPLENISHMENT OBLIGATIONS.

11 48-3780.02. Member service areas; replenishment reserve

12 MUNICIPAL PROVIDERS WITH SERVICE AREAS THAT QUALIFY UNDER SECTION  
13 48-3780 SHALL PAY TO THE DISTRICT ANNUAL REPLENISHMENT RESERVE CHARGES AND  
14 REPLENISHMENT RESERVE FEES AS PROVIDED IN SECTION 48-3772, SUBSECTION E AND  
15 AS FOLLOWS:

16 1. A MUNICIPAL PROVIDER WITH A MEMBER SERVICE AREA THAT QUALIFIED  
17 BEFORE JANUARY 1, 2003 SHALL PAY ANNUAL REPLENISHMENT RESERVE CHARGES FOR 25  
18 YEARS BEGINNING IN 2003.

19 2. A MUNICIPAL PROVIDER WITH A MEMBER SERVICE AREA THAT QUALIFIES ON  
20 OR AFTER JANUARY 1, 2003 SHALL DO ALL OF THE FOLLOWING:

21 (a) PAY ANNUAL REPLENISHMENT RESERVE CHARGES ASSOCIATED WITH EACH  
22 EXCESS GROUNDWATER INCREMENT FOR 23 YEARS BEGINNING IN THE YEAR AFTER THE  
23 EXCESS GROUNDWATER INCREMENT IS REPORTED.

24 (b) PAY A REPLENISHMENT RESERVE FEE EACH YEAR BEGINNING IN THE YEAR  
25 FOLLOWING QUALIFICATION.

26 3. IF THE ASSURED WATER SUPPLY DESIGNATION OF A MUNICIPAL PROVIDER  
27 WITH A MEMBER SERVICE AREA IS MODIFIED IN A MANNER THAT INCREASES THE  
28 DISTRICT'S PROJECTED ANNUAL REPLENISHMENT OBLIGATION AS REPORTED BY THE  
29 DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION F, THE  
30 MUNICIPAL PROVIDER SHALL:

31 (a) PAY ANNUAL REPLENISHMENT RESERVE CHARGES ASSOCIATED WITH EACH  
32 EXCESS GROUNDWATER INCREMENT FOR 23 YEARS BEGINNING IN THE YEAR AFTER THE  
33 EXCESS GROUNDWATER INCREMENT IS REPORTED. THOSE CHARGES ARE IN ADDITION TO  
34 ANY REPLENISHMENT RESERVE CHARGES DUE UNDER PARAGRAPHS 1 AND 2.

35 (b) PAY A REPLENISHMENT RESERVE FEE EACH YEAR BEGINNING IN THE YEAR  
36 FOLLOWING MODIFICATION.

37 48-3780.03. Exclusion from charges, fees and benefits of  
38 replenishment reserve; water availability status  
39 resolution; limited member service areas

40 A. THE DISTRICT SHALL NOT LEVY REPLENISHMENT RESERVE FEES,  
41 REPLENISHMENT RESERVE CHARGES OR A RESERVE REPLACEMENT COMPONENT ASSOCIATED  
42 WITH REPLENISHMENT ACTIVITIES UNDER A RESOLUTION ADOPTED PURSUANT TO SECTION  
43 48-3772, SUBSECTION B, PARAGRAPH 10.

44 B. THE DISTRICT MAY NOT USE CREDITS FROM A REPLENISHMENT RESERVE  
45 SUBACCOUNT ESTABLISHED UNDER SECTION 45-859.01 TO SATISFY ITS REPLENISHMENT

1 OBLIGATIONS UNDER A RESOLUTION ADOPTED PURSUANT TO SECTION 48-3772,  
2 SUBSECTION B, PARAGRAPH 10.

3 C. THE DISTRICT SHALL NOT LEVY REPLENISHMENT RESERVE FEES,  
4 REPLENISHMENT RESERVE CHARGES OR A RESERVE REPLACEMENT COMPONENT AGAINST  
5 LIMITED MEMBER SERVICE AREAS.

