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REFERENCE TITLE: irrigation non-expansion area; substitution; acres

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2060

Introduced by
Representative Griffin

AN ACT

AMENDING SECTION 45-437, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-437.04; RELATING TO THE GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-437, Arizona Revised Statutes, is amended to read:

45-437. Irrigated acreage; water measuring device; annual report of groundwater pumping; penalty; transportation; exemption

A. In an initial irrigation non-expansion area established pursuant to section 45-431, except as provided in subsection E of this section AND SECTION 45-437.04, only acres of land ~~which~~ THAT were legally irrigated at any time between January 1, 1975 and January 1, 1980 may be irrigated with groundwater, effluent, diffused water on the surface or surface water, except as provided in sections 45-172, 45-437.01, 45-437.02 and 45-437.03, and except that this does not prohibit irrigation with surface water used pursuant to decreed or appropriative rights established before June 12, 1980. Land ~~which~~ THAT was not irrigated at any time from January 1, 1975 through January 1, 1980 is deemed to have been in irrigation if the director finds that substantial capital investment has been made in the twelve months before June 12, 1980 for the improvement of the land and on-site irrigation distribution facilities, including the drilling of wells, for an irrigation use. This subsection does not allow irrigation of land ~~which~~ THAT could not have been legally irrigated under prior statutory law.

B. In a subsequent irrigation non-expansion area established pursuant to section 45-432, except as provided in subsection E of this section, only acres of land ~~which~~ THAT were irrigated at any time during the five years preceding the date of the notice of the initiation of designation procedures may be irrigated with groundwater, effluent, diffused water on the surface or surface water, except as provided in sections 45-172, 45-437.01, 45-437.02 and 45-437.03, and except that this does not prohibit irrigation with surface water used pursuant to decreed or appropriative rights established before the date of the notice. Land ~~which~~ THAT was not irrigated at any time during this ~~five year~~ FIVE-YEAR period is deemed to have been in irrigation if the director finds that substantial capital investment has been made for the subjugation of such land for an irrigation use including on-site irrigation distribution facilities and a well or wells the drilling and construction of which were substantially commenced before the date of the notice of the initiation of designation procedures.

C. Except as provided in subsection F of this section, in an irrigation non-expansion area:

1. Each person withdrawing groundwater from a non-exempt well for an irrigation use and each person withdrawing more than ten acre-feet of groundwater per year from a non-exempt well for a non-irrigation use shall use a water measuring device approved by the director. Each person

withdrawing groundwater from a non-exempt well shall file a report on a calendar year basis with the director on a form provided by the director ~~no~~ NOT later than March 31 of the following year. In filing a report, each person withdrawing ten or fewer acre-feet of groundwater per year from a non-exempt well for a non-irrigation use shall estimate the quantity of groundwater withdrawn.

2. Transportations of groundwater are subject to the provisions of articles 8 and 8.1 of this chapter.

D. If a person, who is required under subsection C, paragraph 1 of this section to file an annual report for calendar year 1986 or any subsequent calendar year, fails to file a report for the calendar year in question on or before March 31 of the following year, the director may assess and collect a penalty of ~~twenty-five dollars~~ $25 for each month or portion of a month that the annual report is delinquent. The total penalty assessed under this subsection shall not exceed ~~one hundred fifty dollars~~ $150. The director shall deposit, pursuant to sections 35-146 and 35-147, all penalties collected under this subsection in the state general fund.

E. In an irrigation non-expansion area, a correctional facility under the jurisdiction of the state department of corrections may irrigate with groundwater, effluent, diffused water on the surface or surface water up to a total of ten acres of land that otherwise may not be irrigated pursuant to subsection A or B of this section if the irrigation is for the purpose of producing plants or parts of plants for consumption by inmates at the correctional facility as part of a prisoner work program and if the correctional facility notifies the director of water resources in writing of the location of the acres of land to be irrigated ~~prior to~~ BEFORE their irrigation. The actual number of acres of land that a correctional facility may irrigate pursuant to this subsection shall be calculated by subtracting the number of acres of land the correctional facility may already irrigate under subsection A or B of this section from ten.

F. A person who withdraws groundwater from a non-exempt well for an irrigation use is exempt from subsection C, paragraph 1 of this section for those withdrawals if both of the following apply:

1. Groundwater withdrawn from the well for an irrigation use is used only on land that is owned by a person who has the right under subsection A or B of this section to irrigate ten or fewer contiguous acres of land at the place of the use.

2. Groundwater withdrawn from the well is not used on land that is part of an integrated farming operation.

Sec. 2. Title 45, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 45-437.04, to read:

45-437.04. Substitution of acres; net increase in withdrawals disallowed

NOTWITHSTANDING ANY OTHER LAW, IN AN IRRIGATION NON-EXPANSION AREA, A PERSON WHO OWNS ACRES OF LAND THAT MAY BE IRRIGATED PURSUANT TO SECTION 45-437 MAY PERMANENTLY RETIRE THOSE ACRES FROM IRRIGATION, SUBSTITUTE FOR THOSE ACRES THE SAME NUMBER OF ACRES IN THE SAME IRRIGATION NON-EXPANSION AREA AND USE THE ASSOCIATED WATER FOR ANY END USE IF THE PERSON DEMONSTRATES TO THE DIRECTOR'S SATISFACTION THAT THE SUBSTITUTION OF ACRES WILL NOT LEAD TO A NET INCREASE IN GROUNDWATER WITHDRAWAL IN THE IRRIGATION NON-EXPANSION AREA. THE DIRECTOR MAY NOT CONDITION APPROVAL OF A PERSON'S APPLICATION TO SUBSTITUTE ACRES PURSUANT TO THIS SECTION ON THE PERSON REDUCING THE PERSON'S GROUNDWATER USE.