

Senate Engrossed

basin management areas; appropriation

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1221

AN ACT

AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 3.1 AND 3.2; AMENDING SECTION 49-1270, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 45, chapter 2, Arizona Revised Statutes, is
3 amended by adding articles 3.1 and 3.2, to read:

4 ARTICLE 3.1. BASIN MANAGEMENT AREAS

5 45-445. Basin management area; initiation procedures;
6 petition; definition

7 A. EXCEPT AS PROVIDED IN SUBSECTIONS H AND I OF THIS SECTION, THE
8 DESIGNATION OF A BASIN MANAGEMENT AREA IN ANY LOCATION THAT IS NOT
9 INCLUDED IN AN ACTIVE MANAGEMENT AREA AND SUBJECT TO THE JURISDICTION OF
10 THIS STATE MAY BE INITIATED BY PETITION TO THE DIRECTOR SIGNED BY AT LEAST
11 FIFTEEN PERCENT OF THE REGISTERED VOTERS WHO RESIDE WITHIN THE BOUNDARIES
12 OF THE GROUNDWATER BASIN OR SUBBASIN SPECIFIED IN THE PETITION AS OF THE
13 MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH
14 SECTION 16-168, SUBSECTION H AND WHO RECEIVE THEIR DRINKING WATER FROM THE
15 GROUNDWATER BASIN OR SUBBASIN. A BASIN MANAGEMENT AREA ESTABLISHED
16 PURSUANT TO THIS ARTICLE MAY INCLUDE MORE THAN ONE GROUNDWATER SUBBASIN
17 BUT MAY NOT BE SMALLER THAN A GROUNDWATER SUBBASIN OR INCLUDE ONLY A
18 PORTION OF A GROUNDWATER SUBBASIN.

19 B. IF A GROUNDWATER BASIN OR SUBBASIN IS LOCATED IN TWO OR MORE
20 COUNTIES, THE NUMBER OF REGISTERED VOTERS REQUIRED TO SIGN THE PETITION
21 SHALL BE AT LEAST FIFTEEN PERCENT OF THE REGISTERED VOTERS WHO RESIDE
22 WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN, AS OF THE MOST
23 RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION
24 16-168, SUBSECTION H AND WHO RECEIVE THEIR DRINKING WATER FROM THE
25 GROUNDWATER BASIN OR SUBBASIN.

26 C. THE FORM OF THE PETITION SHALL BE SUBSTANTIALLY SIMILAR TO AN
27 INITIATIVE PETITION, AND THE APPLICANT FOR THE PETITION SHALL COMPLY WITH
28 SECTION 19-111, SUBSECTIONS A, B AND E, EXCEPT THAT THE DUTIES REQUIRED OF
29 THE SECRETARY OF STATE SHALL BE PERFORMED BY THE COUNTY RECORDERS OF THE
30 COUNTIES IN WHICH THE REGISTERED VOTERS OF THE GROUNDWATER BASIN OR
31 SUBBASIN RESIDE. A PETITION MAY NOT BE ACCEPTED MORE THAN ONE HUNDRED
32 EIGHTY DAYS AFTER THE DATE OF SUBMISSION OF THE APPLICATION FOR
33 PETITION. FOR THE PURPOSES OF THIS SECTION, ON REQUEST OF A COUNTY
34 RECORDER, THE DIRECTOR SHALL TRANSMIT TO THE COUNTY RECORDER ANY FACTUAL
35 DATA CONCERNING THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN THAT
36 MAY AID THE COUNTY RECORDER IN DETERMINING WHICH REGISTERED VOTERS OF THE
37 COUNTY ARE RESIDENTS AND, FOR THE PURPOSES OF THIS SECTION, ARE ELIGIBLE
38 VOTERS OF THE GROUNDWATER BASIN OR SUBBASIN. THE TRANSMITTED DATA SHALL
39 INCLUDE A MAP OF THE RESIDENCES THAT RECEIVE DRINKING WATER FROM THE
40 GROUNDWATER BASIN OR SUBBASIN. IF RESIDENCY OR THE ORIGIN OF A RESIDENT'S
41 DRINKING WATER IS NOT VERIFIED, THE BALLOT SHALL REMAIN UNOPENED AND BE
42 DESTROYED.

1 D. AFTER RECEIVING AN APPLICATION FOR PETITION SIGNED BY ELIGIBLE
2 VOTERS PURSUANT TO SUBSECTION A OF THIS SECTION, THE DIRECTOR SHALL
3 DETERMINE WHETHER THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE
4 PETITION MEETS BOTH OF THE FOLLOWING CONDITIONS:

5 1. LAND SUBSIDENCE WITHIN THE GROUNDWATER BASIN OR SUBBASIN DUE TO
6 GROUNDWATER WITHDRAWAL IS ENDANGERING PROPERTY OR POTENTIAL GROUNDWATER
7 STORAGE CAPACITY.

8 2. THERE HAS BEEN ACCELERATED DECLINE IN WATER LEVELS WITHIN THE
9 GROUNDWATER BASIN OR SUBBASIN OVER THE PRECEDING FIVE YEARS AS MEASURED BY
10 AT LEAST TEN INDEX WELLS. FOR THE PURPOSES OF THIS PARAGRAPH:

11 (a) THE DIRECTOR SHALL SELECT INDEX WELLS ACROSS THE GROUNDWATER
12 BASIN OR SUBBASIN TO COLLECT A BASIN-WIDE REPRESENTATIVE SAMPLE.

13 (b) EACH INDEX WELL MUST SHOW AN ACCELERATED DECLINE OF FIVE FEET
14 OR MORE ANNUALLY.

15 (c) THE DIRECTOR SHALL MEASURE EACH INDEX WELL'S STATIC WATER LEVEL
16 AT THE SAME TIME EACH YEAR.

17 E. IF THE DIRECTOR DETERMINES THAT THE GROUNDWATER BASIN OR
18 SUBBASIN SUBJECT TO THE PETITION MEETS THE REQUIREMENTS PRESCRIBED IN
19 SUBSECTION D OF THIS SECTION, THE DIRECTOR SHALL CONDUCT A COST BENEFIT
20 ANALYSIS OF THE INCREASED WATER MANAGEMENT TO DETERMINE IF THE PROBABLE
21 BENEFITS TO THE LOCAL ECONOMY RESULTING FROM THE PROPOSED WATER MANAGEMENT
22 OUTWEIGH THE COSTS. THE DIRECTOR MAY HIRE AN OUTSIDE CONTRACTOR TO
23 CONDUCT THE COST BENEFIT ANALYSIS. IF THE DIRECTOR DETERMINES THAT THE
24 PROBABLE BENEFITS OUTWEIGH THE PROBABLE COSTS, THE DIRECTOR SHALL TRANSMIT
25 THE PETITION TO THE COUNTY BOARD OF SUPERVISORS IN EACH COUNTY IN WHICH
26 THE GROUNDWATER BASIN OR SUBBASIN SUBJECT TO THE PETITION IS LOCATED AND
27 SHALL TRANSMIT A MAP OF THE GROUNDWATER BASIN OR SUBBASIN TO THE COUNTY
28 RECORDER OF EACH SUCH COUNTY. THE MAP SHALL BE ON A SCALE ADEQUATE TO
29 SHOW WITH SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE GROUNDWATER
30 BASIN OR SUBBASIN CROSS THE BOUNDARIES OF COUNTY VOTING PRECINCTS.

31 F. ON RECEIPT OF A PETITION THAT HAS BEEN SIGNED BY A SUFFICIENT
32 NUMBER OF ELIGIBLE PETITIONERS AS DETERMINED BY THE APPLICABLE COUNTY
33 RECORDERS PURSUANT TO SUBSECTION A OF THIS SECTION AND THAT HAS BEEN
34 APPROVED BY THE DIRECTOR PURSUANT TO SUBSECTIONS D AND E OF THIS SECTION,
35 A COUNTY BOARD OF SUPERVISORS SHALL HOLD A PUBLIC MEETING PURSUANT TO
36 SECTION 11-214 TO APPROVE OR DENY THE PETITION. AN AFFIRMATIVE VOTE OF
37 ALL MEMBERS OF EACH BOARD IS REQUIRED TO APPROVE THE PETITION.

38 G. ON APPROVAL OF THE PETITION BY EACH BOARD OF SUPERVISORS, THE
39 DEPARTMENT SHALL HOLD AT LEAST THREE MEETINGS AS PRESCRIBED IN SECTION
40 45-445.01.

41 H. THE DIRECTOR MAY REFER EITHER OF THE FOLLOWING TO THE APPLICABLE
42 COUNTY BOARD OF SUPERVISORS FOR DESIGNATION AS A BASIN MANAGEMENT AREA:

43 1. AN IRRIGATION NON-EXPANSION AREA THAT IS LOCATED OUTSIDE OF A
44 BASIN OR SUBBASIN IN WHICH GROUNDWATER MAY BE TRANSPORTED TO AN ACTIVE
45 MANAGEMENT AREA PURSUANT TO ARTICLE 8.1 OF THIS CHAPTER.

