

PURSUANT TO A.R.S. §38-431.01, THE GILA COUNTY BOARD OF SUPERVISORS WILL HOLD A MEETING AT THE GILA COUNTY COURTHOUSE, BOARD OF SUPERVISORS' HEARING ROOM, 1400 EAST ASH STREET, GLOBE, ARIZONA. ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THE MEETING BY TELEPHONE CONFERENCE CALL OR BY INTERACTIVE TELEVISION VIDEO (ITV). THE MEETING IS ALSO TELEVISED TO THE GILA COUNTY TOMMIE CLINE MARTIN COMPLEX, BOARD OF SUPERVISORS' CONFERENCE ROOM, 707 S. COLCORD ROAD, PAYSON, ARIZONA. THE MEETING ROOMS WILL BE OPEN TO THE PUBLIC AT 9:00 A.M.

Citizens may watch the Board meeting live-streamed at:

<https://www.youtube.com/channel/UckCHWVqrI5AmJKbvYbO-k2A/live>

Citizens may submit written comments related to the February 25, 2025 Work Session agenda by no later than 5 p.m. on Monday, February 24, 2025, by emailing the Clerk of the Board's office at mshepparc@gilacountyaz.gov or calling 928-402-4390. Citizens may also submit written comments during the meeting through YouTube. Please include the meeting date, agenda item number, your name, and your residence address in the email.

WORK SESSION - TUESDAY, FEBRUARY 25, 2025 - 10:00 A.M.

1. **CALL TO ORDER - PLEDGE OF ALLEGIANCE**
2. **REGULAR AGENDA ITEMS:**
 - A. Information/Discussion to consider the implementation of a local court fee schedule which, if approved, would be effective in FY26. **(Jon Bearup)**
 - B. Information/Discussion regarding pending legislation addressing rural groundwater management. **(Michael O'Driscoll)**
 - C. Information/Discussion regarding the Gila County Courthouse Paving Project, Globe Jail Paving Project, and Gila County Courthouse Roof Replacement Project. **(Joseph Dickison)**
3. **CALL TO THE PUBLIC:** A call to the public is held for public benefit to allow individuals to address the Board of Supervisors on any issue within the jurisdiction of the Board of Supervisors. Board members may not discuss items that are not specifically identified on the agenda.

Therefore, pursuant to Arizona Revised Statute § 38-431.01(I), at the conclusion of an open call to the public, individual members of the Board of Supervisors may respond to criticism made by those who have addressed the Board, may ask staff to review a matter or may ask that a matter be put on a future agenda for further discussion and decision at a future date.

4. At any time during this meeting pursuant to A.R.S. § 38-431.02(K), members of the Board of Supervisors and the County Manager may present a brief summary of current events. No action may be taken on the information presented.

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT THE RECEPTIONIST AT (928) 425-3231 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 425-3231.

THE BOARD MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE FROM THE BOARD'S ATTORNEY ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. §38-431.03(A)(3).

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.

ARF-9294

2. A.

Work Session

Meeting Date: 02/25/2025

Submitted For: Jonathan Bearup, Court Administrator

Submitted By: Jonathan Bearup, Court Administrator

Department: Superior Court Division: Superior Court Administration

Information

Request/Subject

Discussion Regarding Adoption of a Local Court Fee Schedule for FY26.

Background Information

The Superior Court is seeking Board of Supervisors approval to adopt a local court fee schedule that would address ongoing budget demands from court automation and security.

Superior and Justice courts within Arizona counties, in conjunction with the approval of the Board of Supervisors, are able to implement local court fee schedules. Many courts within Arizona possess local court fee schedules. In order for a Superior court to implement a fee schedule, that court must obtain approval from the Chief Justice of the Arizona Supreme Court prior to applying to the local Board of Supervisors. Justice courts, as County departments, do not require Arizona Supreme Court approval.

Pursuant to A.R.S. 11-251.08, a County Board of Supervisors may "adopt fee schedules for any specific products or services the county provides to the public." Further, any such fee "must be attributable to and defray or cover the expense of the product or service for which the fee is assessed." Lastly, any potential Board action to adopt a fee schedule requires a public hearing with at least fifteen (15) days advance notice to the public.

The Superior Court in Gila County currently has two (2) local court fees and the Justice Courts (Globe and Payson) have one (1) local court fee; however, those local fees do not directly support court automation and security. Court automation and security are State-mandated functions without a direct funding source. The court is, however, interested in slightly increasing existing local fees, depending upon the Board's posture towards the proposal.

Evaluation

On behalf of the Presiding Judge, Court Administration has managed the coordinated the courts' budget for nearly a decade. Over that time frame, the courts have always complied with budgetary expectations as set out by County Finance / County Administration, which generally includes flat operating expenses.

Since 2014, the courts have seen a significant expansion in the use of automation (both in the office and within the courtrooms) and the introduction of the Arizona Supreme Court's Court Security Standards.

Automation-related business pressures have increased dramatically within the past ten (10) years. The courts have seen the introduction of e-Filing; e-Bench; Digital Evidence; a digital case management system ("AJACS"); an online Protective Order module ("AZPOINT"); digital streaming of court hearings; and the use of audio-visual technologies in the courtroom to allow for remote appearance by parties, victims, and witnesses.

The introduction of the services and products have led to increased costs in staff training; the installation of hardware and software systems; the purchase of increased broadband capacity to support the new products; and maintenance / support agreements to maintain the systems. A local court automation fee would be split between Court Administration and the Clerk of Superior Court's Office.

In 2017, the Arizona Supreme Court issued "Court Security Standards" to all Arizona courts. The Court Security Standards include over thirty (30) specific provisions. Compliance with the Court Security Standards involves expenses due to facility improvements like security cameras and reinforced benches; mandated screening areas operated by security contractors; controlled access to work areas; and in many other arenas.

Court Security Improvement grants available through the Arizona Supreme Court are limited and competitive among the 15 Superior court jurisdictions as well as 180+ municipal and Justice courts. The ability to receive grant awards is difficult but Gila has accessed this meager funding stream on multiple occasions. A local security fee would be accessible to both Superior and Justice courts upon written approval of the Presiding Judge.

Court automation and court security have greatly impacted the courts' financial sustainability. In order to preserve services and products without unduly imposing upon the general fund, the courts are seeking the adoption of a fee schedule to defray some of these large expenses.

Conclusion

The adoption of local court fee schedule would allow the courts to continue technological progression and maintenance, and greater security measures, while limiting the impact to the County general fund and the courts' own dwindling supply of special revenue funds.

A local fee schedule would not be overly onerous. Any fee attached to a civil filing is subject to deferral or waiver under the Arizona Code of Judicial Administration - access to justice will not be compromised. Any fee applied as a sanction on a criminal matter is subject to reduction or waiver based upon the judicial officer's "ability to pay" determination.

The proposed new fees are not radical. The same Court Automation and Technology fee has been in place in Pima County since 2006. The identical Court Security fee has been in place in Graham County since 2019.

Recommendation

The Superior Court recommends that the Board of Supervisors allow the court to pursue a local court fee schedule subject to any direction, guidance, or input from the Board.

Suggested Motion

Information/Discussion to consider the implementation of a local court fee schedule which, if approved, would be effective in FY26. **(Jon Bearup)**

Attachments

Summary of Court Automation Fee

Summary of Court Security Fee

ARS 11-251.08 Board Authority for Local Fees



Gila County Superior Court – Local Court Fee Proposal

Court Automation and Technology Fee Summary Sheet

Purpose: To supply additional revenue sources to meet increasing needs in courtroom automation and court security.

Statement of Need: Local resources are inadequate to meet the needs of the court. In FY13-14 and again in FY14-15, all County departments were required to reduce appropriations by 5%. Since FY15-16, Gila County Administration has required “flat” operational budget requests¹. Court revenues since FY13-FY14 have been inconsistent. Meanwhile, demand for greater courtroom technology capabilities has increased and court security has been mandated².

Court Automation and Technology Fee: The modern courtroom in 2024 encompasses remote / virtual appearances; public access streaming; the presentation of digital evidence; as well as digital audio recording capabilities. Since FY18-19, Gila County Superior Court has expended \$15,834 annually to maintain these systems across five courtroom locations. Additional outlay to accommodate digital evidence was \$65,201. Lastly, in order to run these systems, \$11,136 in bandwidth service is required on an annual basis.

Proposed Fee Structure with Projections: The Court proposes a Court Automation and Technology Fee based upon the 2006 Pima County model. A \$60 fee would be added on Civil case filings with revenues to be split among Court Administration (66%) and the Clerk of Court (33%).

Funds deposited in the local Court Automation and Technology fee fund shall be used to cover costs associated with improving, maintaining, and / or enhancing the ability of the court to process cases and administer justice through the maximum use of automation and technology³.

Based upon filing data over the past five years⁴, and accounting for a filing fee / deferral rate of 20%, it is projected that the total revenue generated would be \$21,456 per year.

Access to Justice: The imposition of this local fee will not impact access to justice. Civil cases are subject to the fee waiver / deferral provisions of ACJA 5-206. Increased automation enhances remote appearances thereby actually increasing access.

¹ Financial data source: New World (Tyler Technologies) Accounting System.

² Arizona Supreme Court Administrative Order 2017-15 and Arizona Code of Judicial Administration 5-301.

³ Language based upon Pima County Resolution.

⁴ Case filing data from AJACS reporting.



Gila County Superior Court – Local Court Fee Proposal

Local Court Security Fee Summary Sheet

Purpose: To supply additional revenue sources to meet increasing needs in courtroom automation and court security.