6 D. THE DISTRICT MAY NOT USE CREDITS FROM A REPLENISHMENT RESERVE  
7 SUBACCOUNT ESTABLISHED UNDER SECTION 45-859.01 TO SATISFY ITS LIMITED MEMBER  
8 SERVICE AREA REPLENISHMENT OBLIGATION. IF AS A RESULT THE DISTRICT INCURS  
9 ADDITIONAL COSTS AND EXPENSES IN MEETING ITS LIMITED MEMBER SERVICE AREA  
10 REPLENISHMENT OBLIGATION, THOSE ADDITIONAL COSTS AND EXPENSES SHALL BE  
11 ATTRIBUTED SOLELY TO LIMITED MEMBER SERVICE AREAS FOR PURPOSES OF SECTION  
12 48-3772, SUBSECTION A, PARAGRAPH 1.

13 Sec. 67. Section 48-3781, Arizona Revised Statutes, is amended to  
14 read:

15 48-3781. Annual replenishment tax; contract replenishment tax

16 A. On or before the third Monday of August of each year after the  
17 qualification of the member service area OR LIMITED MEMBER SERVICE AREA of  
18 any municipal provider, the district shall levy a replenishment tax against  
19 each municipal provider having a qualified member service area for the  
20 privilege of withdrawing and delivering excess groundwater within the member  
21 service area AND AGAINST EACH MUNICIPAL PROVIDER HAVING A QUALIFIED LIMITED  
22 MEMBER SERVICE AREA FOR THE PRIVILEGE OF WITHDRAWING AND DELIVERING LIMITED  
23 GROUNDWATER WITHIN THE LIMITED MEMBER SERVICE AREA. The replenishment tax  
24 shall be ~~levied for each active management area at an assessment rate per~~  
25 ~~acre-foot of groundwater~~ CALCULATED BY THE DISTRICT IN ACCORDANCE WITH THIS  
26 ARTICLE AND SHALL BE sufficient to produce the amount of money estimated as  
27 needed to pay the costs and expenses to replenish groundwater established  
28 under section 48-3772, subsection A, and taking into account any annual  
29 replenishment assessment levied under section 48-3778.

30 B. The district shall promptly transmit a statement to each municipal  
31 provider having a member service area OR A LIMITED MEMBER SERVICE AREA  
32 stating the amount of the annual replenishment tax AND ANY REPLENISHMENT  
33 RESERVE FEE DUE UNDER SECTION 48-3780.02. ~~The annual replenishment tax to be~~  
34 ~~collected from a municipal provider shall equal the assessment rate per acre-~~  
35 ~~foot of groundwater fixed by the district for the applicable active~~  
36 ~~management area multiplied by the service area replenishment obligation of~~  
37 ~~the municipal provider.~~

38 C. On or before the third Monday of August of each year after the  
39 district enters into any contract to replenish water pursuant to section  
40 48-3772, subsection B, paragraph 9, the district shall levy a tax against  
41 each municipal provider that is a party to a contract to replenish  
42 groundwater at the assessment rate provided in the applicable contract. The  
43 district shall promptly transmit a statement to each municipal provider that  
44 is a party to a contract to replenish groundwater stating the amount of the  
45 replenishment tax due under the contract.

1 D. On or before October 15 of each year, each municipal provider that  
2 has a member service area ~~OR A LIMITED MEMBER SERVICE AREA~~ shall pay to the  
3 district an amount equal to the annual replenishment tax levied by the  
4 district ~~AND ANY REPLENISHMENT RESERVE FEE DUE UNDER SECTION 48-3780.02~~.

5 E. On or before October 15 of each year, each municipal provider that  
6 is a party to a contract to replenish groundwater under section 48-3772,  
7 subsection B, paragraph 9 shall pay to the district the contract  
8 replenishment tax levied by the district pursuant to the contract.

9 F. Annual replenishment taxes and contract replenishment taxes  
10 collected by the district shall be deposited, pursuant to sections 35-146 and  
11 35-147, in the special fund established pursuant to section 48-3773,  
12 subsection A, paragraph 3 and shall be expended by the district only for the  
13 purposes authorized by this article.

14 G. If a municipal provider is delinquent for more than ninety days in  
15 the payment of its replenishment tax, the district shall promptly notify the  
16 director of water resources of the delinquency.