1 2. A BASIN IN WHICH THE DEPARTMENT HAS REPORTED OBSERVED MEAN
2 DECLINES IN GROUNDWATER LEVELS GREATER THAN FIFTY FEET DURING THE PERIOD
3 FROM 2000 THROUGH 2020.

4 I. IF THE DIRECTOR REFERS AN IRRIGATION NON-EXPANSION AREA OR BASIN
5 TO A COUNTY BOARD OF SUPERVISORS PURSUANT TO SUBSECTION H OF THIS SECTION,
6 THE IRRIGATION NON-EXPANSION AREA OR REFERRED BASIN IS NOT SUBJECT TO THE
7 PETITION REQUIREMENTS PRESCRIBED IN SUBSECTION A OF THIS SECTION BUT IS
8 SUBJECT TO THE MEETING AND VOTE PROCEDURES PRESCRIBED IN SUBSECTIONS F AND
9 G OF THIS SECTION.

10 J. FOR THE PURPOSES OF THIS SECTION, "LAND SUBSIDENCE":

11 1. MEANS THE SETTLING OR LOWERING OF THE SURFACE OF LAND THAT
12 RESULTS FROM THE WITHDRAWAL OF GROUNDWATER.

13 2. DOES NOT INCLUDE THE SETTLING OF THE ALLUVIUM OF A RIVER
14 CHANNEL.

15 45-445.01. Meetings; boundaries; notice; establishment

16 A. IF A PETITION THAT IS FILED PURSUANT TO SECTION 45-445 RECEIVES
17 APPROVAL OR THE DIRECTOR DECLARES ALL BASINS OR SUBBASINS IN AN IRRIGATION
18 NON-EXPANSION AREA AS A BASIN MANAGEMENT AREA PURSUANT TO SECTION
19 45-445.10, THE DIRECTOR SHALL HOLD A SERIES OF PUBLIC MEETINGS AS FOLLOWS:

20 1. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF EACH MEETING,
21 INCLUDING PUBLISHING THE NOTICE ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
22 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
23 BASIN MANAGEMENT AREA IS LOCATED. THE DIRECTOR AND THE COUNTIES IN WHICH
24 THE PROPOSED BASIN MANAGEMENT AREA IS LOCATED SHALL POST THE NOTICE ON THE
25 DEPARTMENT'S AND COUNTIES' WEBSITES. THE NOTICE SHALL CONTAIN THE TIME
26 AND PLACE OF THE MEETING, THE LEGAL DESCRIPTION AND A MAP CLEARLY
27 IDENTIFYING AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE PROPOSED BASIN
28 MANAGEMENT AREA AND ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

29 2. THE FIRST AND SECOND MEETINGS SHALL BE HELD AT A LOCATION IN THE
30 COUNTY IN WHICH THE MAJOR PORTION OF THE PROPOSED BASIN MANAGEMENT AREA IS
31 LOCATED NOT MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE
32 OF THE MEETING. AT THE MEETING, THE DIRECTOR SHALL PRESENT ANY DATA ON
33 GROUNDWATER LEVELS FOR THE PROPOSED BASIN MANAGEMENT AREA FROM THE
34 DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF THE
35 BASIN MANAGEMENT AREA, INCLUDING THE RESULTS OF THE COST BENEFIT ANALYSIS
36 CONDUCTED PURSUANT TO SECTION 45-445, THE COST OF APPLICATIONS THAT USERS
37 MAY SUBMIT TO THE DEPARTMENT AND THE EFFECTS OF WATER CONSERVATION. ANY
38 PERSON MAY APPEAR AT THE MEETING, EITHER IN PERSON OR BY REPRESENTATIVE,
39 AND MAY SUBMIT ORAL OR DOCUMENTARY INFORMATION REGARDING THE PROPOSED
40 ACTION OR ANY SECONDARY MODELING CHALLENGING THE MODELING COMPLETED BY THE
41 DEPARTMENT PURSUANT TO SECTION 45-445, SUBSECTION D OR E.

42 3. THE THIRD MEETING SHALL BE A MEETING OF A JOINT LEGISLATIVE
43 COMMITTEE CONSISTING OF ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES
44 NATURAL RESOURCES, ENERGY AND WATER COMMITTEE AND THE SENATE NATURAL
45 RESOURCES, ENERGY AND WATER COMMITTEE, OR THEIR SUCCESSOR COMMITTEES. THE

1 CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES NATURAL RESOURCES, ENERGY AND
2 WATER COMMITTEE, OR THE CHAIRPERSON'S DESIGNEE, AND THE CHAIRPERSON OF THE
3 SENATE NATURAL RESOURCES, ENERGY AND WATER COMMITTEE, OR THE CHAIRPERSON'S
4 DESIGNEE, SHALL SERVE AS COCHAIRPERSONS. AT THE MEETING, THE DIRECTOR
5 SHALL PRESENT ANY DATA ON GROUNDWATER LEVELS FOR THE PROPOSED BASIN
6 MANAGEMENT AREA FROM THE DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE
7 PROPOSED FORMATION OF THE BASIN MANAGEMENT AREA. ANY PERSON MAY APPEAR AT
8 THE MEETING, EITHER IN PERSON OR BY REPRESENTATIVE, AND MAY SUBMIT ORAL OR
9 DOCUMENTARY INFORMATION REGARDING THE PROPOSED ACTION OR ANY SECONDARY
10 MODELING CHALLENGING THE MODELING COMPLETED BY THE DEPARTMENT PURSUANT TO
11 SECTION 45-445, SUBSECTION D OR E.

12 B. WITHIN FIFTEEN DAYS AFTER THE JOINT LEGISLATIVE MEETING
13 PRESCRIBED IN SUBSECTION A, PARAGRAPH 3 OF THIS SECTION ADJOURNS, THE
14 DIRECTOR SHALL MAKE A DETERMINATION AS TO WHETHER THE PROCEDURES OUTLINED
15 IN SECTION 45-445 AND THIS SECTION HAVE BEEN COMPLIED WITH.

16 C. A PARTY MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION
17 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

18 D. IF THE DIRECTOR DETERMINES PURSUANT TO SUBSECTION B OF THIS
19 SECTION THAT ALL REQUIREMENTS HAVE BEEN COMPLIED WITH, NO CHALLENGE HAS
20 BEEN FILED PURSUANT TO SUBSECTION C OF THIS SECTION OR A FINAL DECISION
21 HAS BEEN ISSUED IN FAVOR OF THE DEPARTMENT AND ALL CONDITIONS HAVE BEEN
22 MET, THE DIRECTOR SHALL DECLARE A BASIN MANAGEMENT AREA ESTABLISHED AND
23 FILE A TRUE MAP OF THE BASIN MANAGEMENT AREA IN THE OFFICE OF THE COUNTY
24 RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE BASIN MANAGEMENT AREA IS
25 LOCATED.

26 45-445.02. Basin management areas; certificate of groundwater
27 rights; groundwater users; application; annual
28 report

29 A. WITHIN FIFTEEN MONTHS AFTER A BASIN MANAGEMENT AREA IS
30 ESTABLISHED, THE DIRECTOR SHALL GRANT TO EACH WATER USER WHO APPLIES FOR A
31 CERTIFICATE OF GROUNDWATER RIGHTS A CERTIFICATE THAT ENTITLES THE USER TO
32 USE THE ANNUAL ALLOCATED AMOUNT OF WATER AS FOLLOWS:

33 1. FOR MUNICIPAL, INDUSTRIAL OR RESIDENTIAL USERS, ON APPLICATION
34 THE DIRECTOR SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT
35 IS CONSISTENT WITH THE MAXIMUM AMOUNT OF GROUNDWATER WITHDRAWN AND USED BY
36 THE USER IN ACRE FEET IN ANY ONE YEAR IN THE FIVE PRECEDING YEARS BEFORE
37 THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

38 2. FOR AGRICULTURAL USERS, THE DIRECTOR SHALL GRANT THE USER A
39 CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT WITH THE HIGHER OF
40 EITHER:

41 (a) THE AVERAGE USE OF THE AGRICULTURAL GROUNDWATER USER IN ACRE
42 FEET OVER THE PRECEDING TEN YEARS BEFORE THE DATE OF FORMATION OF THE
43 BASIN MANAGEMENT AREA.

1 (b) THE MEDIAN USE OF THE AGRICULTURAL GROUNDWATER USER IN
2 ACRE-FEET OVER THE PRECEDING TEN YEARS BEFORE THE DATE OF FORMATION OF THE
3 BASIN MANAGEMENT AREA.

4 3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION, FOR AGRICULTURAL
5 USERS THAT HAVE WITHDRAWN AND USED GROUNDWATER FOR FEWER THAN TEN YEARS
6 BEFORE THE DATE OF FORMATION OF A BASIN MANAGEMENT AREA, THE DIRECTOR
7 SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT IS
8 CONSISTENT WITH THE HIGHER OF EITHER:

9 (a) THE AVERAGE GROUNDWATER USE OF THE AGRICULTURAL GROUNDWATER
10 USER IN ACRE FEET OVER THE PRECEDING YEARS THAT GROUNDWATER WAS USED IN
11 THE TEN YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

12 (b) THE MEDIAN GROUNDWATER USE OF THE AGRICULTURAL GROUNDWATER USER
13 IN ACRE FEET OVER THE PRECEDING YEARS THAT GROUNDWATER WAS USED IN THE TEN
14 YEARS BEFORE THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA.

