

REFERENCE TITLE: watersheds; beneficial use; instream flows

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2073

Introduced by
Representative Travers

AN ACT

AMENDING SECTIONS 17-231, 17-298, 45-101, 45-105, 45-151, 45-152.01 AND 45-172, ARIZONA REVISED STATUTES; 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 17-231, Arizona Revised Statutes, is amended to
3 read:

4 17-231. General powers and duties of the commission

5 A. The commission shall:

6 1. Adopt rules and establish services it deems necessary to carry
7 out the provisions and purposes of this title.

8 2. Establish broad policies and long-range programs for the
9 management, preservation and harvest of wildlife.

10 3. Establish hunting, trapping and fishing rules and prescribe the
11 manner and methods that may be used in taking wildlife, but the commission
12 shall not limit or restrict the magazine capacity of any authorized
13 firearm.

14 4. Be responsible for the enforcement of laws for the protection of
15 wildlife.

16 5. Provide for the assembling and distribution of information to
17 the public relating to wildlife and activities of the department.

18 6. Prescribe rules for the expenditure, by or under the control of
19 the director, of all funds arising from appropriation, licenses, gifts or
20 other sources.

21 7. Exercise such powers and duties necessary to carry out fully the
22 provisions of this title and in general exercise powers and duties that
23 relate to adopting and carrying out policies of the department and control
24 of its financial affairs.

25 8. Prescribe procedures for use of department personnel,
26 facilities, equipment, supplies and other resources in assisting search or
27 rescue operations on request of the director of the division of emergency
28 management.

29 9. Cooperate with the Arizona-Mexico commission in the governor's
30 office and with researchers at universities in this state to collect data
31 and conduct projects in the United States and Mexico on issues that are
32 within the scope of the department's duties and that relate to quality of
33 life, trade and economic development in this state in a manner that will
34 help the Arizona-Mexico commission to assess and enhance the economic
35 competitiveness of this state and of the Arizona-Mexico region.

36 B. The commission may:

37 1. Conduct investigations, inquiries or hearings in the performance
38 of its powers and duties.

39 2. Establish game management units or refuges for the preservation
40 and management of wildlife.

41 3. Construct and operate game farms, fish hatcheries, fishing lakes
42 or other facilities for or relating to the preservation or propagation of
43 wildlife.

44 4. ~~Expend funds~~ SPEND MONIES to provide training in the safe
45 handling and use of firearms and safe hunting practices.

5. Remove or ~~permit~~ ALLOW to be removed from public or private waters fish ~~which~~ THAT hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.

6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a game farm or fish hatchery and declare wildlife salable when in the public interest or the interest of conservation.

7. Enter into agreements with the federal government, with other states or political subdivisions of ~~the~~ THIS state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and ~~expend funds~~ SPEND MONIES for carrying out such agreements.

8. Prescribe rules for the sale, trade, importation, exportation or possession of wildlife.

9. ~~Expend~~ SPEND monies for the purpose of producing publications relating to wildlife and activities of the department for sale to the public and establish the price to be paid for annual subscriptions and single copies of such publications. All monies received from the sale of such publications shall be deposited in the game and fish publications revolving fund.

10. Contract with any person or entity to design and produce artwork on terms that, in the commission's judgment, will produce an original and valuable work of art relating to wildlife or wildlife habitat.

11. Sell or distribute the artwork authorized under paragraph 10 of this subsection on such terms and for such price as it deems acceptable.

12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and ~~the~~ THIS state ~~of Arizona~~, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.

13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, the required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.

1 14. Solicit and accept grants, gifts or donations of money or other
2 property from any source, which may be used for any purpose consistent
3 with this title.

4 15. ACQUIRE AND LEASE SURFACE WATER RIGHTS FOR WATERSHED HEALTH USES
5 AND INSTREAM USES. FOR THE PURPOSES OF THIS PARAGRAPH, "WATERSHED HEALTH
6 USES" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-101.