Statement of Need: Local resources are inadequate to meet the needs of the court. In FY13-14 and again in FY14-15, all County departments were required to reduce appropriations by 5%. Since FY15-16, Gila County Administration has required “flat” operational budget requests¹. Court revenues since FY13-FY14 have been inconsistent. Meanwhile, demand for greater courtroom technology capabilities has increased and court security has been mandated².

Local Court Security Fee: The Arizona Supreme Court Security Standards are extensive. In addition to items procedural in nature, there are certain facility enhancements required (for example, bullet-resistant benches, security cameras, and entryway screening.) Gila County Limited Jurisdiction Courts and the Superior Court are in need of these facility improvements. Gila County, also, does not employ any armed Court Security Officers. While the Court has taken advantage of Court Security Improvement grant funds, resources have proven unequal to completely fulfilling the requirements across our various Limited Jurisdiction courts and Superior Court facilities (Globe and Payson.)

Proposed Fee Structure with Projections: The Court proposes a Local Court Security Fee identical to the 2017 Graham County Security Fee. A \$20 fee would be assessed on any criminal case sentenced in the Superior Court with a \$10 fee on criminal traffic / criminal misdemeanor cases sentenced in the Gila County Justice Courts.

Funds deposited in the local Court Security fee fund shall be used to cover costs associated with implementing, improving, enhancing, or maintaining the Supreme Court Security Standards. Funds deposited are subject to expenditure upon approval of the Presiding Judge.

Based upon available filing data³, it is projected that the total revenue generated would be \$26,010 per year.

Ability to Pay: The imposition of this local fee will not be overly onerous to defendants. Judicial officers are required to make an “ability to pay” determination upon sentencing. Judges will also be authorized to waive or defer the fee according to their discretion.

¹ Financial data source: New World (Tyler Technologies) Accounting System.

² Arizona Supreme Court Administrative Order 2017-15 and Arizona Code of Judicial Administration 5-301.

³ AJACS Data (Superior Court), AOC Statistical Dashboard for Justice Court data.

11-251.08. County fee for service authority; alternate fee schedule; fee limits; adoption procedures

A. In addition to any other county power or authority the board of supervisors may adopt fee schedules for any specific products and services the county provides to the public. Notwithstanding fee schedules or individual charges in statute, a board of supervisors may adopt an additional charge or separate individual charge.

B. Any fee or charge established pursuant to this section must be attributable to and defray or cover the expense of the product or service for which the fee or charge is assessed. A fee or charge shall not exceed the actual cost of the product or service.

C. Before adoption of a fee for service or an additional or separate charge pursuant to this section, the board of supervisors shall hold a public hearing on the issue with at least fifteen days' published notice.

D. Nothing in this section shall apply to products and services provided to cities and towns.

ARF-9311

2. B.

Work Session

Meeting Date: 02/25/2025

Submitted For: Michael O'Driscoll, Deputy County Manager

Submitted By: Retta Baughman, Management Associate

Department: Deputy County Manager

Information

Request/Subject

Discussion of pending legislation addressing rural groundwater management.

Background Information

Legislation has been proposed (SB 1425 and HB 2714) to amend certain sections of the Arizona Revised Statutes to establish rural groundwater management areas and make other changes related to the management of water in Arizona.

A group of residents approached Woody Cline, District 3 Supervisor, to provide a presentation to the Board of Supervisors regarding some pending legislative changes regarding rural groundwater management.

Evaluation

It would be beneficial to the Board of Supervisors and the public to receive information regarding this pending legislation that addresses rural groundwater management to include the establishment of rural groundwater management areas..

Conclusion

Presentation and a discussion regarding pending legislation addressing rural groundwater management.

Recommendation

N/A

Suggested Motion

Information/Discussion regarding pending legislation addressing rural groundwater management. **(Michael O'Driscoll)**

Attachments

Rural Groundwater Management Act Presentation

Hobbs GO RGMA

SB1425

HB2714P



Rural Groundwater Management Act Legislation

HB 2714 | SB 1425

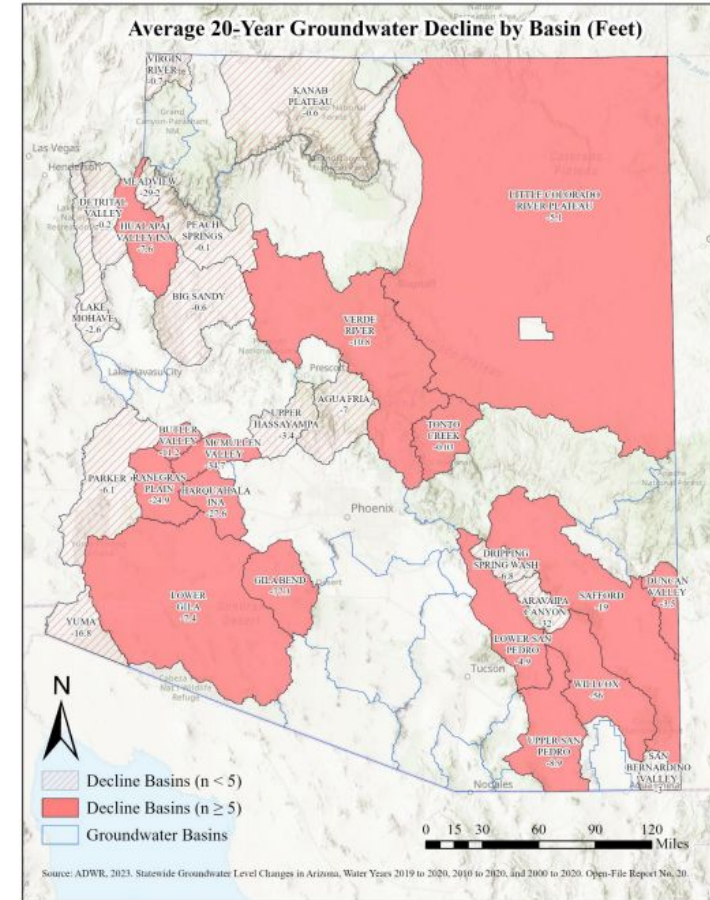
February 4, 2025

ARIZONA
GOVERNOR'S OFFICE OF **RESILIENCY**

Arizona's Rural Groundwater Problem



- In rural Arizona, more groundwater is being consumed than is replenished. When groundwater is gone, it is essentially gone forever.
- Over 30 of Arizona's 51 groundwater basins are experiencing an overall average of water level decline across ADWR's 20-year Index Well dataset
- There are currently no limits on new entities locating to rural basins and pumping high volumes, and no conservation or monitoring requirements
- Rural Arizona communities need new tools to protect their groundwater supplies from exploitation, and to conserve groundwater for future generations



Overview of RGMA Process



RGMA Designation

Goal: Protect groundwater basins that are currently in a state of severe depletion; have a path for other areas of the state to obtain groundwater protections when ready.

Water Rights

Goal: Create certainty for existing water users, and close the basin. Create a more flexible model than exists with AMAs and INAs, while still achieving water conservation outcomes

Appointment of RGMA Council

Goal: Create a balanced governing body of local stakeholders selected in a bipartisan process who can chart the best course for their communities

Management Plans

Goal: Provide water management programs that make meaningful strides in water conservation and achieve water management goals; provide options and customizability to local stakeholders

Implementation & Periodic Review

Goal: Create a process for adjustment and flexibility for the RGMA Council to calibrate conservation programs every decade, informed by groundwater conditions

RGMA Designation



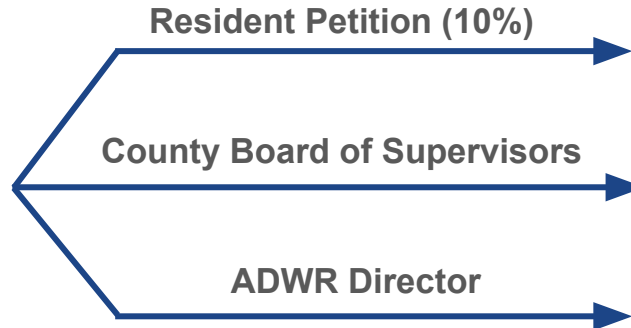
RGMA Designation

Designation process can be initiated by local voters, County Board, or ADWR.

ADWR holds public meetings and considers criteria to designate an RGMA.

Criteria closely follow AMA eligibility

Three Initiation Paths



ADWR reviews criteria in public process to make determination

1. Management practices are necessary to preserve the existing supply of groundwater for future needs
2. Land subsidence or fissuring is endangering property or groundwater storage capacity
3. Use of groundwater is resulting in actual or threatened water quality degradation

Certificates of Groundwater Use



Water Rights

Entities using water apply to ADWR for a Certificate of Groundwater Use based upon evidence of historic use.

Water rights are flexible and transferable through sale or lease.

Basin is closed. New users must acquire water.

RGMA's end the free-for-all on rural groundwater basins

- Creating an RGMA closes the relevant basin or subbasin. This means that new non-exempt users must pay to lease or purchase a Certificate of Groundwater Use from an existing user.
- Certificates will be issued to existing agricultural and industrial users based on historic use and substantial capital investment.
 - 10-year average for agriculture | 5-year max for Municipal & Industrial
- Certificates are transferable which creates flexibility, while simultaneously managing and reducing groundwater use over time.
 - Transfers are subject to a 15% reduction when leased or sold.
- Certificate holders may utilize a **Compliance Account** that helps with flexibility in years where they use less groundwater, or need to use a bit more. Compliance credits can also be bought and sold with a 20% transfer reduction.