15 B. THE DEPARTMENT SHALL INCREASE THE AMOUNT OF WATER ENTITLED TO A
16 USER VIA A CERTIFICATE OF GROUNDWATER RIGHTS IF THE USER HAS MADE
17 SUBSTANTIAL CAPITAL INVESTMENT IN THE TWELVE MONTHS BEFORE THE PETITION IS
18 CIRCULATED FOR A BASIN MANAGEMENT AREA DESIGNATION. FOR THE PURPOSES OF
19 THIS SUBSECTION, "SUBSTANTIAL CAPITAL INVESTMENT" INCLUDES APPLICATIONS
20 FOR REZONING OR OTHER PERMITS, THE ACQUISITION OF LEASED RIGHT-OF-WAYS AND
21 THE IMPROVEMENT OF LAND, INFRASTRUCTURE OR ON-SITE IRRIGATION DISTRIBUTION
22 FACILITIES, INCLUDING THE DRILLING OF WELLS.

23 C. FOR PLANNED RESIDENTIAL OR MIXED-USE DEVELOPMENTS THAT HAVE BEEN
24 APPROVED BY THE APPLICABLE ZONING AUTHORITY, THE LANDOWNER SHALL BE
25 GRANTED A CERTIFICATE OF GROUNDWATER RIGHTS EQUAL TO THE PROJECTED WATER
26 DEMAND OF THE DEVELOPMENT AT BUILD OUT.

27 D. BEGINNING AFTER A BASIN MANAGEMENT AREA PETITION IS APPROVED,
28 NEW GROUNDWATER PUMPING MAY NOT OCCUR IN THE BASIN MANAGEMENT AREA, EXCEPT
29 THAT A USER WITH A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE OR
30 DIMINISH THE GROUNDWATER USER'S WITHDRAWAL FROM AN EXISTING WELL AND
31 WITHDRAW AN EQUAL AMOUNT OF GROUNDWATER FROM A REPLACEMENT WELL OR
32 EXISTING WELL FOR THE SAME USE CONSISTENT WITH THE GROUNDWATER USER'S
33 CERTIFICATED GROUNDWATER RIGHT ON THE SAME PROPERTY OR MAY WITHDRAW
34 INTENTIONALLY RECHARGED WATER OR TRANSFER A CERTIFICATE OF GROUNDWATER
35 RIGHTS AND THE ASSOCIATED GROUNDWATER AS PRESCRIBED BY THIS ARTICLE IF
36 THERE REMAINS A NET BENEFIT OF TEN PERCENT OR MORE TO THE AQUIFER.

37 E. THE DEPARTMENT MAY NOT REQUIRE A GROUNDWATER USER TO METER ANY
38 WELLS LOCATED IN A BASIN MANAGEMENT AREA OR TO REPORT THE USER'S
39 GROUNDWATER USE BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION F OF THIS
40 SECTION.

41 F. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE DEPARTMENT AN
42 ESTIMATE OF GROUNDWATER USE BASED ON PUMPING CAPACITY AND THE POWER USAGE
43 OF THE USER'S GROUNDWATER PUMPING OR OTHER SIMILARLY RELIABLE AND
44 ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS SUBSECTION, A USER MAY
45 VOLUNTARILY ACQUIRE AND REPORT METERING DATA.

1 G. AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER RIGHTS SHALL
2 INCLUDE ALL OF THE FOLLOWING:

3 1. THE APPLICANT'S NAME AND MAILING ADDRESS.

4 2. THE NAME OF THE BASIN MANAGEMENT AREA SUBJECT TO THE APPLICATION
5 FROM WHICH THE APPLICANT HAS WITHDRAWN GROUNDWATER.

6 3. A SWORN STATEMENT THAT ALL INFORMATION CONTAINED IN THE
7 APPLICATION IS TRUE, COMPLETE AND CORRECT ACCORDING TO THE BEST BELIEF AND
8 KNOWLEDGE OF THE APPLICANT.

9 4. IF THE APPLICATION IS FOR MUNICIPAL OR INDUSTRIAL GROUNDWATER
10 USE:

11 (a) THE MAXIMUM AMOUNT OF GROUNDWATER THE APPLICANT WITHDREW AND
12 USED IN ANY ONE YEAR DURING THE FIVE YEARS PRECEDING THE DATE OF FORMATION
13 OF THE BASIN MANAGEMENT AREA.

14 (b) THE APPLICANT'S USE OR TYPE OF USE OF GROUNDWATER WITHDRAWN BY
15 THE APPLICANT.

16 (c) THE LOCATION OF EACH WELL FROM WHICH THE APPLICANT WITHDRAWS
17 GROUNDWATER OR HAS WITHDRAWN GROUNDWATER.

18 5. IF THE APPLICATION IS FOR AGRICULTURAL GROUNDWATER USE:

19 (a) A LEGAL DESCRIPTION AND A MAP OF ALL LAND OWNED BY THE
20 APPLICANT FOR WHICH THE APPLICANT CLAIMS THE RIGHT TO WITHDRAW AND USE
21 GROUNDWATER.

22 (b) THE AMOUNT OF WATER THE APPLICANT HAS USED FOR AGRICULTURAL
23 PURPOSES ON THE LAND EACH YEAR DURING THE TEN YEARS PRECEDING THE DATE OF
24 FORMATION OF THE BASIN MANAGEMENT AREA.

25 H. FOR THE PURPOSES OF THIS ARTICLE, ANY DATA OR ESTIMATE A PERSON
26 SUBMITS REGARDING A PERSON'S GROUNDWATER USE IS NOT A PUBLIC RECORD UNDER
27 TITLE 39, CHAPTER 1 AND MAY NOT BE DISCLOSED UNLESS THE GROUNDWATER USER
28 CONSENTS TO DISCLOSURE. IF A GROUNDWATER USER VOLUNTARILY SUBMITS
29 EVIDENCE OF WATER CONSERVATION, THE DEPARTMENT SHALL ISSUE THE WATER USER
30 A RECEIPT OF WATER CONSERVATION ACKNOWLEDGING THE AMOUNT OF WATER
31 CONSERVED. IF AN ACTIVE BASIN MANAGEMENT COUNCIL IS FORMED PURSUANT TO
32 ARTICLE 3.2 OF THIS CHAPTER, THE DEPARTMENT SHALL PROVIDE THE COUNCIL WITH
33 A COPY OF ALL PAST AND FUTURE RECEIPTS GRANTED IN THE GROUNDWATER BASIN OR
34 SUBBASIN PURSUANT TO THIS SECTION.

35 45-445.03. Basin management areas; withdrawals of groundwater
36 right; flexibility account; conveyances; rules;
37 extinguishment

38 A. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
39 CERTIFICATE OF GROUNDWATER RIGHT MAY:

40 1. USE GROUNDWATER IN EXCESS OF THE AMOUNT ALLOWED BY THE RIGHT IN
41 AN AMOUNT DETERMINED PURSUANT TO SUBSECTION E OF THIS SECTION.

42 2. USE LESS THAN THE AMOUNT ALLOWED BY THE RIGHT IN ONE ACCOUNTING
43 PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE RIGHT IN A SUCCEEDING
44 ACCOUNTING PERIOD OR PERIODS.

1 B. THE DIRECTOR SHALL ESTABLISH RULES FOR THE MAINTENANCE OF A
2 FLEXIBILITY ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER RIGHT IN A BASIN
3 MANAGEMENT AREA.

4 C. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
5 CERTIFICATE OF GROUNDWATER RIGHT USES SOLELY GROUNDWATER DURING ANY
6 ACCOUNTING PERIOD, THE DIRECTOR SHALL:

7 1. REGISTER A DEBIT TO THE ACCOUNT IF THE AMOUNT OF GROUNDWATER
8 USED DURING THE ACCOUNTING PERIOD IS GREATER THAN THE AMOUNT OF THE ANNUAL
9 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT
10 OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE
11 BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01.

12 2. REGISTER A CREDIT TO THE ACCOUNT IF THE AMOUNT OF GROUNDWATER
13 USED DURING THE ACCOUNTING PERIOD IS LESS THAN THE AMOUNT OF THE ANNUAL
14 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT
15 OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE
16 BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01.

17 D. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
18 CERTIFICATE OF GROUNDWATER RIGHT USES A COMBINATION OF SURFACE WATER,
19 EFFLUENT OR GROUNDWATER OR ANY COMBINATION THEREOF AND USES OF WATER BY
20 THE PERSON FROM ALL SOURCES, EXCEPT FOR SURFACE WATER, OTHER THAN COLORADO
21 RIVER WATER, RELEASED FOR BENEFICIAL USE FROM STORAGE, DIVERSION OR
22 DISTRIBUTION FACILITIES TO AVOID SPILLING THAT WOULD OTHERWISE OCCUR DUE
23 TO UNCONTROLLED SURFACE WATER INFLOWS THAT EXCEED FACILITY CAPACITY, IN
24 THE ACCOUNTING PERIOD:

25 1. EXCEED THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED
26 PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER
27 THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE BASIN MANAGEMENT AREA
28 MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01, THE AMOUNT OF GROUNDWATER
29 USED UP TO THE AMOUNT OF THE EXCESS, LESS ANY EFFLUENT USED, SHALL BE
30 REGISTERED AS A DEBIT TO THE ACCOUNT.