7 C. The commission shall confer and coordinate with the director of
8 water resources with respect to the commission's activities, plans and
9 negotiations relating to water development and use, restoration projects
10 under the restoration acts pursuant to chapter 4, article 1 of this title,
11 where water development and use are involved, the abatement of pollution
12 injurious to wildlife and in the formulation of fish and wildlife aspects
13 of the director of water resources' plans to develop and ~~utilize~~ USE water
14 resources of the state and shall have jurisdiction over fish and wildlife
15 resources and fish and wildlife activities of projects constructed for the
16 state under or pursuant to the jurisdiction of the director of water
17 resources.

18 D. The commission may enter into one or more agreements with a
19 multi-county water conservation district and other parties for
20 participation in the lower Colorado river multispecies conservation
21 program under section 48-3713.03, including the collection and payment of
22 any monies authorized by law for the purposes of the lower Colorado river
23 multispecies conservation program.

24 Sec. 2. Section 17-298, Arizona Revised Statutes, is amended to
25 read:

26 17-298. Expenditures from fund; purpose and amounts; annual
27 report

28 A. Monies received pursuant to section 5-572 shall be spent as
29 follows:

30 1. Five percent on public access, including maintenance and
31 operation expenses.

32 2. Sixty percent on the identification, inventory, acquisition,
33 protection and management, including maintenance and operations, of
34 property with sensitive habitat, WATERSHED HEALTH USES AND INSTREAM
35 USES. At least twenty percent of the monies available under this
36 paragraph shall be spent to acquire property with sensitive habitat used
37 by endangered, threatened and candidate species. Not more than twenty
38 percent of the monies available under this paragraph may be spent on the
39 operation and maintenance of the acquired property, including the acquired
40 property's infrastructure. The commission may dispose of any lands
41 acquired for use as habitat by an endangered, threatened or candidate
42 species under this paragraph when the species no longer qualifies as an
43 endangered, threatened or candidate species. The Arizona game and fish
44 commission shall dispose of the land in a manner consistent with the
45 preservation of the species of concern. The disposal may include

conservation easements and fee simple transfers with associated instruments of protection. The commission shall follow the guidelines established pursuant to section 37-803 relating to the disposition of real property by a state agency. In addition, disposal shall include a written agreement between the commission and the purchaser requiring the purchaser to incorporate management actions to ensure proper maintenance of the species of concern. Management actions may include maintenance of habitat, selective control of nonnative species, maintenance of genetic viability, monitoring of populations and habitat, coordinating conservation activities, funding conservation actions and assessing conservation progress. FOR THE PURPOSES OF THIS PARAGRAPH, "WATERSHED HEALTH USES" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-101.

3. Fifteen percent on habitat evaluation or habitat protection.

4. Fifteen percent on urban wildlife and urban wildlife habitat programs.

5. Five percent on environmental education.

B. All monies earned as interest on monies received pursuant to section 5-572 shall be spent only in the percentages and for the purposes described in subsection A of this section or for costs of administering the Arizona game and fish commission heritage fund in such amounts as determined by the Arizona game and fish commission.

C. On or before December 31, the commission shall submit its annual report to the president of the senate, the speaker of the house of representatives and the chairmen of the senate and house of representatives committees on natural resources and agriculture, or their successor committees, and shall provide a copy of this report to the secretary of state. The annual report shall include information on:

1. The amount of monies spent or encumbered in the fund during the preceding fiscal year and a summary of the projects, activities and expenditures relating to:

(a) Property acquisition, operation and maintenance.

(b) Identification, inventory, protection and management of sensitive habitat.

(c) Habitat evaluation and protection.

(d) Urban wildlife.

(e) Environmental education.

(f) Public access.

2. The number and location of parcels of property acquired during the preceding fiscal year.

3. For personal and real properties acquired with fund monies during the preceding fiscal year, the amount of property tax revenue paid to each taxing jurisdiction during the last full tax year prior to acquisition.

4. The amount of money spent from the fund during the preceding fiscal year for employee personal services.

1 5. The number of full-time employees employed in the preceding
2 fiscal year in connection with property acquisition, including survey,
3 appraisal and other related activities.