Appointment of the RGMA Council



Appointment of RGMA Council

**Five members
appointed by Governor
and Legislative
Leadership in
bipartisan process**

**Balanced
Representation:
1 agricultural seat
1 municipal seat
1 industrial seat
2 at large seats**

6-year Terms

RGMA ensure local control on key issues:

- RGMA establish a local Council to guide administration of the RGMA with support from ADWR. The Council is appointed by the Governor with bipartisan selection from the Governor, Speaker of the House, Senate President, and Minority Leaders.
- The Council selects a goal for their community's groundwater and create an enforceable plan to reach that goal. ADWR technical experts would review the plan to ensure that it will achieve the Council's Goal.
- When creating its plan, the Council can also choose whether to create voluntary, compensated water conservation programs or adequate water supply protections for consumers.
- Representation is balanced across multiple water use sectors. No more than 1 councilmember can serve from each water use sector (i.e., Muni, Industry, Ag)

RGMA Management Goals



Management Plans

RGMA Council develops a 10-year Management Plan that includes:

- (1) Goals for groundwater management,
- (2) Conservation programs
- (3) Voluntary funding programs

ADWR reviews and approves the Plan based on legality, feasibility, consistency

The RGMA Council sets water Management Goals based on a statutory menu of options:

01

Reaching Safe-yield

Safe-yield: bringing the aquifer back into stability by balancing inflows (recharge) and outflows (pumping)

02

Reducing Overdraft by at least 50%

Reducing Overdraft by 50% - (i.e., halfway to safe-yield). Significantly extends groundwater supplies

03

Stabilizing water levels for current and future generations

Reducing groundwater pumping to stop the decline of aquifer levels. Goal based on water levels, not just inflows/outflows

RGMA Management Plans & Conservation



Management Plans

RGMA Council develops a 10-year Management Plan that includes:

- (1) Goals for groundwater management,
- (2) Conservation programs
- (3) Voluntary funding programs

ADWR reviews and approves the Plan based on legality, feasibility, consistency

The RGMA Council sets water conservation programs and water use reduction requirements each decade with each Management Plan

Municipal Certificate holders must comply with a Best Management Practices program to conserve water and reduce leakage.

Non-municipal Certificates are subject to a schedule of conservation reductions:

Management Plan	Management Goal: <u>In Progress</u>	Management Goal: <u>Achieved</u>
Plan #1: Years 1-10	10% reduction over first decade	
Plan #2: Years 11-20	RGMA Council sets 5% - 10% additional reduction.	RGMA Council can maintain conservation levels
Plan #3: Years 21-30	RGMA Council sets 5% - 10% additional reduction	RGMA Council can maintain or reduce conservation levels
Plan #4: Years 31-40	RGMA Council sets 5% - 10% additional reduction	RGMA Council can maintain or reduce conservation levels

RGMA Conservation Funding Programs



Management Plans

RGMA Council develops a 10-year Management Plan that includes:

- (1) Goals for groundwater management,**
- (2) Conservation programs**
- (3) Voluntary funding programs**

ADWR reviews and approves the Plan based on legality, feasibility, consistency

A Rural Groundwater Management Area Fund is established to support voluntary programs that help water users and achievement of the Management Goal:

- The Fund receives monies from legislative appropriations, and groundwater withdrawal fees that are paid by pumpers
- The RGMA Council can create voluntary programs and incentives in the Management Plan that receive funding support
- The RGMA Fund will enhance:
 - Conservation efforts & incentives
 - Aquifer recharge
 - Water reuse
- ADWR to set withdrawal fees by rulemaking. Legislative appropriations will be negotiated

Overview of RGMA Process



RGMA Designation

Designation process can be initiated by local voters, County Board, or ADWR.

ADWR holds public meetings and considers criteria to designate an RGMA.

Criteria closely follow AMA eligibility

Water Rights

Entities using water apply to ADWR for a Certificate of Groundwater Use based upon evidence of historic use.

Water rights are flexible and transferable through sale or lease.

Basin is closed. New users must acquire water.

Appointment of RGMA Council

Five members appointed by Governor and Legislative Leadership in bipartisan process

Balanced Representation:
1 agricultural seat
1 municipal seat
1 industrial seat
2 at large seats

6-year Terms

Management Plans

RGMA Council develops a 10-year Management Plan that includes:

- (1) Goals for groundwater management,
- (2) Conservation programs
- (3) Voluntary funding programs

ADWR reviews and approves the Plan based on legality, feasibility, consistency

Implementation & Periodic Review

ADWR implements the Management Plan.

ADWR reviews groundwater conditions every 7 years to determine progress to Management Goal

Council can adjust the Management Plan each decade

4 Management Plans (40 years) authorized

Initial and Subsequent RGMAs



The RGMA Legislation establishes 5 Initial RGMAs:

- **Hualapai** Groundwater Basin
- **Gila Bend** Groundwater Basin
- **Ranegras Plain** Groundwater Basin
- **San Simon** Groundwater Sub-Basin
- **Willcox** Groundwater Basin



Other Basins will be eligible for establishment as Subsequent RGMAs, and ADWR will review each Basin every 10-years



The RGMA legislation is intended to provide certainty, flexibility, local control, funding, and water management to rural Arizona

The RGMA legislation incorporates compromises and progress made from 2024 negotiations

Rural Arizonans are counting on a bipartisan water policy solution in 2025



Arizona's Rural Groundwater Management Act of 2025

Arizona stands at a crossroads in managing our precious water resources. For years, rural communities have asked for assistance as their finite groundwater supplies were pumped out from beneath them, left vulnerable to exploitation from outside entities with no protections. Republican and Democratic elected leaders representing rural communities from across the State are coming together to chart a new course and protect their local groundwater supplies and local economies with the **Rural Groundwater Management Act**.

In 1980, Arizona's leaders came together to pass revolutionary groundwater management laws that paved the way for Arizona's success. Today, bipartisan leaders from across the state are here to finish the job that was started 45 years ago and bring water protections to rural Arizona.

Core Principles & Elements of the Rural Groundwater Management Act

Local Choice, Local Solutions – Rural communities are best positioned to understand their unique water needs and craft appropriate solutions. The RGMA gives rural Arizonans the tools and flexibility to create water management programs. Local stakeholders and water users will be appointed to a five-person RGMA Council by the Governor, with four names selected by the Senate President, House Speaker, and minority leaders in both chambers. The local Council will have decision-making authority to set conservation targets that are right for their communities.

Flexible, Effective Water Conservation – RGMA conservation programs will reduce groundwater use and improve aquifer conditions with more flexible guidelines that allow local water users and economies to thrive. Guaranteed water reductions ensure that conservation programs will yield results. RGMAs are designed to serve as an innovative alternative solution to AMAs and INAs.

Water Protection & Certainty – RGMAs end the free-for-all in rural Arizona, protecting groundwater basins from new, large entities moving in and extracting groundwater. Existing water users are given certainty with Certificates of Groundwater Use that recognize their water usage, quantify their access to groundwater, and provide certainty to help catalyze economic growth and opportunities in rural communities.

Adaptable, Customizable Water Management – Local water users appointed to an RGMA Council are empowered to adjust conservation programs every 10 years to respond to the needs of their communities and achieve their water management goals.

Funding for Water Conservation, Reuse, and Recharge – To help rural communities manage their groundwater basins, a dedicated fund is created to support voluntary water conservation, aquifer recharge, and water reuse programs in rural Arizona. The initial seed funding will be a negotiated legislative appropriation.

Groundwater Protection for Basins in Trouble – The RGMA Legislation establishes protections immediately for the severe decline areas of the Gila Bend Basin, Hualapai Valley Basin, Ranegras Plain Basin, and San Simon Sub-basin. The Willcox AMA will also be converted to a new, more flexible RGMA. Other rural groundwater basins will have a path for water protections and can be designated as subsequent RGMAs if requested by basin voters, the County Board of Supervisors or initiated by ADWR and if the basin meets the scientific criteria that show groundwater management is necessary.

REFERENCE TITLE: rural groundwater management areas; establishment.

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1425

Introduced by
Senators Sundareshan: Gabaldón; Representative Mathis

AN ACT

AMENDING SECTIONS 11-823, 32-2181, 32-2183, 32-2197.08, 33-406, 41-1005, 45-108, 45-108.01 AND 45-402, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTIONS 45-453, 45-454, 45-596, 45-597, 45-598, 45-599, 45-601, 45-604, 45-632, 45-635, 45-812.01, 45-831.01, 45-832.01, 45-834.01, 45-841.01, 45-852.01, 45-855.01 AND 45-2602, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-823, Arizona Revised Statutes, is amended to read:

11-823. Water supply; adequacy; exemptions; definition

A. To protect the public health and safety, the general regulations adopted by the board pursuant to section 11-821, subsection B, if approved by unanimous vote of the board of supervisors, may provide that, except as provided in subsection ~~C~~ D and subsection ~~D~~ E, paragraph 1 of this section, the board shall not approve a final plat for a subdivision composed of subdivided lands, as defined in section 32-2101, located outside of an active management area, as defined in section 45-402, unless one of the following applies:

1. The director of water resources has determined that there is an adequate water supply for the subdivision pursuant to section 45-108 and the subdivider has included the report with the plat.

2. The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

B. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION AND SUBSECTION E, PARAGRAPH 1 OF THIS SECTION, IF THE DIRECTOR OF WATER RESOURCES HAS GIVEN WRITTEN NOTICE PURSUANT TO SECTION 45-108, SUBSECTION H THAT A COUNCIL HAS ADOPTED A MANDATORY WATER ADEQUACY REQUIREMENT, THE BOARD OF SUPERVISORS MAY NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101 THAT ARE LOCATED WITHIN A RURAL GROUNDWATER MANAGEMENT AREA, UNLESS ONE OF THE FOLLOWING APPLIES:

1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108.