17 Sec. 68. Section 48-3782, Arizona Revised Statutes, is amended to  
18 read:

19 ~~48-3782.~~ Delinquent taxes; interest; failure to file report;  
20 civil penalties; violation; classification

21 A. If an annual replenishment tax or contract replenishment tax is not  
22 paid when due, the district shall charge interest at a rate of one per cent  
23 for each month or fraction of a month that the tax remains delinquent.

24 B. The district may bring suit in superior court in the county in  
25 which a member service area ~~OR LIMITED MEMBER SERVICE AREA~~ is located against  
26 the municipal provider to collect any delinquent annual replenishment tax or  
27 contract replenishment tax. In addition to allowing recovery of costs to the  
28 district as allowed by law, the court may fix and allow as part of the  
29 judgment interest as provided in subsection A of this section. The court may  
30 also assess a civil penalty of not more than one thousand dollars per day  
31 that the taxes are delinquent. Any civil penalty assessed by the court shall  
32 be deposited by the district, ~~PURSUANT TO SECTIONS 35-146 AND 35-147~~, in the  
33 special fund established pursuant to section 48-3773, subsection A, paragraph  
34 3 and shall be expended by the district only for the purposes authorized by  
35 this article.

36 C. Any person who violates this chapter by knowingly, and with the  
37 intent to evade the provisions of this chapter, filing with the district any  
38 false or fraudulent information in a report that is required by the district  
39 is guilty of a class 2 misdemeanor. A person who continues the violation  
40 after notice is guilty of a separate offense for each day of the violation.

41 Sec. 69. Section 48-3783, Arizona Revised Statutes, is amended to  
42 read:

43 ~~48-3783.~~ Inspections, investigations and audits

44 A. The district's authorized representative may enter at reasonable  
45 times on the property of a ~~municipal provider~~ ~~PERSON~~ required to provide

1 reports under section 48-3775 to inspect and audit records required to be  
2 kept under section 48-3775, and the owner, manager or occupant of the  
3 property shall permit such entry.

4 B. The director of water resources and the director's authorized  
5 representative may enter at reasonable times on the property of the district  
6 or a ~~municipal-provider~~ PERSON required to provide reports under section  
7 48-3775 to inspect and audit records required to be kept under section  
8 48-3775, and the district or the owner, manager or occupant of the property  
9 shall permit such entry.

10 C. Inspections and audits under subsections A and B of this section  
11 shall be on reasonable notice to the district, or owner, manager or occupant  
12 of the property, as appropriate, unless reasonable grounds exist to believe  
13 that such notice would frustrate the enforcement of this article. The  
14 district and the director shall each adopt standards for conducting  
15 inspections, examining records and obtaining warrants pursuant to this  
16 section. The district and the director each may apply for and obtain  
17 warrants. If warrants are required by law, the district and the director  
18 shall apply for and obtain warrants for entry and inspection to carry out the  
19 administrative and enforcement purposes of this article.

20 D. The district and the director may each require a person who is  
21 required to keep records under section 48-3775 to appear, at reasonable times  
22 and on reasonable notice, at the district or the director's office and  
23 produce such records and information as are specified in the notice to  
24 determine whether the records and reports required by section 48-3775 are  
25 complete, true and correct.

26 E. The district or the director, as the case may be, shall provide a  
27 written report of each inspection and audit under this section to the person  
28 subject to such action.

29 Sec. 70. Repeal

30 Title 48, chapter 28, Arizona Revised Statutes, is repealed.

31 Sec. 71. Effective date

32 Section 48-3713, Arizona Revised Statutes, as amended by Laws 2000,  
33 chapter 142, section 3 and section 55 of this act is effective from and after  
34 June 30, 2005.

35 Sec. 72. Effective date; condition

36 Section 45-596, Arizona Revised Statutes, as amended by Laws 1994,  
37 chapter 291, section 27 and chapter 300, section 2 and section 25 of this  
38 act, is not effective until section 45-596, Arizona Revised Statutes, as  
39 amended by Laws 1994, chapter 291, section 27 and chapter 300, section 2, is  
40 enacted into law pursuant to Laws 1994, chapter 291, section 67 and chapter  
41 300, section 3.