4 6. The total number of full-time employees employed in the
5 preceding fiscal year for the programs listed in subsection A of this
6 section.

7 7. A list of the grants awarded during the preceding fiscal year,
8 including information on the recipients, purposes and amounts.

9 Sec. 3. Section 45-101, Arizona Revised Statutes, is amended to
10 read:

11 45-101. Definitions

12 In this title, unless the context otherwise requires:

13 1. "Appropriator" means the person or persons initiating or
14 perfecting the right to use appropriable water based on state law, or the
15 person's successor or successors in interest.

16 2. "Department" means the department of water resources.

17 3. "Director" means the director of water resources, who is also
18 the director of the department.

19 4. "Effluent" means water that has been collected in a sanitary
20 sewer for subsequent treatment in a facility that is regulated pursuant to
21 title 49, chapter 2. Such water remains effluent until it acquires the
22 characteristics of groundwater or surface water.

23 5. "Groundwater" means water under the surface of the earth
24 regardless of the geologic structure in which it is standing or moving.
25 Groundwater does not include water flowing in underground streams with
26 ascertainable beds and banks.

27 6. "Interstate stream" means any stream constituting or flowing
28 along the exterior boundaries of this state, and any tributary originating
29 in another state or foreign country and flowing into or through this
30 state.

31 7. "Riparian area" means a geographically delineated area with
32 distinct resource values, that is characterized by deep-rooted plant
33 species that depend on having roots in the water table or its capillary
34 zone and that occurs within or adjacent to a natural perennial or
35 intermittent stream channel or within or adjacent to a lake, pond or marsh
36 bed maintained primarily by natural water sources. Riparian area does not
37 include areas in or adjacent to ephemeral stream channels, artificially
38 created stockponds, man-made storage reservoirs constructed primarily for
39 conservation or regulatory storage, municipal and industrial ponds or
40 man-made water transportation, distribution, off-stream storage and
41 collection systems.

42 8. "Sanitary sewer" means any pipe or other enclosed conduit that
43 carries, among other substances, any water-carried wastes from the human
44 body from residences, commercial buildings, industrial plants or
45 institutions.

1 9. "Surface water" means the waters of all sources, flowing in
2 streams, canyons, ravines or other natural channels, or in definite
3 underground channels, whether perennial or intermittent, floodwater,
4 wastewater or surplus water, and of lakes, ponds and springs on the
5 surface. For the purposes of administering this title, surface water is
6 deemed to include central Arizona project water.

7 10. "WATERSHED HEALTH USES" MEANS WATER THAT IS CONSERVED IN A
8 NATURAL WATERCOURSE AND NOT OTHERWISE USED AND THAT SUPPORTS THE
9 ATTRIBUTES OF WATERSHED HEALTH FOR AN INDIVIDUAL WATERSHED AS PRESCRIBED
10 IN THE REPORT REQUIRED BY SECTION 45-105, SUBSECTION B.

11 Sec. 4. Section 45-105, Arizona Revised Statutes, is amended to
12 read:

13 45-105. Powers and duties of director

14 A. The director may:

15 1. Formulate plans and develop programs for the practical and
16 economical development, management, conservation and use of surface water,
17 groundwater and the watersheds in this state, including the management of
18 water quantity and quality.

19 2. Investigate works, plans or proposals pertaining to surface
20 water and groundwater, including management of watersheds, and acquire,
21 preserve, publish and disseminate related information the director deems
22 advisable.

23 3. Collect and investigate information on and prepare and devise
24 means and plans for the development, conservation and use of all
25 waterways, watersheds, surface water, groundwater and groundwater basins
26 in this state and of all related matters and subjects, including
27 irrigation, drainage, water quality maintenance, regulation of flow,
28 diversion of running streams adapted for development in cooperating with
29 the United States or by this state independently, flood control, use of
30 water power, prevention of soil waste and storage, conservation and
31 development of water for every useful purpose.

32 4. Measure, survey and investigate the water resources of this
33 state and their potential development and cooperate and contract with
34 agencies of the United States for such purposes.