31 2. ARE LESS THAN THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER
32 GRANTED PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF
33 WATER THAT THE PERSON IS ENTITLED TO USE UNDER AN ACTIVE BASIN MANAGEMENT
34 AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-446.01, THE AMOUNT OF WATER
35 NOT USED THAT WOULD HAVE BEEN GROUNDWATER SHALL BE REGISTERED AS A CREDIT
36 TO THE ACCOUNT.

37 E. THE MAXIMUM EXCESS AMOUNT OF GROUNDWATER THAT A PERSON MAY USE
38 PURSUANT TO THIS SECTION SHALL BE EQUAL TO FIFTY PERCENT OF THE ANNUAL
39 ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER
40 RIGHT. AN OWNER OF A CERTIFICATE OF GROUNDWATER RIGHT AND THE PERSON
41 USING GROUNDWATER PURSUANT TO THE RIGHT ARE DEEMED TO VIOLATE THIS SECTION
42 IF THE FLEXIBILITY ACCOUNT FOR THE RIGHT IS IN ARREARS AT ANY TIME IN
43 EXCESS OF THIS AMOUNT. GROUNDWATER EQUAL TO THE CREDIT BALANCE IN THE
44 FLEXIBILITY ACCOUNT MAY BE USED AT ANY TIME.

1 F. IF A CERTIFICATE OF GROUNDWATER RIGHT IS CONVEYED IN WHOLE OR IN
2 PART, EACH ACRE-FOOT CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF
3 ANY DEBITS OR CREDITS IN THE FLEXIBILITY ACCOUNT FOR THE RIGHT.

4 G. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND
5 WHOSE RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY
6 CONVEY OR SELL ALL OR A PORTION OF THE CREDIT BALANCE TO ANY PERSON,
7 INCLUDING THE CONVEYOR OR SELLER OF THE CREDIT BALANCE, WHO OWNS ANOTHER
8 CERTIFICATE OF GROUNDWATER RIGHT IN THE SAME GROUNDWATER BASIN OR
9 SUBBASIN. A PERSON WHO SELLS OR CONVEYS ALL OR A PORTION OF A CREDIT
10 BALANCE PURSUANT TO THIS SUBSECTION, AND THE PERSON TO WHOM THE CREDIT
11 BALANCE IS SOLD OR CONVEYED, SHALL NOTIFY THE DIRECTOR OF THE SALE OR
12 CONVEYANCE WITHIN THIRTY DAYS AFTER THE SALE OR CONVEYANCE ON A FORM
13 PRESCRIBED AND FURNISHED BY THE DIRECTOR.

14 H. A SALE OR CONVEYANCE OF ALL OR PART OF A CREDIT BALANCE UNDER
15 SUBSECTION G OF THIS SECTION IS EFFECTIVE ONLY IF THE DIRECTOR RECEIVES
16 THE NOTICE REQUIRED BY SUBSECTION G OF THIS SECTION WITHIN THIRTY DAYS
17 AFTER THE SALE OR CONVEYANCE. AFTER RECEIVING THE NOTICE, THE DIRECTOR
18 SHALL REGISTER A DEDUCTION OF THE CREDIT AMOUNT CONVEYED OR SOLD FROM THE
19 CONVEYOR'S OR SELLER'S FLEXIBILITY ACCOUNT BALANCE AND THE CORRESPONDING
20 ADDITION TO THE CONVEYEE'S OR PURCHASER'S FLEXIBILITY ACCOUNT BALANCE.
21 THE DEDUCTION AND ADDITION TO THE FLEXIBILITY ACCOUNT BALANCES ARE
22 EFFECTIVE AS OF THE DATE OF THE SALE OR CONVEYANCE.

23 I. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND
24 WHOSE RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY
25 EXTINGUISH ALL OR A PORTION OF THE CREDIT BALANCE. THE PERSON WHO
26 EXTINGUISHES ALL OR A PORTION OF A CREDIT BALANCE PURSUANT TO THIS
27 SUBSECTION SHALL NOTIFY THE DIRECTOR OF THE EXTINGUISHMENT ON A FORM
28 PRESCRIBED AND FURNISHED BY THE DIRECTOR.

29 J. THE EXTINGUISHMENT OF ALL OR PART OF A CREDIT BALANCE UNDER
30 SUBSECTION I OF THIS SECTION IS EFFECTIVE AS OF THE DATE THE DIRECTOR
31 RECEIVES THE NOTICE REQUIRED BY SUBSECTION I OF THIS SECTION. AFTER
32 RECEIVING THE NOTICE, THE DIRECTOR SHALL REGISTER A DEDUCTION OF THE
33 CREDIT AMOUNT EXTINGUISHED FROM THE FLEXIBILITY ACCOUNT BALANCE OF THE
34 PERSON WHO EXTINGUISHED THE CREDIT BALANCE.

35 45-445.04. Use of municipal and industrial groundwater rights

36 THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER
37 RIGHTS MAY:

38 1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE CERTIFICATE OF
39 GROUNDWATER RIGHTS FOR ANY NONAGRICULTURAL USE AT ANY LOCATION IN THE
40 BASIN MANAGEMENT AREA SUBJECT TO THE PROVISIONS GOVERNING TRANSPORTATION
41 OF GROUNDWATER PRESCRIBED IN ARTICLE 8 OF THIS CHAPTER.

42 2. WITHDRAW GROUNDWATER PURSUANT TO THE CERTIFICATE OF GROUNDWATER
43 RIGHTS ONLY FROM THOSE WELLS OUTLINED ON THE USER'S CERTIFICATE OF
44 GROUNDWATER RIGHTS.

1 3. REQUEST THE DIRECTOR TO ISSUE A REVISED CERTIFICATE OF
2 GROUNDWATER RIGHTS TO REFLECT NEW OR ADDITIONAL POINTS OF WITHDRAWAL OR
3 NEW OR ADDITIONAL TYPES OF NONAGRICULTURAL USE.

4 4. LEASE ALL OR PART OF THE MUNICIPAL AND INDUSTRIAL GROUNDWATER
5 RIGHT. IF A GROUNDWATER RIGHT IS LEASED, THE LESSEE MAY USE GROUNDWATER
6 WITHDRAWN PURSUANT TO THE GROUNDWATER RIGHT AS PRESCRIBED BY THIS SECTION.

7 45-445.05. Use of agricultural groundwater right

8 A. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS
9 PURSUANT TO SECTION 45-445.02 MAY:

10 1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE CERTIFICATE OF
11 GROUNDWATER RIGHTS FOR ANY AGRICULTURAL USE ON ANY LAND DESCRIBED IN THE
12 CERTIFICATE OF GROUNDWATER RIGHTS.

13 2. REQUEST THE DIRECTOR TO ISSUE A REVISED CERTIFICATE OF
14 GROUNDWATER RIGHTS TO REFLECT NEW OR ADDITIONAL ACRES OF LAND WITHIN THE
15 BASIN MANAGEMENT AREA ON WHICH THE OWNER WISHES TO USE GROUNDWATER
16 WITHDRAWN PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHTS FOR
17 AGRICULTURAL PURPOSES.

18 B. THE RIGHT TO USE GROUNDWATER PURSUANT TO THIS SECTION IS
19 APPURTENANT TO THE ACRES OF LAND DESCRIBED IN THE AGRICULTURAL CERTIFICATE
20 OF GROUNDWATER RIGHTS. AN AGRICULTURAL GROUNDWATER RIGHT IS OWNED BY THE
21 OWNER OF THE LAND TO WHICH THE GROUNDWATER RIGHT IS APPURTENANT AND MAY BE
22 LEASED FOR AGRICULTURAL USE WITH THE LAND TO WHICH IT IS APPURTENANT.

23 C. THE OWNER OR LESSEE OF AN AGRICULTURAL CERTIFICATE OF
24 GROUNDWATER RIGHTS MAY WITHDRAW OR RECEIVE GROUNDWATER FROM ANY LOCATION
25 IN THE BASIN MANAGEMENT AREA SUBJECT TO THE PROVISIONS GOVERNING
26 TRANSPORTATION OF GROUNDWATER PRESCRIBED IN ARTICLE 8 OF THIS CHAPTER.

27 45-445.06. Right to convert agricultural groundwater rights
28 for municipal and industrial use

29 A. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS
30 MAY CONVERT ALL OR PART OF THE GROUNDWATER RIGHT TO A MUNICIPAL AND
31 INDUSTRIAL USE.