~~B.~~ C. If the board unanimously adopts the provision authorized by subsection A of this section:

1. The board may include in the general regulations an exemption from the provision for a subdivision that the director of water resources has determined will have an inadequate water supply because the water supply will be transported to the subdivision by motor vehicle or train if all of the following apply:

(a) The board determines that there is no feasible alternative water supply for the subdivision and that the transportation of water to the subdivision will not constitute a significant risk to the health and safety of the residents of the subdivision.

(b) If the water to be transported to the subdivision will be withdrawn or diverted in the service area of a municipal provider as defined in section 45-561, the municipal provider has consented to the withdrawal or diversion.

(c) If the water to be transported is groundwater, the transportation complies with the provisions governing the transportation of groundwater in title 45, chapter 2, article 8.

(d) The transportation of water to the subdivision meets any additional conditions imposed by the county.

2. The board shall promptly give written notice of the adoption of the provision to the director of water resources, the director of environmental quality and the state real estate commissioner. The notice shall include a certified copy of the provision and any exemptions adopted pursuant to paragraph 1 of this subsection. Water providers may be eligible to receive monies in a water supply development fund, as otherwise provided by law.

3. The board shall not rescind the provision or amend it in a manner that is inconsistent with subsection A of this section. If the board amends the provision, it shall give written notice of the amendment to the director of water resources, the director of environmental quality and the state real estate commissioner. The board may rescind an exemption adopted pursuant to paragraph 1 of this subsection. If the board rescinds the exemption, it shall give written notice of the rescission to the director of water resources, the director of environmental quality and the state real estate commissioner, and the board shall not readopt the exemption for at least five years after the rescission becomes effective.

4. If the board approves a subdivision plat pursuant to subsection A, paragraph 1 or 2 of this section, the board shall note on the face of the plat that the director of water resources has reported that the subdivision has an adequate water supply or that the subdivider has obtained a commitment of water service for the proposed subdivision from a city, town or private water company designated as having an adequate water supply pursuant to section 45-108.

5. If the board approves a subdivision plat pursuant to an exemption authorized by paragraph 1 of this subsection or granted by the director of water resources pursuant to section 45-108.02 or 45-108.03:

(a) The board shall give written notice of the approval to the director of water resources and the director of environmental quality.

(b) The board shall include on the face of the plat a statement that the director of water resources has determined that the water supply for the subdivision is inadequate and a statement describing the exemption under which the plat was approved, including a statement that the board or the director of water resources, whichever applies, has determined that the specific conditions of the exemption were met. If the director of

1 water resources subsequently informs the board that the subdivision is
 2 being served by a water provider that has been designated by the director
 3 as having an adequate water supply pursuant to section 45-108, the board
 4 shall record in the county recorder's office a statement disclosing that
 5 fact.

6 ~~C.~~ D. Subsection A of this section does not apply to:

7 1. A proposed subdivision that the director of water resources has
 8 determined will have an inadequate water supply pursuant to section 45-108
 9 if the director grants an exemption for the subdivision pursuant to
 10 section 45-108.02 and the exemption has not expired or the director grants
 11 an exemption pursuant to section 45-108.03.

12 2. A proposed subdivision that received final plat approval from
 13 the county before the requirement for an adequate water supply became
 14 effective in the county if the plat has not been materially changed since
 15 it received the final plat approval. If changes were made to the plat
 16 after the plat received the final plat approval, the director of water
 17 resources shall determine whether the changes are material pursuant to the
 18 rules adopted by the director to implement section 45-108. If the county
 19 approves a plat pursuant to this paragraph and the director of water
 20 resources has determined that there is an inadequate water supply for the
 21 subdivision pursuant to section 45-108, the county shall note this on the
 22 face of the plat.

23 ~~D.~~ E. If the subdivision is composed of subdivided lands as
 24 defined in section 32-2101 outside of an active management area and the
 25 board has not adopted a provision pursuant to subsection A of this section
 26 OR THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES HAS NOT PROVIDED
 27 NOTICE PURSUANT TO SECTION 45-108, SUBSECTION H:

28 1. If the director of water resources has determined that there is
 29 an adequate water supply for the subdivision pursuant to section 45-108 or
 30 if the subdivider has obtained a written commitment of water service for
 31 the subdivision from a city, town or private water company designated as
 32 having an adequate water supply by the director of water resources
 33 pursuant to section 45-108, the board shall note this on the face of the
 34 plat if the plat is approved.

35 2. If the director of water resources has determined that there is
 36 an inadequate water supply for the subdivision pursuant to section 45-108,
 37 the board shall note this on the face of the plat if the plat is approved.

38 F. FOR THE PURPOSES OF THIS SECTION, "COUNCIL" MEANS A RURAL
 39 GROUNDWATER MANAGEMENT AREA COUNCIL THAT IS ESTABLISHED PURSUANT TO
 40 SECTION 45-441.11.

1 Sec. 2. Section 32-2181, Arizona Revised Statutes, is amended to
2 read:

3 32-2181. Notice to commissioner of intention to subdivide
4 lands; unlawful acting in concert; exceptions; deed
5 restrictions; definition

6 A. Before offering subdivided lands for sale or lease, the
7 subdivider shall notify the commissioner in writing of the subdivider's
8 intention. The notice shall contain:

9 1. The name and address of the owner. If the holder of any
10 ownership interest in the land is other than an individual, such as a
11 corporation, partnership or trust, **THE NOTICE SHALL CONTAIN** a statement
12 naming the type of legal entity and listing the interest and the extent of
13 any interest of each principal in the entity. For the purposes of this
14 section, "principal" means any person or entity having a ten ~~per cent~~
15 **PERCENT** or more financial interest or, if the legal entity is a trust,
16 each beneficiary of the trust holding a ten ~~per cent~~ **PERCENT** or more
17 beneficial interest.

18 2. The name and address of the subdivider.

19 3. The legal description and area of the land.

20 4. A true statement of the condition of the title to the land,
21 including all encumbrances on the land, and a statement of the provisions
22 agreed to by the holder of any blanket encumbrance enabling a purchaser to
23 acquire title to a lot or parcel free of the lien of the blanket
24 encumbrance on completion of all payments and performance of all of the
25 terms and provisions required to be made or performed by the purchaser
26 under the real estate sales contract by which the purchaser has acquired
27 the lot or parcel. The subdivider shall file copies of documents
28 acceptable to the department containing these provisions with the
29 commissioner before the sale of any subdivision lot or parcel subject to a
30 blanket encumbrance.

31 5. The terms and conditions on which it is intended to dispose of
32 the land, together with copies of any real estate sales contract,
33 conveyance, lease, assignment or other instrument intended to be used, and
34 any other information the owner or the owner's agent or subdivider desires
35 to present.

36 6. A map of the subdivision that has been filed in the office of
37 the county recorder in the county in which the subdivision is located.

38 7. A brief but comprehensive statement describing the land on and
39 the locality in which the subdivision is located.

40 8. A statement of the provisions that have been made for permanent
41 access and provisions, if any, for health department approved sewage and
42 solid waste collection and disposal and public utilities in the proposed
43 subdivision, including water, electricity, gas and telephone facilities.

1 9. A statement as to the location of the nearest public common and
2 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
3 residing on the subdivision property.

4 10. A statement of the use or uses for which the proposed
5 subdivision will be offered.

6 11. A statement of the provisions, if any, limiting the use or
7 occupancy of the parcels in the subdivision, together with copies of any
8 restrictive covenants affecting all or part of the subdivision.

9 12. The name and business address of the principal broker selling or
10 leasing, within this state, lots or parcels in the subdivision.

11 13. A true statement of the approximate amount of indebtedness that
12 is a lien on the subdivision or any part of the subdivision and that was
13 incurred to pay for the construction of any on-site or off-site
14 improvement, or any community or recreational facility.

15 14. A true statement or reasonable estimate, if applicable, of the
16 amount of any indebtedness that has been or is proposed to be incurred by
17 an existing or proposed special district, entity, taxing area or
18 assessment district, within the boundaries of which the subdivision, or
19 any part of the subdivision, is located, and that is to pay for the
20 construction or installation of any improvement or to furnish community or
21 recreational facilities to the subdivision, and which amounts are to be
22 obtained by ad valorem tax or assessment, or by a special assessment or
23 tax ~~upon~~ ON the subdivision or any part of the subdivision.

24 15. A true statement as to the approximate amount of annual taxes,
25 special assessments or fees to be paid by the buyer for the proposed
26 annual maintenance of common facilities in the subdivision.

27 16. A statement of the provisions for easements for permanent access
28 for irrigation water ~~where~~ IF applicable.

29 17. A true statement of assurances for the completion of off-site
30 improvements, such as roads, utilities, community or recreational
31 facilities and other improvements to be included in the offering or
32 represented as being in the offering, and approval of the offering by the
33 political subdivision with authority. This statement shall include a
34 trust agreement or any other evidence of assurances for delivery of the
35 improvements and a statement of the provisions, if any, for the continued
36 maintenance of the improvements.

37 18. A true statement of the nature of any improvements to be
38 installed by the subdivider, the estimated schedule for completion and the
39 estimated costs related to the improvements that will be borne by
40 purchasers of lots in the subdivision.

41 19. A true statement of the availability of sewage disposal
42 facilities and other public utilities, including water, electricity, gas
43 and telephone facilities in the subdivision, the estimated schedule for
44 their installation, and the estimated costs related to the facilities and
45 utilities that will be borne by purchasers of lots in the subdivision.