35 5. Acquire, hold and dispose of property, including land,
36 rights-of-way, water and water rights, as necessary or convenient for the
37 performance of the groundwater and water quality management functions of
38 the department.

39 6. Acquire, other than by condemnation, construct, improve,
40 maintain and operate early warning systems for flood control purposes and
41 works for the recovery, storage, treatment and delivery of water.

42 7. Accept grants, gifts or donations of money or other property
43 from any source, which may be used for any purpose consistent with this
44 title. All property acquired by the director is public property and is

1 subject to the same tax exemptions, rights and privileges granted to
2 municipalities, public agencies and other public entities.

3 8. Enter into an interagency contract or agreement with any public
4 agency pursuant to title 11, chapter 7, article 3 and contract, act
5 jointly or cooperate with any person to carry out the purposes of this
6 title.

7 9. Prosecute and defend all rights, claims and privileges of this
8 state respecting interstate streams.

9 10. Initiate and participate in conferences, conventions or
10 hearings, including congressional hearings, court hearings or hearings of
11 other competent judicial or quasi-judicial departments, agencies or
12 organizations, and negotiate and cooperate with agencies of the United
13 States or of any state or government and represent this state concerning
14 matters within the department's jurisdiction.

15 11. Apply for and hold permits and licenses from the United States
16 or any agency of the United States for reservoirs, dam sites and
17 rights-of-way.

18 12. Receive and review all reports, proposed contracts and
19 agreements from and with the United States or any agencies, other states
20 or governments or their representatives and recommend to the governor and
21 the legislature action to be taken on such reports, proposed contracts and
22 agreements. The director shall take action on such reports, if authorized
23 by law, and review and coordinate the preparation of formal comments of
24 this state on both the preliminary and final reports relating to water
25 resource development of the United States army corps of engineers, the
26 United States secretary of the interior and the United States secretary of
27 agriculture, as provided for in the flood control act of 1944 (58 Stat.
28 887; 33 United States Code section 701-1).

29 13. Contract with any person for imported water or for the
30 acquisition of water rights or rights to withdraw, divert or use surface
31 water or groundwater as necessary for the performance of the groundwater
32 management functions of the director prescribed by chapter 2 of this
33 title. If water becomes available under any contract executed under this
34 paragraph, the director may contract with any person for its delivery or
35 exchange for any other water available.

36 14. Recommend to the administrative heads of agencies, boards and
37 commissions of this state, and political subdivisions of this state, rules
38 to promote and protect the rights and interests of this state and its
39 inhabitants in any matter relating to the surface water and groundwater in
40 this state.

41 15. Conduct feasibility studies and remedial investigations
42 relating to groundwater quality and enter into contracts and cooperative
43 agreements under section 104 of the comprehensive environmental response,
44 compensation, and liability act of 1980 (P.L. 96-510) to conduct such
45 studies and investigations.

1 16. Dispose informally by stipulation, agreed settlement, consent
2 order or alternative means of dispute resolution, including arbitration,
3 if the parties and director agree, or by default of any case in which a
4 hearing before the director is required or allowed by law.

5 17. Cooperate and coordinate with the appropriate governmental
6 entities in Mexico regarding water planning in areas near the border
7 between Mexico and Arizona and for the exchange of relevant hydrological
8 information.

9 B. The director shall:

10 1. Exercise and perform all powers and duties vested in or imposed
11 on the department and adopt and issue rules necessary to carry out the
12 purposes of this title.

13 2. Administer all laws relating to groundwater, as provided in this
14 title.

15 3. Be responsible for the supervision and control of reservoirs and
16 dams of this state and, when deemed necessary, conduct investigations to
17 determine whether the existing or anticipated condition of any dam or
18 reservoir in this state is or may become a menace to life and property.

19 4. Coordinate and confer with and may contract with:

20 (a) The Arizona power authority, the game and fish commission, the
21 state land department, the Arizona outdoor recreation coordinating
22 commission, the Arizona commerce authority, the department of health
23 services, active management area water authorities or districts and
24 political subdivisions of this state with respect to matters within their
25 jurisdiction relating to surface water and groundwater and the development
26 of state water plans.