32 B. A MUNICIPAL OR INDUSTRIAL GROUNDWATER USER MAY WITHDRAW AND USE
33 A CONVERTED AGRICULTURAL GROUNDWATER RIGHT ANNUALLY FOR MUNICIPAL AND
34 INDUSTRIAL USE AS FOLLOWS:

35 1. IF THE MUNICIPAL AND INDUSTRIAL USE IS ON LAND DESCRIBED IN THE
36 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS, NINETY PERCENT OF THE
37 AMOUNT OF THE AGRICULTURAL GROUNDWATER RIGHT ALLOCATION.

38 2. IF THE MUNICIPAL AND INDUSTRIAL USE IS ON LAND OTHER THAN LAND
39 DESCRIBED IN THE AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS, EIGHTY
40 PERCENT OF THE AMOUNT OF THE AGRICULTURAL GROUNDWATER RIGHT ALLOCATION.

41 C. A PERSON WHO PROPOSES TO CONVERT AN AGRICULTURAL GROUNDWATER
42 RIGHT TO A MUNICIPAL AND INDUSTRIAL USE SHALL NOTIFY THE DIRECTOR, ON A
43 FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR, OF THE CONVERSION AND THE
44 LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN FOR A

1 MUNICIPAL AND INDUSTRIAL USE AND THE TYPES OF USE FOR WHICH GROUNDWATER
2 WILL BE WITHDRAWN.

3 D. AFTER RECEIVING NOTICE OF A CONVERSION OF AN AGRICULTURAL
4 GROUNDWATER RIGHT TO A MUNICIPAL AND INDUSTRIAL USE, THE DIRECTOR SHALL
5 ISSUE TO THE OWNER A REVISED AGRICULTURAL CERTIFICATE OF GROUNDWATER
6 RIGHTS FOR THE REMAINING AGRICULTURAL USE, IF ANY, AND A NEW MUNICIPAL AND
7 INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE CONVERTED MUNICIPAL
8 AND INDUSTRIAL USE.

9 45-445.07. Conveyance of certificate of groundwater rights

10 A. THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF
11 GROUNDWATER RIGHTS MAY SELL OR CONVEY ALL OR PART OF THE GROUNDWATER RIGHT
12 FOR ANY NONAGRICULTURAL USE IN THE SAME GROUNDWATER BASIN OR SUBBASIN.

13 B. WITHIN THIRTY DAYS AFTER A CONVEYANCE OF A GROUNDWATER RIGHT,
14 THE CONVEYOR OF ALL OR PART OF A MUNICIPAL AND INDUSTRIAL RIGHT AND THE
15 CONVEYEE OF THE MUNICIPAL AND INDUSTRIAL RIGHT SHALL NOTIFY THE DIRECTOR
16 OF THE CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. FOR
17 THE PURPOSES OF THIS SUBSECTION, A NOTICE PROVIDED BY THE CONVEYOR AND THE
18 CONVEYEE SHALL INCLUDE THE FOLLOWING:

- 19 1. THE AMOUNT IN ACRE-FEET RETAINED BY THE CONVEYOR, IF ANY.
- 20 2. THE AMOUNT IN ACRE-FEET TRANSFERRED TO THE CONVEYEE.
- 21 3. THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE
22 CONVEYOR, IF ANY.
- 23 4. THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE
24 CONVEYEE.
- 25 5. THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE
26 WITHDRAWN BY THE CONVEYOR, IF ANY.
- 27 6. THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE
28 WITHDRAWN BY THE CONVEYEE.
- 29 7. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

30 C. AFTER RECEIVING NOTICE OF A CONVEYANCE OF A MUNICIPAL AND
31 INDUSTRIAL GROUNDWATER RIGHT, THE DIRECTOR SHALL ISSUE TO THE CONVEYOR A
32 REVISED MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE
33 PORTION OF THE GROUNDWATER RIGHT RETAINED BY THE CONVEYOR, IF ANY, AND
34 ISSUE TO THE CONVEYEE A NEW MUNICIPAL AND INDUSTRIAL CERTIFICATE OF
35 GROUNDWATER RIGHTS FOR THE PORTION OF THE GROUNDWATER RIGHT CONVEYED.

36 D. IF THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER
37 RIGHTS CONVEYS LAND DESCRIBED IN THE GROUNDWATER USER'S CERTIFICATE, EACH
38 ACRE CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF THE ANNUAL
39 ALLOCATION OF GROUNDWATER GRANTED PURSUANT TO A CERTIFICATE.

40 E. WITHIN THIRTY DAYS AFTER THE CONVEYANCE OF LAND DESCRIBED IN AN
41 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS, THE CONVEYOR AND THE
42 CONVEYEE SHALL EACH NOTIFY THE DIRECTOR OF THE CONVEYANCE ON A FORM
43 PRESCRIBED AND FURNISHED BY THE DIRECTOR. FOR THE PURPOSES OF THIS
44 SUBSECTION, A NOTICE PROVIDED BY THE CONVEYOR AND THE CONVEYEE SHALL
45 INCLUDE ALL OF THE FOLLOWING:

1 1. A LEGAL DESCRIPTION AND A MAP OF THE LAND RETAINED BY THE
2 SELLER, IF ANY.

3 2. A LEGAL DESCRIPTION AND A MAP OF THE LAND CONVEYED TO THE
4 CONVEYEE.

5 3. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

6 F. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN
7 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHT, THE DIRECTOR SHALL ISSUE TO
8 THE CONVEYOR A REVISED CERTIFICATE FOR THE PORTION OF THE GROUNDWATER
9 RIGHT RETAINED BY THE CONVEYOR, IF ANY, AND ISSUE TO THE CONVEYEE A NEW
10 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE
11 GROUNDWATER RIGHT CONVEYED.

12 G. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS
13 MAY SELL OR CONVEY ALL OR PART OF THE RIGHT FOR AGRICULTURAL USE ON OTHER
14 LAND IN THE SAME GROUNDWATER BASIN OR SUBBASIN.

15 H. WITHIN THIRTY DAYS AFTER A CONVEYANCE AS PRESCRIBED IN
16 SUBSECTION G OF THIS SECTION, THE CONVEYOR OF AN AGRICULTURAL CERTIFICATE
17 OF GROUNDWATER RIGHTS AND THE CONVEYEE SHALL NOTIFY THE DIRECTOR OF THE
18 CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE
19 PROVIDED BY THE CONVEYOR AND THE CONVEYEE SHALL INCLUDE THE FOLLOWING:

20 1. THE AMOUNT IN ACRE-FEET RETAINED BY THE CONVEYOR, IF ANY.

21 2. THE AMOUNT IN ACRE-FEET TRANSFERRED TO THE CONVEYEE.

22 3. A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEYOR
23 DESIRES TO USE GROUNDWATER FOR AN AGRICULTURAL PURPOSE AND THE PORTION OF
24 THE AGRICULTURAL GROUNDWATER RIGHT RETAINED.

25 4. A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEYEE
26 DESIRES TO USE GROUNDWATER FOR AGRICULTURAL USE PURSUANT TO THE
27 AGRICULTURAL GROUNDWATER RIGHT CONVEYED.

28 5. OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

29 I. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN
30 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR USE ON OTHER
31 AGRICULTURAL LAND, THE DIRECTOR SHALL ISSUE TO THE CONVEYOR A REVISED
32 CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE RIGHT RETAINED BY
33 THE CONVEYOR, IF ANY, AND ISSUE TO THE CONVEYEE A NEW AGRICULTURAL
34 CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE RIGHT CONVEYED.

35 45-445.08. Retirement; certificate of groundwater rights

36 A. THE OWNER OF A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE ALL
37 OR PART OF THE GROUNDWATER RIGHTS.

38 B. A PERSON WHO PROPOSES TO RETIRE ALL OR PART OF A CERTIFICATE OF
39 GROUNDWATER RIGHTS SHALL NOTIFY THE DIRECTOR OF THE RETIREMENT ON A FORM
40 PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE PROVIDED BY THE
41 PERSON PROPOSING TO RETIRE ALL OR PART OF A CERTIFICATE OF GROUNDWATER
42 RIGHTS SHALL INCLUDE THE FOLLOWING:

43 1. THE AMOUNT IN ACRE-FEET OF THE GROUNDWATER RIGHT TO BE RETIRED.

2. IF THE GROUNDWATER RIGHT TO BE RETIRED IS A MUNICIPAL AND INDUSTRIAL GROUNDWATER RIGHT:

(a) THE TYPE OR TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

(b) THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

(c) OTHER INFORMATION AS THE DIRECTOR MAY REASONABLY REQUIRE.

3. IF THE GROUNDWATER RIGHT TO BE RETIRED IS AN AGRICULTURAL GROUNDWATER RIGHT:

(a) A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE PERSON PROPOSING TO RETIRE THE GROUNDWATER RIGHT DESIRES TO USE FOR AGRICULTURAL USE THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

(b) OTHER INFORMATION AS THE DIRECTOR MAY REQUIRE.

C. AFTER RECEIVING NOTICE OF RETIREMENT OF ALL OR PART OF A CERTIFICATE OF GROUNDWATER RIGHTS, THE DIRECTOR SHALL ISSUE TO THE PERSON WHO RETIRES THE GROUNDWATER RIGHT A REVISED CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

45-445.09. Basin management; active management area; prohibition

THE DIRECTOR OR THE VOTERS OF A BASIN MANAGEMENT AREA MAY NOT DESIGNATE A BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR IRRIGATION NON-EXPANSION AREA.