20. A true statement as to whether all or any portion of the subdivision is located in an open range or area in which livestock may roam at large under the laws of this state and what provisions, if any, have been made for ~~the~~ fencing ~~of~~ the subdivision to preclude livestock from roaming within the subdivided lands.

21. If the subdivider is a subsidiary corporation, a true statement identifying the parent corporation and any of the following in which the parent or any of its subsidiaries is or has been involved within the past five years:

(a) Any subdivision in this state.

(b) Any subdivision, wherever located, for which registration is required pursuant to the federal interstate land sales full disclosure act.

(c) Any subdivision, wherever located, for which registration would have been required pursuant to the federal interstate land sales full disclosure act but for the exemption for subdivisions whose lots are all twenty acres or more in size.

22. A true statement identifying all other subdivisions, designated in paragraph 21 of this subsection, in which any of the following is or, within the last five years, has been directly or indirectly involved:

(a) The holder of any ownership interest in the land.

(b) The subdivider.

(c) Any principal or officer in the holder or subdivider.

23. A true statement as to whether all or any portion of the subdivision is located in territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, in territory in the vicinity of a public airport as defined in section 28-8486, on or after July 1, 2001, in a high noise or accident potential zone as defined in section 28-8461 or on or after July 1 of the year in which the subdivision becomes located in a high noise or accident potential zone. The statement required pursuant to this paragraph does not require the amendment or refileing of any notice filed before July 1, 2001 or before July 1 of the year in which the subdivision becomes located in a high noise or accident potential zone.

24. If the subdivision is a conversion from multifamily rental to condominiums as defined in section 33-1202, a true statement as to the following:

(a) That the property is a conversion from multifamily rental to condominiums.

(b) The date original construction was completed.

25. Other information and documents and certifications as the commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider shall not be required to disclose any critical infrastructure information as defined in section 41-1801 or any information contained in a report issued pursuant to section 41-4273.

1 B. The commissioner, on application, may grant a subdivider of lots
2 or parcels within a subdivision for which a public report was previously
3 issued by the commissioner an exemption from all or part of the
4 notification requirements of subsection A of this section. The subdivider
5 shall file a statement with the commissioner indicating the change of
6 ownership in the lots or parcels together with any material changes
7 occurring subsequent to the original approval of the subdivision within
8 which the lots or parcels are located. The statement shall further refer
9 to the original approval by the commissioner.

10 C. If the subdivision is within an active management area, as
11 defined in section 45-402, the subdivider shall accompany the notice with
12 a certificate of assured water supply issued by the director of water
13 resources along with proof that all applicable fees have been paid
14 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply by the director of water resources pursuant to section 45-576 or is
18 exempt from the requirement pursuant to section 45-576. If the subdivider
19 has submitted a certificate of assured water supply to a city, town or
20 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
21 and this has been noted on the face of the plat, the submission
22 constitutes compliance with this subsection if the subdivider provides
23 proof to the commissioner that all applicable fees have been paid pursuant
24 to sections 48-3772 and 48-3774.01.

25 D. It is unlawful for a person or group of persons acting in
26 concert to attempt to avoid this article by acting in concert to divide a
27 parcel of land or sell subdivision lots by using a series of owners or
28 conveyances or by any other method that ultimately results in the division
29 of the lands into a subdivision or the sale of subdivided land. The plan
30 or offering is subject to this article. Unlawful acting in concert
31 pursuant to this subsection with respect to the sale or lease of
32 subdivision lots requires proof that the real estate licensee or other
33 licensed professional knew or with the exercise of reasonable diligence
34 should have known that property ~~which~~ THAT the licensee listed or for
35 which the licensee acted in any capacity as agent was subdivided land
36 subject to this article. A familial relationship alone is not sufficient
37 to constitute unlawful acting in concert.

38 E. A creation of six or more lots, parcels or fractional interests
39 in improved or unimproved land, lots or parcels of any size is subject to
40 this article except when:

41 1. Each of the lots, parcels or fractional interests represents, on
42 a partition basis, thirty-six acres or more in area of land located in
43 this state, including to the centerline of dedicated roads or easements,
44 if any, contiguous to the land in which the interests are held.

2. The lots, parcels or fractional interests are the result of a foreclosure sale, the exercise by a trustee under a deed of trust of a power of sale or the grant of a deed in lieu of foreclosure. This paragraph does not allow circumvention of the requirements of this article.

3. The lots, parcels or fractional interests are created by a valid order or decree of a court pursuant to and through compliance with title 12, chapter 8, article 7 or by operation of law. This paragraph does not allow circumvention of the requirements of this article.

4. The lots, parcels or fractional interests consist of interests in any oil, gas or mineral lease, permit, claim or right therein and such interests are regulated as securities by the United States or by this state.

5. The lots, parcels or fractional interests are registered as securities under the laws of the United States or the laws of this state or are exempt transactions under section 44-1844, 44-1845 or 44-1846.

6. The commissioner by special order exempts offerings or dispositions of any lots, parcels or fractional interests from compliance with this article on written petition and on a showing satisfactory to the commissioner that compliance is not essential to the public interest or for the protection of buyers.

7. A sale or lease of a lot, parcel or fractional interest occurs ten or more years after the sale or lease of another lot, parcel or fractional interest and the other lot, parcel or fractional interest is not subject to this article and is treated as an independent parcel unless, ~~upon~~ ON investigation by the commissioner, there is evidence of intent to subdivide.

F. In areas outside of active management areas established pursuant to title 45, chapter 2, article 2:

1. If the subdivision is located in a county that has adopted the provision authorized by section 11-823, subsection A, IN A RURAL GROUNDWATER MANAGEMENT AREA FOR WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13 or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection 0, the subdivider shall accompany the notice with a report issued by the director of water resources pursuant to section 45-108 stating that the subdivision has an adequate water supply, unless one of the following applies:

(a) The subdivider submitted the report to a city, town or county before approval of the plat by the city, town or county and this has been noted on the face of the plat.

(b) The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

(c) The plat was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director under section 45-108.03. If the plat was approved pursuant to an authorized exemption, the state real estate commissioner shall require that all promotional material and contracts for the sale of lots in the subdivision adequately display the following:

(i) The director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.

(ii) A statement describing the exemption under which the subdivision was approved, including the specific conditions of the exemption that were met. If the plat was approved by the legislative body of a city or town pursuant to an exemption authorized by section 9-463.01, subsection K or by the board of supervisors of a county pursuant to an exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1, the subdivider shall record the document required by section 33-406.

(d) The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108. If this subdivision applies, the state real estate commissioner shall require that all promotional materials and contracts for the sale of lots in the subdivision adequately display the director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.

2. If the subdivision is not located in a county that has adopted the provision authorized by section 11-823, subsection A, IN A RURAL GROUNDWATER MANAGEMENT AREA IN WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13 or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection 0, and if the director of water resources, pursuant to section 45-108, reports an inadequate on-site supply of water to meet the needs projected by the developer or if no water is available, the state real estate commissioner shall require that all promotional material and contracts for the sale of lots in subdivisions approved by the commissioner adequately display the director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.

1 G. The commissioner may require the subdivider to supplement the
2 notice of intention to subdivide lands and may require the filing of
3 periodic reports to update the information contained in the original
4 notice of intention to subdivide lands.

5 H. The commissioner may authorize the subdivider to file as the
6 notice of intention to subdivide lands, in lieu of some or all of the
7 requirements of subsection A of this section, a copy of the statement of
8 record filed with respect to the subdivision pursuant to the federal
9 interstate land sales full disclosure act if the statement complies with
10 the requirements of the act and the regulations pertinent to the act.

11 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
12 assignment or other instrument to transfer any interest in subdivided land
13 ~~not~~ AND any covenant or restriction affecting real property shall NOT
14 contain any provision limiting the right of any party to appear or testify
15 in support of or opposition to zoning changes, building permits or any
16 other official acts affecting real property before a governmental body or
17 official considering zoning changes, building permits or any other
18 official acts affecting real property, whether the property is located
19 within or outside of the boundaries of the subdivision. All contractual
20 provisions that conflict with this subsection are declared to be contrary
21 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
22 prohibit private restrictions on the use of any real property.

23 J. Before offering subdivided lands for lease or sale, the
24 subdivider who makes any promises through any form of advertising media
25 that the subdivided lands will be exclusively a retirement community or
26 one that is limited to the residency of adults or senior citizens shall
27 include the promises in the deed restrictions affecting any interest in
28 real property within the subdivided lands.

29 K. Except as otherwise provided in this section, a subdivider ~~shall~~
30 IS not ~~be~~ required to disclose items that are over one mile from the
31 subdivision boundaries. The existence of foreign nations or tribal lands
32 shall also be disclosed if located within the one mile radius of the
33 subdivision boundaries.