27 (b) The department of environmental quality with respect to title
28 49, chapter 2 for its assistance in the development of state water plans.

29 (c) The department of environmental quality regarding water plans,
30 water resource planning, water management, wells, water rights and
31 permits, and other appropriate provisions of this title pertaining to
32 remedial investigations, feasibility studies, site prioritization,
33 selection of remedies and implementation of the water quality assurance
34 revolving fund program pursuant to title 49, chapter 2, article 5.

35 (d) The department of environmental quality regarding coordination
36 of databases that are necessary for activities conducted pursuant to title
37 49, chapter 2, article 5.

38 5. Cooperate with the Arizona power authority in the performance of
39 the duties and functions of the authority.

40 6. Maintain a permanent public depository for existing and future
41 records of stream flow, groundwater levels and water quality and other
42 data relating to surface water and groundwater.

43 7. Maintain a public docket of all matters before the department
44 that may be subject to judicial review pursuant to this title.

1 8. Investigate and take appropriate action on any complaints
2 alleging withdrawals, diversions, impoundments or uses of surface water or
3 groundwater that may violate this title or the rules adopted pursuant to
4 this title.

5 9. Adopt an official seal for the authentication of records,
6 orders, rules and other official documents and actions.

7 10. Provide staff support to the Arizona water protection fund
8 commission established by chapter 12 of this title.

9 11. Exercise and perform all powers and duties invested in the
10 chairperson of the Arizona water banking authority commission as
11 prescribed by chapter 14 of this title.

12 12. Provide staff support to the Arizona water banking authority
13 established by chapter 14 of this title.

14 13. In the year following each regular general election, present
15 information to the committees with jurisdiction over water issues in the
16 house of representatives and the senate. A written report is not required
17 but the presentation shall include information concerning the following:

18 (a) The current status of the water supply in this state and any
19 likely changes in that status.

20 (b) Issues of regional and local drought effects, short-term and
21 long-term drought management efforts and the adequacy of drought
22 preparation throughout the state.

23 (c) The status of current water conservation programs in this
24 state.

25 (d) The current state of each active management area and the level
26 of progress toward management goals in each active management area.

27 (e) Issues affecting management of the Colorado river and the
28 reliability of this state's two million eight hundred thousand acre-foot
29 allocation of Colorado river water, including the status of water supplies
30 in and issues related to the Colorado river basin states and Mexico.

31 (f) The status of any pending or likely litigation regarding
32 surface water adjudications or other water-related litigation and the
33 potential impacts on this state's water supplies.

34 (g) The status of Indian water rights settlements and related
35 negotiations that affect this state.

36 (h) Other matters related to the reliability of this state's water
37 supplies, the responsibilities of the department and the adequacy of the
38 department's and other entities' resources to meet this state's water
39 management needs.

40 14. Not later than December 1, 2023 and on or before December 1 of
41 each year thereafter, prepare and issue a water supply and demand
42 assessment for at least six of the fifty-one groundwater basins
43 established pursuant to section 45-403. The director shall ensure that a
44 water supply and demand assessment is completed for all groundwater basins
45 and initial active management areas at least once every five years. The

1 director may contract with outside entities to perform some or all of the
2 assessments and those outside entities shall be identified in the
3 assessment.

4 15. ON OR BEFORE DECEMBER 31 EVERY THREE YEARS AFTER THE INITIAL
5 PRELIMINARY SURVEY, ISSUE A REPORT THAT INCLUDES AN ASSESSMENT OF THE
6 OVERALL HEALTH OF EACH WATERSHED IN THIS STATE. ANY AGENCY OR POLITICAL
7 SUBDIVISION OF THIS STATE THAT HAS INFORMATION RELEVANT TO DEVELOPING THE
8 SURVEY AND REPORT PRESCRIBED BY THIS PARAGRAPH, INCLUDING THE
9 DETERMINATIONS, ASSESSMENTS AND RECOMMENDATIONS PRESCRIBED BY THIS
10 PARAGRAPH, SHALL COOPERATE WITH THE DIRECTOR AND SHALL TIMELY PROVIDE
11 INFORMATION REQUESTED BY THE DIRECTOR. THE ASSESSMENT OF THE OVERALL
12 HEALTH OF EACH WATERSHED IN THIS STATE SHALL BE BASED ON AN EVALUATION OF
13 THE FOLLOWING ATTRIBUTES OF THE WATERSHED:

- 14 (a) HYDROLOGY.
- 15 (b) LANDSCAPE CONDITION.
- 16 (c) HABITAT CONDITION.
- 17 (d) GEOMORPHOLOGY.
- 18 (e) WATER QUALITY.
- 19 (f) BIOLOGICAL CONDITION, INCLUDING THE BIODIVERSITY OF PLANTS,
- 20 ANIMALS AND AQUATIC SPECIES.
- 21 (g) THREATS TO OR VULNERABILITIES OF THE WATERSHED THAT IMPACT THE
- 22 ATTRIBUTES PRESCRIBED BY THIS PARAGRAPH.

23 Sec. 5. Section 45-151, Arizona Revised Statutes, is amended to
24 read:

25 45-151. Right of appropriation; permitted uses; water rights
26 in stockponds

27 A. Any person, ~~the THIS state, of Arizona~~ INCLUDING THE ARIZONA
28 GAME AND FISH DEPARTMENT, or a political subdivision ~~thereof~~ OF THIS STATE
29 may appropriate unappropriated water for domestic, municipal, irrigation,
30 stock watering, water power, recreation, wildlife, including fish,
31 nonrecoverable water storage pursuant to section 45-833.01, ~~or~~ mining uses
32 OR WATERSHED HEALTH USES, for ~~his~~ personal use or for delivery to
33 consumers. The person, ~~the THIS state of Arizona~~ or a political
34 subdivision ~~thereof~~ OF THIS STATE first appropriating the water shall have
35 the better right.

36 B. To effect the beneficial use, the person, ~~the THIS state of~~
37 ~~Arizona~~ or a political subdivision ~~thereof~~ OF THIS STATE appropriating the
38 water may construct and maintain reservoirs, storage facilities pursuant
39 to chapter 3.1 of this title, dams, canals, ditches, flumes and other
40 necessary waterways.

41 C. A water right in a stockpond, certified pursuant to article 10
42 of this chapter, shall be recognized as if such water had been
43 appropriated pursuant to this article.

1 Sec. 6. Section 45-152.01, Arizona Revised Statutes, is amended to
2 read:

3 45-152.01. Instream flow applications; process; definition

4 A. In addition to the information prescribed in section 45-152, any
5 person, including the United States, this state, INCLUDING THE ARIZONA
6 GAME AND FISH DEPARTMENT, A POLITICAL SUBDIVISION OF THIS STATE or a
7 municipality, who files an instream flow application after ~~the effective~~
8 ~~date of this section~~ AUGUST 2, 2012 shall comply with the following:

9 1. The applicant shall submit at least five years of streamflow
10 measurement data to support the proposed beneficial use which shall be
11 submitted at the time the application is filed. The director shall not
12 accept for filing an instream flow application that is not accompanied by
13 at least five years of continuous streamflow measurement data. The
14 streamflow data submitted shall consist of gauged on-site measurements of
15 available water flow from the area in which the claimed beneficial use
16 occurs.

17 2. The instream flow application shall describe the proposed
18 beneficial use and shall specify both of the following:

19 (a) The amount of streamflow required for the proposed beneficial
20 use.

21 (b) The availability of the requested flows during claimed periods
22 of beneficial use.

23 B. Applications that are submitted after ~~the effective date of this~~
24 ~~section~~ AUGUST 2, 2012 shall be rejected if the application does not
25 comply with this section.

26 C. For the purposes of this section, "instream flow application"
27 means an application for a permit to make an appropriation of water for
28 purposes of WATERSHED HEALTH, recreation or wildlife, including fish, in a
29 specific stream reach without diverting the water from the stream.