45-445.10. Irrigation non-expansion area to basin management area

IF A BASIN MANAGEMENT AREA IS ESTABLISHED PURSUANT TO THIS ARTICLE IN AN AREA THAT WAS PREVIOUSLY DESIGNATED AS AN IRRIGATION NON-EXPANSION AREA, THE DIRECTOR SHALL DECLARE ALL BASINS OR SUBBASINS IN THE IRRIGATION NON-EXPANSION AREA AS A BASIN MANAGEMENT AREA AND THE IRRIGATION NON-EXPANSION AREA AND ANY REGULATIONS ADOPTED PURSUANT TO THE DESIGNATION AS AN IRRIGATION NON-EXPANSION TERMINATE.

45-445.11. Preemption; groundwater transportation

THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

ARTICLE 3.2. ACTIVE BASIN MANAGEMENT

45-446. Active basin management area; initiation procedures; election; map

A. THE DESIGNATION OF AN ACTIVE BASIN MANAGEMENT AREA IN ANY LOCATION THAT IS DESIGNATED A BASIN MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER MAY BE INITIATED BY A UNANIMOUS VOTE OF ALL BOARDS OF SUPERVISORS WITH GEOGRAPHIC BOUNDARIES WITHIN THE GROUNDWATER BASIN OR SUBBASIN. IF ALL SUPERVISORS VOTE TO DESIGNATE AN ACTIVE BASIN MANAGEMENT AREA, THE COUNTY BOARD OF SUPERVISORS SHALL CALL FOR AN ELECTION ON THE QUESTION OF DESIGNATING AN ACTIVE BASIN MANAGEMENT AREA WITH BOUNDARIES THAT ARE COTERMINOUS WITH THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUBBASIN DESIGNATED AS A BASIN MANAGEMENT AREA AND FOR THE ELECTION OF

1 THREE ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS. IF THE PROPOSED ACTIVE
2 BASIN MANAGEMENT AREA IS LOCATED IN MORE THAN ONE COUNTY, THE RESPECTIVE
3 COUNTIES SHALL COOPERATE TO ADMINISTER THE ELECTION. NOTWITHSTANDING ANY
4 OTHER LAW, THE ELECTION SHALL BE CONDUCTED AS PRESCRIBED IN TITLE 16,
5 CHAPTER 4, ARTICLE 8.1, EXCEPT THAT THE ELECTION SHALL INCLUDE ONLY
6 REGISTERED VOTERS WHO RESIDE INSIDE THE BOUNDARIES OF THE PROPOSED ACTIVE
7 BASIN MANAGEMENT AREA AND WHO RECEIVE THEIR DRINKING WATER FROM THE
8 GROUNDWATER BASIN OR SUBBASIN AS ELIGIBLE VOTERS.

9 B. THE BALLOT SHALL BE WORDED "SHOULD THE (INSERT THE NAME OF
10 GROUNDWATER BASIN OR SUBBASIN) BE DESIGNATED AN ACTIVE BASIN MANAGEMENT
11 AREA?" FOLLOWED BY THE WORDS "YES" AND "NO".

12 C. CANDIDATES FOR AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL FILE
13 NOMINATION PETITIONS WITH THE DIRECTOR IN THE MANNER PRESCRIBED BY THE
14 DIRECTOR. ANY QUALIFIED ELECTOR OF THE PROPOSED ACTIVE BASIN MANAGEMENT
15 AREA MAY SIGN THE PETITIONS OF NOT MORE THAN THREE CANDIDATES. THE NAMES
16 OF CANDIDATES SHALL APPEAR ON THE ELECTION BALLOT IN ALPHABETICAL ORDER BY
17 SURNAMES, WITH A SQUARE OPPOSITE EACH NAME, AND AN INSTRUCTION TO MARK AN
18 X IN THE SQUARES OPPOSITE THE NAMES OF NOT MORE THAN THREE CANDIDATES FOR
19 WHOM THE VOTER WISHES TO VOTE.

20 D. IF A MAJORITY OF THE ELIGIBLE VOTERS VOTING ON THE QUESTION
21 APPROVES THE FORMATION OF THE ACTIVE BASIN MANAGEMENT AREA, THE DIRECTOR
22 SHALL HOLD THREE PUBLIC MEETINGS, MAKE THE NECESSARY DETERMINATION AND
23 ALLOW FOR CHALLENGES AS PRESCRIBED IN SECTION 45-445.01, EXCEPT THE
24 DIRECTOR SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF AN ACTIVE
25 BASIN MANAGEMENT AREA AND MAKE A DETERMINATION CONSISTENT WITH THE
26 PROCEDURES PRESCRIBED IN THIS ARTICLE. AFTER THE ACTIVE BASIN MANAGEMENT
27 AREA IS ESTABLISHED, THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP OF THE
28 ACTIVE BASIN MANAGEMENT AREA IN THE OFFICE OF THE COUNTY RECORDER OF THE
29 COUNTY OR COUNTIES IN WHICH THE ACTIVE BASIN MANAGEMENT AREA IS LOCATED.

30 E. THE THREE CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES AT
31 THE ELECTION FOR THE ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS SHALL BE
32 DECLARED ELECTED. THE COUNCIL MEMBERS' TERMS SHALL BEGIN ON THE DATE OF
33 FILING THE OATH OF OFFICE WITH THE SECRETARY OF STATE AND THE CANDIDATES
34 SHALL SERVE FOUR YEAR TERMS.

35 45-446.01. Active basin management council; members; term;
36 duties

37 A. AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL BE ESTABLISHED IN EACH
38 ACTIVE BASIN MANAGEMENT AREA CONSISTING OF THE FOLLOWING FIVE MEMBERS:

39 1. THREE MEMBERS WHO RESIDE WITHIN THE BOUNDARIES OF THE ACTIVE
40 BASIN MANAGEMENT AREA, WHO RECEIVE THEIR DRINKING WATER FROM THE
41 GROUNDWATER BASIN OR SUBBASIN AND WHO ARE ELECTED PURSUANT TO SECTION
42 45-446.

43 2. TWO MEMBERS WHO ARE RESIDENTS OF THIS STATE AND WHO ARE
44 APPOINTED BY THE IRRIGATION DISTRICTS WHOSE BOUNDARIES OVERLAP WITH THE
45 ACTIVE BASIN MANAGEMENT AREA. IF NO IRRIGATION DISTRICTS OVERLAP WITH THE

1 BOUNDARIES OF THE ACTIVE BASIN MANAGEMENT AREA, THE IRRIGATION DISTRICT
2 WHOSE BOUNDARIES ARE CLOSEST TO THOSE OF THE ACTIVE BASIN MANAGEMENT AREA
3 SHALL APPOINT THESE COUNCIL MEMBERS.

4 B. IF A COUNCIL MEMBER POSITION IS VACATED, THE APPOINTING
5 AUTHORITY SHALL IMMEDIATELY APPOINT A NEW MEMBER. IF AN ELECTED COUNCIL
6 MEMBER IS REMOVED, THE VOTERS SHALL ELECT A REPLACEMENT AT THE NEXT
7 REGULARLY SCHEDULED ELECTION. A REPLACEMENT MEMBER'S TERM SHALL END AT
8 THE SAME TIME AS THE REPLACED MEMBER'S TERM.

9 C. ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS SERVE FOUR-YEAR TERMS.

10 D. ACTIVE BASIN MANAGEMENT COUNCIL MEMBERS ARE NOT ELIGIBLE TO
11 RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES
12 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

13 E. THE ACTIVE BASIN MANAGEMENT COUNCIL SHALL:

14 1. SELECT A CHAIRPERSON FROM THE COUNCIL'S MEMBERSHIP.

15 2. MEET AS OFTEN AS THE CHAIRPERSON DEEMS NECESSARY.

16 3. HOLD AT LEAST TWO PUBLIC MEETINGS IN THE BASIN OR SUBBASIN AND
17 ALLOW PUBLIC COMMENT BEFORE ADOPTING AN ACTIVE BASIN MANAGEMENT AREA
18 MANAGEMENT PLAN.

19 4. SUBMIT A PROPOSED MANAGEMENT PLAN TO THE CHAIRPERSONS OF THE
20 HOUSE OF REPRESENTATIVES AND SENATE NATURAL RESOURCES, ENERGY AND WATER
21 COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, BEFORE ADOPTING A MANAGEMENT
22 PLAN.

23 5. ON REQUEST OF THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES OR
24 SENATE NATURAL RESOURCES AND ENERGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE,
25 ATTEND A JOINT LEGISLATIVE HEARING TO EVALUATE A PROPOSED MANAGEMENT PLAN.