34 Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to
35 read:

36 32-2183. Subdivision public reports; denial of issuance;
37 unlawful sales; voidable sale or lease; order
38 prohibiting sale or lease; investigations;
39 hearings; summary orders

40 A. On examination of a subdivision, the commissioner, unless there
41 are grounds for denial, shall issue to the subdivider a public report
42 authorizing the sale or lease in this state of the lots, parcels or
43 fractional interests within the subdivision. The report shall contain the
44 data obtained in accordance with section 32-2181 and any other information
45 that the commissioner determines is necessary to implement the purposes of

1 this article. If any of the lots, parcels or fractional interests within
2 the subdivision are located within territory in the vicinity of a military
3 airport or ancillary military facility as defined in section 28-8461,
4 under a military training route as delineated in the military training
5 route map prepared pursuant to section 37-102, in a military installation
6 or range or Arizona national guard site influence area as delineated in
7 the maps prepared pursuant to section 37-102, subsection H, paragraph 4,
8 under restricted air space as delineated in the restricted air space map
9 prepared pursuant to section 37-102 or contained in the military
10 electronics range as delineated in the military electronics range map
11 prepared pursuant to section 37-102, the report shall include, in bold
12 twelve-point font block letters on the first page of the report, the
13 statements required pursuant to section 28-8484, subsection A, section
14 32-2183.05 or section 32-2183.06 and, if the department has been provided
15 a map prepared pursuant to section 28-8484, subsection B or section
16 37-102, the report shall include a copy of the map. The military airport
17 report requirements do not require the amendment or reissuance of any
18 public report issued on or before December 31, 2001 or on or before
19 December 31 of the year in which the lots, parcels or fractional interests
20 within a subdivision become territory in the vicinity of a military
21 airport or ancillary military facility. The military training route
22 report requirements do not require the amendment or reissuance of any
23 public report issued on or before December 31, 2004. The restricted air
24 space report requirements do not require the amendment or reissuance of
25 any public report issued on or before December 31, 2006. The military
26 electronics range report requirements do not require the amendment or
27 reissuance of any public report issued on or before December 31, 2008.
28 ~~A~~ Military installation or range or Arizona national guard site report
29 requirements do not require the amendment or reissuance of any public
30 report issued on or before December 31, 2024. The commissioner shall
31 require the subdivider to reproduce the report, make the report available
32 to each initial prospective customer and furnish each initial buyer or
33 lessee with a copy before the buyer or lessee signs any offer to purchase
34 or lease, taking a receipt therefor.

35 B. This section does not require a public report issued sixty or
36 fewer days before the filing of the military electronics range map or the
37 military installation or range or Arizona national guard site influence
38 area map prepared pursuant to section 37-102 to meet the military
39 electronics range or military installation or range or Arizona national
40 guard site notification requirements of this section.

41 C. A public report issued sixty-one or more days after the filing
42 of the military electronics range map or the military installation or
43 range or Arizona national guard site influence area map prepared pursuant
44 to section 37-102 shall meet all of the requirements of subsection A of
45 this section.

1 D. Notwithstanding subsection A of this section, a subdivider may
2 elect to prepare a final public report for use in the sale of improved
3 lots as defined in section 32-2101, as follows:

4 1. The subdivider shall prepare the public report and provide a
5 copy of the report to the commissioner with the submission of the
6 notification required by sections 32-2181 and 32-2184 and shall comply
7 with all other requirements of this article.

8 2. An initial filing fee of \$500 or an amended filing fee of \$250
9 shall accompany the notification required by paragraph 1 of this
10 subsection.

11 3. The department shall assign a registration number to each
12 notification and public report submitted pursuant to this subsection and
13 shall maintain a database of all of these submissions. The subdivider
14 shall place the number on each public report.

15 4. On receipt of the notification and public report, the department
16 shall review and issue within ten business days either a certification
17 that the notification and public report are administratively complete or a
18 denial letter if it appears that the application or project is not in
19 compliance with all legal requirements, that the applicant has a
20 background of violations of state or federal law or that the applicant or
21 project presents an unnecessary risk of harm to the public. If the
22 commissioner has received the notification and public report but has not
23 issued a certification or a denial letter within ten business days
24 pursuant to this paragraph, the notification and public report are
25 administratively complete.

26 5. A subdivider may commence sales or leasing activities as
27 ~~permitted~~ ALLOWED under this article after obtaining a certificate of
28 administrative completeness from the commissioner.

29 6. Before or after the commissioner issues a certificate of
30 administrative completeness or, if applicable, after the notification and
31 public report are deemed to be administratively complete pursuant to
32 paragraph 4 of this subsection, the department may examine any public
33 report, subdivision or applicant that has applied for or received the
34 certificate. If the commissioner determines that the subdivider or
35 subdivision is not in compliance with any requirement of state law or that
36 grounds exist under this chapter to suspend, deny or revoke a public
37 report, the commissioner may commence an administrative action under
38 section 32-2154 or 32-2157. If the subdivider immediately corrects the
39 deficiency and comes into full compliance with state law, the commissioner
40 shall vacate any action that the commissioner may have commenced pursuant
41 to section 32-2154 or 32-2157.

42 7. The department shall provide forms and guidelines for the
43 submission of the notification and public report pursuant to this section.

44 E. The commissioner may suspend, revoke or deny issuance of a
45 public report on any of the following grounds:

1 1. Failure to comply with this article or the rules of the
2 commissioner pertaining to this article.

3 2. The sale or lease would constitute misrepresentation to or
4 deceit or fraud of the purchasers or lessees.

5 3. Inability to deliver title or other interest contracted for.

6 4. Inability to demonstrate that adequate financial or other
7 arrangements acceptable to the commissioner have been made for completion
8 of all streets, sewers, electric, gas and water utilities, drainage and
9 flood control facilities, community and recreational facilities and other
10 improvements included in the offering.

11 5. Failure to make a showing that the lots, parcels or fractional
12 interests can be used for the purpose for which they are offered.

13 6. The owner, agent, subdivider, officer, director or partner,
14 subdivider trust beneficiary holding ten percent or more direct or
15 indirect beneficial interest or, if a corporation, any stockholder owning
16 ten percent or more of the stock in the corporation has:

17 (a) Been convicted of a felony or misdemeanor involving fraud or
18 dishonesty or involving conduct of any business or a transaction in real
19 estate, cemetery property, timeshare intervals or membership camping
20 campgrounds or contracts.

21 (b) Been permanently or temporarily enjoined by order, judgment or
22 decree from engaging in or continuing any conduct or practice in
23 connection with the sale or purchase of real estate or cemetery property,
24 timeshare intervals, membership camping contracts or campgrounds, or
25 securities or involving consumer fraud or the racketeering laws of this
26 state.

27 (c) Had an administrative order entered against the person by a
28 real estate regulatory agency or security regulatory agency.

29 (d) Had an adverse decision or judgment entered against the person
30 involving fraud or dishonesty or involving the conduct of any business or
31 transaction in real estate, cemetery property, timeshare intervals or
32 membership camping campgrounds or contracts.

33 (e) Disregarded or violated this chapter or the rules of the
34 commissioner pertaining to this chapter.

35 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
36 **OF THIS PARAGRAPH** applies.

37 7. Procurement or an attempt to procure a public report by fraud,
38 misrepresentation or deceit or by filing an application for a public
39 report that is materially false or misleading.

40 8. Failure of the declaration for a condominium created pursuant to
41 title 33, chapter 9, article 2 to comply with the requirements of section
42 33-1215 or failure of the plat for the condominium to comply with the
43 requirements of section 33-1219. The commissioner may require an
44 applicant for a public report to submit a notarized statement signed by
45 the subdivider or an engineer or attorney licensed to practice in this

1 state certifying that the condominium plat and declaration of condominium
2 are in compliance with the requirements of sections 33-1215 and 33-1219.
3 If the notarized statement is provided, the commissioner is entitled to
4 rely on this statement.

5 9. Failure of any blanket encumbrance or valid supplementary
6 agreement executed by the holder of the blanket encumbrance to contain
7 provisions that enable the purchaser to acquire title to a lot or parcel
8 free of the lien of the blanket encumbrance, on completion of all payments
9 and performance of all of the terms and provisions required to be made or
10 performed by the purchaser under the real estate sales contract by which
11 the purchaser has acquired the lot or parcel. The subdivider shall file
12 copies of documents acceptable to the commissioner containing these
13 provisions with the commissioner before the sale of any subdivision lot or
14 parcel subject to a blanket encumbrance.

15 10. Failure to demonstrate permanent access to the subdivision lots
16 or parcels.

17 11. The use of the lots presents an unreasonable health risk.

18 F. It is unlawful for a subdivider to sell any lot in a subdivision
19 unless one of the following occurs:

20 1. All proposed or promised subdivision improvements are completed.

21 2. The completion of all proposed or promised subdivision
22 improvements is assured by financial arrangements acceptable to the
23 commissioner. The financial arrangements may be made in phases for common
24 community and recreation facilities required by a municipality or county
25 as a stipulation for approval of a plan for a master planned community.

26 3. The municipal or county government agrees to prohibit occupancy
27 and the subdivider agrees not to close escrow for lots in the subdivision
28 until all proposed or promised subdivision improvements are completed.

29 4. The municipal or county government enters into an assurance
30 agreement with any trustee not to convey lots until improvements are
31 completed within the portion of the subdivision containing these lots, if
32 the improvements can be used and maintained separately from the
33 improvements required for the entire subdivision plat. The agreement
34 shall be recorded in the county in which the subdivision is located.

35 G. If the subdivision is within an active management area, as
36 defined in section 45-402, the commissioner shall deny issuance of a
37 public report or the use of any exemption pursuant to section 32-2181.02,
38 subsection B unless the subdivider has been issued a certificate of
39 assured water supply by the director of water resources and has paid all
40 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
41 subdivider has obtained a written commitment of water service for the
42 subdivision from a city, town or private water company designated as
43 having an assured water supply by the director of water resources pursuant
44 to section 45-576 or is exempt from the requirement pursuant to section
45 45-576.

H. In areas outside of active management areas, if the subdivision is located in a county that has adopted the provision authorized by section 11-823, subsection A, **IN A RURAL GROUNDWATER MANAGEMENT AREA IN WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13** or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless one of the following applies:

1. The director of water resources has reported pursuant to section 45-108 that the subdivision has an adequate water supply.