30 Sec. 7. Section 45-172, Arizona Revised Statutes, is amended to
31 read:

32 45-172. Transfer of water rights; application; limitations;
33 required consent

34 A. A water right may be severed from the land to which it is
35 appurtenant or from the site of its use if for other than irrigation
36 purposes and with the consent and approval of the owner of such right may
37 be transferred for use for irrigation of agricultural lands or for
38 municipal, WATERSHED HEALTH, stock watering, power and mining purposes and
39 to the state or its political subdivisions for use for recreation and
40 wildlife purposes, including fish, without losing priority theretofore
41 established, subject to the following limitations and conditions:

42 1. Except as otherwise provided in this section ~~no such~~ A severance
43 or transfer shall **NOT** be made unless approved by the director, and the
44 approval of the director shall prescribe the conditions of the approval.

2. Vested or existing rights to the use of water shall not be affected, infringed ~~upon nor~~ ON OR interfered with, and ~~in no event shall~~ the water diverted or used after the transfer of such rights SHALL NOT exceed the vested rights existing at the time of such severance and transfer, and the director shall by order so define and limit the amount of water to be diverted or used annually subsequent to such transfer.

3. The water rights sought to be transferred shall have been lawfully perfected under the laws of the territory or ~~the~~ THIS state of ~~Arizona~~ and shall not have thereafter been forfeited or abandoned.

4. ~~No such~~ A severance or transfer of water rights shall NOT be permitted or allowed from lands within the exterior boundaries of any irrigation district, agricultural improvement district or water users' association without first having obtained the written consent and approval of such irrigation district, agricultural improvement district or water users' association.

5. ~~No~~ A right to the use of water on or from any watershed or drainage area ~~which~~ THAT supplies or contributes water for the irrigation of lands within an irrigation district, agricultural improvement district or water users' association shall NOT be severed or transferred without the consent of the governing body of such irrigation district, agricultural improvement district or water users' association. All proposed applications for the severance and transfer of a right to use water of or from any watershed or drainage area ~~which~~ THAT supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district or water users' association shall be submitted to the governing body of such irrigation district, agricultural improvement district or water users' association ~~prior to~~ BEFORE the filing of such application with the director. Within forty-five days after the receipt of the application such governing body shall reject or approve the proposed application. THE failure of such governing body to approve or reject the proposed application within forty-five days after receipt shall constitute approval of the proposed application by such governing body. ~~No~~ AN application for the severance or transfer of a right to the use of water of or from any watershed or drainage area ~~which~~ THAT supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district or water users' association shall NOT be accepted for filing by the director unless accompanied by the written consent of the governing body of such irrigation district, agricultural improvement district or water users' association to the proposed application or by satisfactory evidence that such governing body failed to either accept or reject the proposed application within forty-five days after receipt by such governing body.

6. A severance and transfer of an irrigation water right appurtenant to lands within the boundaries of an irrigation district to other lands within the boundaries of the same irrigation district for

1 agricultural use may be accomplished by the exclusion of lands to which a
2 water right is appurtenant from within the boundaries of an irrigation
3 district, and the inclusion in lieu of other lands within the boundaries
4 of such irrigation district. Such severance and transfer of a water right
5 shall require the consent of only the irrigation district within which the
6 affected lands are situated and of the owners of the lands affected by the
7 severance and transfer. No proceedings before ~~not~~ OR approval by the
8 director shall be required to accomplish such severance and transfer.

9 7. An application for severance and transfer of a water right shall
10 be filed with the director. The director shall give notice of the
11 application by publication once a week for three successive weeks in a
12 newspaper of general circulation in the county or counties in which the
13 watershed or drainage area is located. The notice shall state that any
14 interested person may file written objections to the proposed severance
15 and transfer with the director within thirty days after the last
16 publication of the notice. In appropriate cases, including cases in which
17 an objection has been filed, an administrative hearing may be held before
18 the director's decision on the application if the director deems a hearing
19 necessary.

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