26 6. IN CONJUNCTION WITH THE DEPARTMENT, APPLY FOR AND DISTRIBUTE
27 GRANTS FOR WATER CONSERVATION, WATER AUGMENTATION OR WATER SYSTEM UPGRADES
28 WITHIN THE ACTIVE BASIN MANAGEMENT AREA. MONIES AWARDED PURSUANT TO THIS
29 PARAGRAPH SHALL BE DISTRIBUTED EQUITABLY ACROSS ALL SECTORS.

30 7. SUBMIT A PLAN FOR WATER MANAGEMENT TO THE DIRECTOR. THE PLAN
31 SHALL BE CONSISTENT WITH THE MANAGEMENT GOALS OF AN ACTIVE BASIN
32 MANAGEMENT AREA AND MUST BE APPROVED BY ALL MEMBERS OF THE COUNCIL. THE
33 PLAN MAY NOT REQUIRE MORE THAN A TWO PERCENT ANNUAL REDUCTION IN A WATER
34 USER'S ORIGINAL ALLOTMENT GRANTED PURSUANT TO A CERTIFICATED GROUNDWATER
35 RIGHT OR PROHIBIT A GROUNDWATER USER FROM WITHDRAWING INTENTIONALLY
36 CREATED GROUNDWATER RECHARGE, INCLUDING EFFLUENT WITH A TEN PERCENT NET
37 BENEFIT TO THE AQUIFER. THE PLAN SHALL REQUIRE ANY ANNUAL REDUCTION IN
38 WATER USE TO BE EQUAL IN PERCENTAGE FOR ALL USERS WITH A CERTIFICATED
39 GROUNDWATER RIGHT. THE PLAN MAY NOT REQUIRE A WATER USER TO REDUCE ANNUAL
40 WATER USE BY AN AMOUNT GREATER THAN TEN PERCENT OF THE ANNUAL ALLOCATION
41 OF WATER THAT THE USER IS ENTITLED TO PURSUANT TO A CERTIFICATE OF
42 GROUNDWATER RIGHTS ISSUED PURSUANT TO SECTION 45-445.02 AT ANY TIME DURING
43 THE TERM OF AN ACTIVE BASIN MANAGEMENT AREA, INCLUDING DURING ANY
44 SUBSEQUENT TERM OF THE ACTIVE MANAGEMENT AREA AND MAY NOT REQUIRE ANY

1 WATER USER TO ACHIEVE TOTAL WATER USE REDUCTIONS IN INCREMENTS GREATER
2 THAN TWO PERCENT PER YEAR.

3 8. PROVIDE EDUCATION TO WATER USERS AND THE PUBLIC ON EFFICIENT
4 WATER MANAGEMENT AND CONSERVATION.

5 F. AN ACTIVE BASIN MANAGEMENT COUNCIL MAY HAVE ONLY THOSE POWERS
6 GIVEN TO IT BY STATUTE AND MAY EXERCISE THE POWERS OF THE COUNCIL,
7 INCLUDING THE SUBMISSION AND ADOPTION OF AN ACTIVE BASIN MANAGEMENT AREA
8 MANAGEMENT PLAN, ONLY ON AN UNANIMOUS VOTE OF THE COUNCIL. UNLESS
9 OTHERWISE AUTHORIZED BY LAW, THE DIRECTOR MAY NOT TAKE ANY ACTION IN AN
10 ACTIVE BASIN MANAGEMENT AREA NOT RECOMMENDED BY THE COUNCIL.

11 45-446.02. Active basin management areas; goals

12 THE GOALS OF AN ACTIVE BASIN MANAGEMENT AREA AND AN ACTIVE BASIN
13 MANAGEMENT COUNCIL MAY BE ANY OF THE FOLLOWING AS DETERMINED BY THE
14 COUNCIL:

15 1. TO PROTECT THE ECONOMY WHILE CONSIDERING THE NEED TO PRESERVE
16 GROUNDWATER FOR FUTURE NON-IRRIGATION USES.

17 2. TO GATHER AND OBTAIN A BETTER UNDERSTANDING OF THE GROUNDWATER
18 BASIN OR SUBBASIN AND AQUIFER HEALTH BY INSTALLING INDEX WELLS AND
19 PROMOTING WATER USERS IN THE GROUNDWATER BASIN TO VOLUNTARILY PROVIDE
20 GROUNDWATER DATA TO THE COUNCIL.

21 3. TO PRESERVE EXISTING GROUNDWATER USES IN THE GROUNDWATER BASIN
22 OR SUBBASIN WHILE ALLOWING THE DEVELOPMENT OF OTHER USES AND PRESERVING
23 FUTURE WATER SUPPLIES FOR OTHER USES.

24 4. TO REDUCE THE RATE OF AQUIFER DEPLETION, FROM THE CURRENT
25 DEPLETION RATE AT THE TIME AN ACTIVE BASIN MANAGEMENT AREA IS ESTABLISHED
26 TO A SET RATE BY A SET YEAR AS DETERMINED BY THE COUNCIL.

27 5. TO ADDRESS THE ANNUAL AVERAGE DEPTH-TO-STATIC LEVEL ACROSS THE
28 GROUNDWATER BASIN OR SUBBASIN FROM DROPPING BELOW A SET LEVEL AND, IF THE
29 AVERAGE DEPTH-TO-STATIC LEVEL DROPS BELOW THE SET LEVEL, TO BRING THE
30 AVERAGE DEPTH-TO-STATIC LEVEL BACK TO THE SET LEVEL WITHIN TWO YEARS AFTER
31 THE CONTINUATION OR TERMINATION OF THE COUNCIL.

32 6. TO MAINTAIN GROUNDWATER PROGRAMS IN THE GROUNDWATER BASIN OR
33 SUBBASIN THAT PROVIDE REASONABLE ACCESS TO A SUPPLY OF WATER TO MEET
34 REASONABLE COMMERCIAL AND BASIC DOMESTIC NEEDS.

35 7. TO INCREASE THE TOTAL AMOUNT OF NATURAL, INCIDENTAL OR
36 ARTIFICIAL RECHARGE IN THE GROUNDWATER BASIN OR SUBBASIN EACH YEAR, FROM A
37 SET LEVEL IN ACRE-FEET PER YEAR TO A HIGHER SET LEVEL IN ACRE-FEET PER
38 YEAR, BY A SET YEAR AS DETERMINED BY THE COUNCIL.

39 8. TO INCREASE THE TOTAL AMOUNT OF WATER REUSE IN THE GROUNDWATER
40 BASIN OR SUBBASE EACH YEAR, FROM A SET LEVEL IN ACRE-FEET PER YEAR TO A
41 HIGHER SET LEVEL IN ACRE-FEET PER YEAR, BY A SET YEAR AS DETERMINED BY THE
42 COUNCIL.

1 45-446.03. Active basin management area; right to water;
2 annual report; termination and continuation

3 A. THE DESIGNATION OF AN ACTIVE BASIN MANAGEMENT AREA MAY NOT
4 INFRINGE ON A WATER USER'S CERTIFICATED WATER RIGHTS GRANTED PURSUANT TO
5 SECTION 45-445.02, EXCEPT THAT AN ACTIVE BASIN MANAGEMENT COUNCIL MAY
6 REQUIRE NOT MORE THAN A TWO PERCENT ANNUAL REDUCTION IN WATER USE AS PART
7 OF AN ACTIVE BASIN MANAGEMENT AREA MANAGEMENT PLAN. A WATER USER IN AN
8 ACTIVE BASIN MANAGEMENT AREA MAY TRANSFER THE USER'S WATER RIGHTS PURSUANT
9 TO SECTION 45-445.02, SUBSECTION D, PARAGRAPH 4 OR USE GROUNDWATER
10 PURSUANT TO SECTION 45-445.02, SUBSECTION D.

11 B. THE DEPARTMENT:

12 1. IN CONJUNCTION WITH AN ACTIVE BASIN MANAGEMENT COUNCIL, SHALL
13 ANNUALLY REVIEW THE STATUS OF GROUNDWATER IN THE ACTIVE BASIN MANAGEMENT
14 AREA AND SHALL ESTIMATE THE AMOUNT OF ANY CHANGE IN GROUNDWATER LEVELS IN
15 THE AREA.

16 2. SHALL SUBMIT AN ANNUAL REPORT, ON OR BEFORE FEBRUARY 1 OF EACH
17 YEAR, OF THE DEPARTMENT'S FINDINGS TO THE ACTIVE BASIN MANAGEMENT COUNCIL.

18 3. MAY NOT REQUIRE A GROUNDWATER USER TO METER ANY WELLS LOCATED IN
19 AN ACTIVE BASIN MANAGEMENT AREA.

20 4. MAY NOT REQUIRE A GROUNDWATER USER TO REPORT THE USER'S
21 GROUNDWATER USE BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS
22 SECTION.

23 C. AN ACTIVE BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO THIS
24 ARTICLE MAY NOT:

25 1. REQUIRE A GROUNDWATER USER TO METER ANY WELLS LOCATED IN AN
26 ACTIVE BASIN MANAGEMENT AREA.

27 2. REQUIRE A GROUNDWATER USER TO REPORT THE USER'S GROUNDWATER USE
28 BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION D OF THIS SECTION.