2. The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

3. The plat was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

4. The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108.

I. A subdivider shall not sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02, and a certificate of administrative completeness issued pursuant to this section. Unless exempt, the sale or lease of subdivided lands before issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years after the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

J. On a print advertisement in a magazine or newspaper or on an internet advertisement that advertises a specific lot or parcel of a subdivider, the subdivider shall include a disclosure stating that "a public report is available on the state real estate department's website".

1 K. Any applicant objecting to the denial of a public report, within
2 thirty days after receipt of the order of denial, may file a written
3 request for a hearing. The commissioner shall hold the hearing within
4 twenty days after receipt of the request for a hearing unless the party
5 requesting the hearing has requested a postponement. If the hearing is
6 not held within twenty days after a request for a hearing is received,
7 plus the period of any postponement, or if a proposed decision is not
8 rendered within forty-five days after submission, the order of denial
9 shall be rescinded and a public report issued.

10 L. On the commissioner's own motion, or when the commissioner has
11 received a complaint and has satisfactory evidence that the subdivider or
12 the subdivider's agent is violating this article or the rules of the
13 commissioner or has engaged in any unlawful practice as defined in section
14 44-1522 with respect to the sale of subdivided lands or deviated from the
15 provisions of the public report, the commissioner may investigate the
16 subdivision project and examine the books and records of the subdivider.
17 For the purpose of examination, the subdivider shall keep and maintain
18 records of all sales transactions and funds received by the subdivider
19 pursuant to the sales transactions and shall make them accessible to the
20 commissioner on reasonable notice and demand.

21 M. On the commissioner's own motion, or when the commissioner has
22 received a complaint and has satisfactory evidence that any person has
23 violated this article or the rules of the commissioner or has engaged in
24 any unlawful practice as defined in section 44-1522 with respect to the
25 sale of subdivided lands or deviated from the provisions of the public
26 report or special order of exemption, or has been indicted for fraud or
27 against whom an information for fraud has been filed or has been convicted
28 of a felony, before or after the commissioner issues the public report as
29 provided in subsection A of this section, the commissioner may conduct an
30 investigation of the matter, issue a summary order as provided in section
31 32-2157, or provide notice and hold a public hearing and, after the
32 hearing, may issue the order or orders the commissioner deems necessary to
33 protect the public interest and ensure compliance with the law, rules or
34 public report or the commissioner may bring action in any court of
35 competent jurisdiction against the person to enjoin the person from
36 continuing the violation or engaging in or doing any act or acts in
37 furtherance of the violation. The court may make orders or judgments,
38 including the appointment of a receiver, ~~THAT ARE~~ necessary to prevent the
39 use or employment by a person of any unlawful practices, or ~~which~~ ~~THAT~~ may
40 be necessary to restore to any person in interest any monies or property,
41 real or personal, that may have been acquired by means of any practice in
42 this article declared to be unlawful.

43 N. When it appears to the commissioner that a person has engaged in
44 or is engaging in a practice declared to be unlawful by this article and
45 that the person is concealing assets or self or has made arrangements to

1 conceal assets or is about to leave the state, the commissioner may apply
2 to the superior court, ex parte, for an order appointing a receiver of the
3 assets of the person or for a writ of ne exeat, or both.

4 0. The court, on receipt of an application for the appointment of a
5 receiver or for a writ of ne exeat, or both, shall examine the verified
6 application of the commissioner and other evidence that the commissioner
7 may present the court. If satisfied that the interests of the public
8 require the appointment of a receiver or the issuance of a writ of ne
9 exeat without notice, the court shall issue an order appointing the
10 receiver or issue the writ, or both. If the court determines that the
11 interests of the public will not be harmed by the giving of notice, the
12 court shall set a time for a hearing and require notice be given as the
13 court deems satisfactory.

14 P. If the court appoints a receiver without notice, the court shall
15 further direct that a copy of the order appointing a receiver be served on
16 the person engaged in or engaging in a practice declared to be unlawful
17 under this article by delivering the order to the last address of the
18 person that is on file with the state real estate department. The order
19 shall inform the person that the person has the right to request a hearing
20 within ten days after the date of the order and, if requested, the hearing
21 shall be held within thirty days after the date of the order.

22 Sec. 4. Section 32-2197.08, Arizona Revised Statutes, is amended to
23 read:

24 32-2197.08. Issuance of public report and amended public
25 report by commissioner on timeshare plan;
26 denial of issuance; additional information; use
27 of another state's public report

28 A. On examination of a timeshare plan, the commissioner, unless
29 there are grounds for denial, shall approve for use by the developer a
30 public report authorizing the sale or lease of the timeshare interests
31 within the timeshare plan. For all timeshare interests sold in this
32 state, the commissioner shall require the developer to reproduce the
33 public report and furnish each prospective customer with a copy, taking a
34 receipt for each copy. The public report shall be made available to each
35 prospective purchaser in written format either by electronic means or in
36 hard copy. The public report shall include the following:

- 37 1. The name and principal address of the owner and developer.
- 38 2. A description of the type of timeshare interests being offered.
- 39 3. A description of the existing and proposed accommodations and
40 amenities of the timeshare plan, including type and number, any use
41 restrictions and any required fees for use.

42 4. A description of any accommodations and amenities that are
43 committed to be built, including:

- 44 (a) The developer's schedule of commencement and completion of all
45 accommodations and amenities.

1 (b) The estimated number of accommodations per site that may become
2 subject to the timeshare plan.

3 5. A brief description of the duration, phases and operation of the
4 timeshare plan.

5 6. The current annual budget if available or the projected annual
6 budget for the timeshare plan. The budget shall include:

7 (a) A statement of the amount or a statement that there is no
8 amount included in the budget as a reserve for repairs and replacement.

9 (b) The projected common expense liability, if any, by category of
10 expenditures for the timeshare plan.

11 (c) A statement of any services or expenses that are not reflected
12 in the budget and that the developer provides or pays.

13 7. A description of any liens, defects or encumbrances on or
14 affecting the title to the timeshare interests.

15 8. A statement that by midnight of the tenth calendar day after
16 execution of the purchase agreement a purchaser may cancel any purchase
17 agreement for a timeshare interest from a developer together with a
18 statement providing the name and street address where the purchaser should
19 mail any notice of cancellation. If, by agreement of the parties through
20 the purchase agreement, the purchase agreement allows for cancellation of
21 the purchase agreement for a period of time exceeding ten calendar days,
22 the public report shall include a statement that the cancellation of the
23 purchase agreement is allowed for that period of time exceeding ten
24 calendar days.

25 9. A description of any bankruptcies, pending suits, adjudications
26 or disciplinary actions material to the timeshare interests of which the
27 developer has knowledge.

28 10. Any restrictions on alienation of any number or portion of any
29 timeshare interests.

30 11. Any current or expected fees or charges to be paid by timeshare
31 purchasers for the use of any amenities related to the timeshare plan.

32 12. The extent to which financial arrangements have been provided
33 for completion of all promised improvements.

34 13. If the timeshare plan provides purchasers with the opportunity
35 to participate in any exchange programs, a description of the name and
36 address of the exchange companies and the method by which a purchaser
37 accesses the exchange programs.

38 14. Any other information that the developer, with the approval of
39 the commissioner, desires to include in the public report.

40 15. If the developer is offering a multisite timeshare plan, the
41 following information, which may be disclosed in a written, graphic or
42 tabular form:

43 (a) A description of each component site, including the name and
44 address of each component site.

1 (b) The number of accommodations and timeshare periods, expressed
2 in periods of use availability, committed to the multisite timeshare plan
3 and available for use by purchasers.

4 (c) Each type of accommodation in terms of the number of bedrooms,
5 bathrooms and sleeping capacity and a statement of whether or not the
6 accommodation contains a full kitchen. For the purposes of this
7 subdivision, "full kitchen" means a kitchen having a minimum of a
8 dishwasher, range, oven, sink and refrigerator.

9 (d) A description of amenities available for use by the purchaser
10 at each component site.

11 (e) A description of the reservation system, including the
12 following:

13 (i) The entity responsible for operating the reservation system.

14 (ii) A summary of the rules governing access to and use of the
15 reservation system.

16 (iii) The existence of and an explanation regarding any priority
17 reservation features that affect a purchaser's ability to make
18 reservations for the use of a given accommodation on a first-reserved,
19 first-served basis.

20 (f) A description of any right to make any additions, substitutions
21 or deletions of accommodations or amenities and a description of the basis
22 on which accommodations and amenities may be added to, substituted in or
23 deleted from the multisite timeshare plan.

24 (g) A description of the purchaser's liability for any fees
25 associated with the multisite timeshare plan.

26 (h) The location and the anticipated relative use demand of each
27 component site in a multisite timeshare plan as well as any periodic
28 adjustment or amendment to the reservation system that may be needed in
29 order to respond to actual purchaser use patterns and changes in purchaser
30 use demand for the accommodations existing at the time within the
31 multisite timeshare plan.

32 (i) Any other information reasonably required by the commissioner
33 or established by rule that is necessary for the protection of purchasers
34 of timeshare interests in timeshare plans.

35 (j) Any other information that the developer, with the approval of
36 the commissioner, desires to include in the public report.

37 16. If a developer offers a nonspecific timeshare interest in a
38 multisite timeshare plan, the information set forth in paragraphs 1
39 through 14 of this subsection as to each component site.

40 17. Any other information that the commissioner determines or
41 establishes by rule is necessary to implement the purpose of this article.