29 D. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE ACTIVE BASIN
30 MANAGEMENT COUNCIL AN ESTIMATE OF GROUNDWATER USE BASED ON PUMPING
31 CAPACITY AND THE POWER USAGE OF THE USER'S GROUNDWATER PUMPING OR OTHER
32 SIMILARLY RELIABLE AND ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS
33 PARAGRAPH, A USER MAY VOLUNTARILY ACQUIRE AND REPORT METERING DATA.

34 E. FOR THE PURPOSES OF THIS ARTICLE, ANY DATA OR ESTIMATE A PERSON
35 SUBMITS REGARDING A PERSON'S GROUNDWATER USE IS NOT A PUBLIC RECORD UNDER
36 TITLE 39, CHAPTER 1 AND MAY NOT BE DISCLOSED UNLESS THE GROUNDWATER USER
37 CONSENTS TO DISCLOSURE.

38 F. AN ACTIVE BASIN MANAGEMENT AREA AND ACTIVE BASIN MANAGEMENT
39 COUNCIL TERMINATE TEN YEARS AFTER THE DATE ON WHICH THE ACTIVE BASIN
40 MANAGEMENT AREA WAS ESTABLISHED UNLESS CONTINUED PURSUANT TO THIS
41 SECTION. EXCEPT AS PROVIDED IN SUBSECTION J OF THIS SECTION, IF THE
42 DIRECTOR DETERMINES EITHER THAT THE ACTIVE BASIN MANAGEMENT AREA NO LONGER
43 MEETS THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D PURSUANT
44 TO SUBSECTION G OF THIS SECTION OR, PURSUANT TO THE COST BENEFIT ANALYSIS,
45 THAT THE COST OUTWEIGHS THE PROJECTED BENEFITS, THE ACTIVE BASIN

1 MANAGEMENT AREA SHALL IMMEDIATELY TERMINATE. A PARTY MAY SEEK JUDICIAL
2 REVIEW OF THE DIRECTOR'S DETERMINATIONS PURSUANT TO TITLE 12, CHAPTER 7,
3 ARTICLE 6.

4 G. TWENTY-FOUR MONTHS BEFORE THE EXPECTED TERMINATION OF AN ACTIVE
5 BASIN MANAGEMENT AREA, THE DIRECTOR SHALL:

6 1. DETERMINE IF THE ACTIVE BASIN MANAGEMENT AREA CONTINUES TO MEET
7 THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D.

8 2. DETERMINE IF THE PROBABLE BENEFITS TO THE LOCAL ECONOMY
9 RESULTING FROM THE PROPOSED WATER MANAGEMENT AUTHORIZED BY THIS ARTICLE
10 OUTWEIGH THE COSTS. FOR THE PURPOSES OF THIS PARAGRAPH, THE DIRECTOR MAY
11 HIRE AN OUTSIDE CONTRACTOR TO CONDUCT THE COST BENEFIT ANALYSIS.

12 3. PRESENT THE DIRECTOR'S DETERMINATIONS TO THE ACTIVE BASIN
13 MANAGEMENT COUNCIL. TWELVE MONTHS BEFORE THE TERMINATION OF AN ACTIVE
14 BASIN MANAGEMENT AREA THE REGISTERED VOTERS OF THE ACTIVE BASIN MANAGEMENT
15 AREA MAY VOTE TO CONTINUE THE ACTIVE BASIN MANAGEMENT AREA AND ACTIVE
16 BASIN MANAGEMENT COUNCIL IF THE GROUNDWATER BASIN OR SUBBASIN CONTINUES TO
17 MEET THE CONDITIONS PRESCRIBED IN SECTION 45-445, SUBSECTION D AND THE
18 COST BENEFIT ANALYSIS CONDUCTED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION
19 INDICATES THE BENEFITS OF MANAGEMENT OUTWEIGH THE RISKS. AN ACTIVE BASIN
20 MANAGEMENT COUNCIL MAY ORDER THE COUNTY RECORDERS WHERE THE ACTIVE BASIN
21 MANAGEMENT AREA IS LOCATED TO HOLD AN ELECTION ASKING IF THE ACTIVE BASIN
22 MANAGEMENT AREA SHOULD BE CONTINUED AND CALLING FOR THE ELECTION OF THE
23 ELECTED MEMBERS OF AN ACTIVE BASIN MANAGEMENT COUNCIL.

24 H. AN ELECTION TO CONTINUE AN ACTIVE BASIN MANAGEMENT AREA SHALL BE
25 CONDUCTED AS PRESCRIBED IN TITLE 16, CHAPTER 4, ARTICLE 8.1, EXCEPT THAT
26 THE ELECTION SHALL INCLUDE ONLY REGISTERED VOTERS WHO RESIDE INSIDE THE
27 BOUNDARIES OF THE PROPOSED ACTIVE BASIN MANAGEMENT AREA AND WHO RECEIVE
28 THEIR DRINKING WATER FROM THE BASIN OR SUBBASIN AS ELIGIBLE VOTERS.
29 CANDIDATES FOR AN ACTIVE BASIN MANAGEMENT COUNCIL SHALL COMPLY WITH
30 SECTION 45-446.

31 I. IF AN ACTIVE BASIN MANAGEMENT AREA IS NOT CONTINUED OR
32 TERMINATES, THE ACTIVE BASIN MANAGEMENT AREA REVERTS TO A BASIN MANAGEMENT
33 AREA AS PRESCRIBED IN ARTICLE 3.1 OF THIS CHAPTER AND ANY MANAGEMENT PLAN
34 ADOPTED BY THE TERMINATED ACTIVE BASIN MANAGEMENT COUNCIL IS
35 UNENFORCEABLE. A WATER USER SHALL HAVE THE SAME CERTIFICATED GROUNDWATER
36 RIGHT GUARANTEED TO THE WATER USER BEFORE THE FORMATION OF THE ACTIVE
37 BASIN MANAGEMENT AREA.

38 J. AN ACTIVE BASIN MANAGEMENT AREA THAT WAS ORIGINALLY DESIGNATED
39 AS A BASIN MANAGEMENT AREA PURSUANT TO SECTION 45-445, SUBSECTION H OR I
40 MAY NOT TERMINATE ON THE GROUNDS THAT THE BASIN NO LONGER MEETS THE
41 CONDITIONS PRESCRIBED BY SECTION 45-445, SUBSECTION D.

1 45-446.04. Active basin management area; active management
2 area; prohibition

3 THE DIRECTOR OR VOTERS OF AN ACTIVE BASIN MANAGEMENT AREA MAY NOT
4 DESIGNATE AN ACTIVE BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR
5 AS AN IRRIGATION NON-EXPANSION AREA.

6 45-446.05. Preemption; groundwater transportation

7 THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER
8 PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

9 Sec. 2. Section 49-1270, Arizona Revised Statutes, is amended to
10 read:

11 49-1270. Definitions

12 In this article, unless the context otherwise requires:

13 1. "Eligible entity" means any of the following:

14 (a) A water provider that distributes or sells water outside of the
15 boundaries of an initial active management area in which part of the
16 central Arizona project aqueduct is located.

17 (b) Any city, town, county, district, commission, authority or
18 other public entity that is organized and that exists under the statutory
19 law of this state or under a voter-approved charter or initiative of this
20 state that is located outside of the boundaries of an initial active
21 management area in which part of the central Arizona project aqueduct is
22 located.

23 (c) AN ACTIVE BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO
24 TITLE 45, CHAPTER 2, ARTICLE 3.2.

25 2. "Loan" means leases, loans or other evidence of indebtedness for
26 water supply development purposes issued from the water supply development
27 revolving fund.

28 3. "Loan repayment agreement" means an agreement to repay a loan
29 issued from the water supply development revolving fund entered into by an
30 eligible entity.

31 4. "Water supply development revolving fund" or "fund" means the
32 water supply development revolving fund established by section 49-1271.

33 Sec. 3. Department of water resources; use of monies;
34 appropriation; grants; exemption

35 A. The department of water resources shall use monies appropriated
36 in the statewide water resources planning line item pursuant to Laws 2023,
37 chapter 133, section 97 only to fund water conservation measures in a
38 basin management area established pursuant to title 45, chapter 2, article
39 3.1, Arizona Revised Statutes, as added by this act.

40 B. The sum of \$40,000,000 is appropriated from the monies allocated
41 to this state from the American rescue plan act of 2021 (P.L. 117-2) in
42 fiscal year 2024-2025 to the department of water resources to fund water
43 conservation, measures in a basin management area established pursuant to
44 title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by
45 this act.

1 C. A water user in a basin management area established pursuant to
2 title 45, chapter 2, article 3.1, Arizona Revised Statutes, as added by
3 this act, may apply for a grant of not more than fifty percent of the
4 costs of the water user's water conservation measure. The department of
5 water resources shall award monies allocated pursuant to this section
6 equitably to all classes of water users in a basin management area.

7 D. The appropriation made in subsection B of this section and the
8 amount appropriated for the statewide water resources planning line item
9 in fiscal year 2023-2024 pursuant to Laws 2023, chapter 133, section 97
10 are exempt from the provisions of section 35-190, Arizona Revised
11 Statutes, relating to lapsing of appropriations.