42 B. Except as otherwise provided in this subsection, the
43 requirements prescribed by subsection A of this section apply to a
44 developer's application for approval to use an amended public report for
45 the sale of timeshare interests in a timeshare plan, including an amended

1 public report to disclose and address a material change under section
2 32-2197.04. A developer may elect to prepare an amended public report for
3 use in the sale of timeshare interests as follows:

4 1. The developer shall prepare the amended public report and
5 provide a copy of the report to the commissioner with the submission of
6 the application for an amended public report, including any notification
7 required by section 32-2197.04, and shall comply with all other
8 requirements of this article.

9 2. An amendment filing fee established pursuant to section
10 32-2197.07 shall accompany the application prescribed by paragraph 1 of
11 this subsection.

12 3. On receipt of the application and amended public report, the
13 department shall review and, within fifteen business days if the amendment
14 adds less than six new component sites to the timeshare plan or within
15 thirty calendar days if the amendment adds six or more new component sites
16 to the timeshare plan, issue either a certification that the application
17 and amended public report are administratively complete or a denial letter
18 if it appears that the application, amended public report or timeshare
19 plan is not in compliance with all legal requirements, that the applicant
20 has a background of violations of state or federal law or that the
21 applicant or timeshare plan presents an unnecessary risk of harm to the
22 public. If the commissioner has received the application and amended
23 public report but has not issued a certification or a denial letter within
24 the required time period, the application and amended public report are
25 deemed administratively complete.

26 4. The developer may commence sales or leasing activities as
27 allowed under this article using an amended public report when the
28 commissioner issues a certification of administrative completeness or as
29 of the date the application and amended public report are deemed
30 administratively complete pursuant to paragraph 3 of this subsection. The
31 certification may be issued on paper or electronically.

32 5. Before or after the commissioner issues a certification of
33 administrative completeness or, if applicable, after the application and
34 amended public report are deemed to be administratively complete pursuant
35 to paragraph 3 of this subsection, the department may examine any public
36 report, timeshare plan or applicant that has applied for or received the
37 certification. If the commissioner determines that the public report,
38 timeshare plan or applicant is not in compliance with any requirement of
39 state law or that grounds exist under this chapter to suspend, deny or
40 revoke a public report, the commissioner may commence an administrative
41 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
42 immediately corrects the deficiency and fully complies with state law, the
43 commissioner shall promptly vacate any action that the commissioner may
44 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

1 6. The department shall provide forms and guidelines for the
2 submission of the application and amended public report pursuant to this
3 subsection.

4 C. In the event of denial, suspension or revocation, grounds shall
5 be set forth in writing at the time of denial, suspension or revocation.
6 The commissioner may deny, suspend or revoke the public report on any of
7 the following grounds:

8 1. Failure to comply with this article or the rules of the
9 commissioner pertaining to this article.

10 2. The sale or lease would constitute misrepresentation to or
11 deceit or fraud of the purchasers or lessees.

12 3. Inability to demonstrate that adequate financial or other
13 arrangements acceptable to the commissioner have been made for completion
14 of the timeshare property, installation of all streets, sewers, electric,
15 gas and water utilities, drainage, flood control and other similar
16 improvements included in the offering.

17 4. The developer, including if an entity, an officer, director,
18 member, manager, partner, owner, trust beneficiary holding ten percent or
19 more beneficial interest, stockholder owning ten percent or more of the
20 stock or other person exercising control of the entity, has:

21 (a) Been convicted of a felony or misdemeanor involving theft,
22 fraud or dishonesty or involving the conduct of any business or a
23 transaction in real estate, cemetery property, timeshare interests or
24 membership camping campgrounds or contracts.

25 (b) Been permanently or temporarily enjoined by order, judgment or
26 decree from engaging in or continuing any conduct or practice in
27 connection with the sale or purchase of real estate, cemetery property,
28 timeshare interests, membership camping campgrounds or contracts, or
29 securities or involving consumer fraud or the ~~Arizona~~ racketeering laws ~~OF~~
30 ~~THIS STATE~~.

31 (c) Had an administrative order entered against him by a real
32 estate regulatory agency or securities regulatory agency.

33 (d) Had an adverse decision or judgment entered against him
34 involving fraud or dishonesty or involving the conduct of any business in
35 or a transaction in real estate, cemetery property, timeshare interests or
36 membership camping campgrounds or contracts.

37 (e) Disregarded or violated this chapter or the rules of the
38 commissioner pertaining to this chapter.

39 (f) Participated in, operated or held an interest in any entity to
40 which subdivision (b), (c), (d), or (e) of this paragraph applies.

41 5. If within this state, the timeshare property is incompatible
42 with the existing neighborhood and would introduce into a neighborhood a
43 character of property or use that would clearly be detrimental to property
44 values in that neighborhood.

D. If the timeshare property is within an active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report unless the developer has been issued a certificate of assured water supply by the director of water resources and has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the developer has obtained a written commitment of water service for the timeshare property from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576.

E. In areas outside of active management areas, if the timeshare property is located in a county that has adopted the provision authorized by section 11-823, subsection A, IN A RURAL GROUNDWATER MANAGEMENT AREA IN WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13 or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection 0, the commissioner shall deny issuance of a public report unless one of the following applies:

1. The director of water resources has reported pursuant to section 45-108 that the timeshare property has an adequate water supply.

2. The developer has obtained a written commitment of water service for the timeshare property from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

3. The timeshare property was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

4. The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108.

F. In addition to providing to each prospective customer a copy of the public report as required in subsection A of this section, the developer shall also provide to each customer before the close of any transaction information and materials that identify any timeshare exchange companies currently under contract and disclosure statements regarding the use of the timeshare exchange companies, as well as any additional information the commissioner deems appropriate.

G. The commissioner may authorize for use in this state by a developer of a timeshare plan in which all accommodations are located

1 outside of this state a current public report that is issued by another
2 jurisdiction or an equivalent registration and disclosure document that is
3 required before offering a timeshare plan for sale, lease or use and that
4 is issued by another jurisdiction. This authorization does not constitute
5 an exemption from other applicable requirements of this article.

6 Sec. 5. Section 33-406, Arizona Revised Statutes, is amended to
7 read:

8 33-406. Disclosure of transportation of water to property by
9 motor vehicle or train; definition

10 A. Notwithstanding section 33-411, subsection D, a subdivider who
11 sells a lot that was included in a plat approved by the legislative body
12 of a city or town pursuant to an exemption authorized by section 9-463.01,
13 subsection K or by the board of supervisors of a county pursuant to an
14 exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1 shall
15 record with the plat a document that contains a legal description of the
16 land that is subject to the subdivision plat and that contains a statement
17 that the lots are served by a water supply that has been determined as
18 inadequate and that the water must be hauled to the lot.

19 B. For the purposes of this section, "subdivider" has the same
20 meaning as prescribed in section 32-2101.

21 Sec. 6. Section 41-1005, Arizona Revised Statutes, is amended to
22 read:

23 41-1005. Exemptions

24 A. This chapter does not apply to any:

25 1. Rule that relates to the use of public works, including streets
26 and highways, under the jurisdiction of an agency if the effect of the
27 order is indicated to the public by means of signs or signals.

28 2. Order or rule of the Arizona game and fish commission that does
29 the following:

30 (a) Opens, closes or alters seasons or establishes bag or
31 possession limits for wildlife.

32 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

33 (c) Establishes a license classification, fee or application fee
34 pursuant to title 17, chapter 3, article 2.

35 (d) Limits the number or use of licenses or permits that are issued
36 to nonresidents pursuant to section 17-332.

37 3. Rule relating to section 28-641 or to any rule regulating motor
38 vehicle operation that relates to speed, parking, standing, stopping or
39 passing enacted pursuant to title 28, chapter 3.

40 4. Rule concerning only the internal management of an agency that
41 does not directly and substantially affect the procedural or substantive
42 rights or duties of any segment of the public.

43 5. Rule that only establishes specific prices to be charged for
44 particular goods or services sold by an agency.

1 6. Rule concerning only the physical servicing, maintenance or care
2 of agency owned or operated facilities or property.

3 7. Rule or substantive policy statement concerning inmates or
4 committed youths of a correctional or detention facility in secure custody
5 or patients admitted to a hospital if made by the state department of
6 corrections, the department of juvenile corrections, the board of
7 executive clemency or the department of health services or a facility or
8 hospital under the jurisdiction of the state department of corrections,
9 the department of juvenile corrections or the department of health
10 services.

11 8. Form whose contents or substantive requirements are prescribed
12 by rule or statute and instructions for the execution or use of the form.

13 9. Capped fee-for-service schedule adopted by the Arizona health
14 care cost containment system administration pursuant to title 36,
15 chapter 29.

16 10. Fees prescribed by section 6-125.

17 11. Order of the director of water resources adopting or modifying
18 a management plan pursuant to title 45, chapter 2, article 3.1 OR 9.

19 12. Fees established under section 3-1086.

20 13. Fees established under sections 41-4010 and 41-4042.

21 14. Rule or other matter relating to agency contracts.

22 15. Fees established under section 32-2067 or 32-2132.

23 16. Rules made pursuant to section 5-111, subsection A.

24 17. Rules made by the Arizona state parks board concerning the
25 operation of the Tonto natural bridge state park, the facilities located
26 in the Tonto natural bridge state park and the entrance fees to the Tonto
27 natural bridge state park.

28 18. Fees or charges established under section 41-511.05.

29 19. Emergency medical services protocols except as provided in
30 section 36-2205, subsection B.

31 20. Fee schedules established pursuant to section 36-3409.

32 21. Procedures of the state transportation board as prescribed in
33 section 28-7048.

34 22. Rules made by the state department of corrections.

35 23. Fees prescribed pursuant to section 32-1527.

36 24. Rules made by the department of economic security pursuant to
37 section 46-805.

38 25. Schedule of fees prescribed by section 23-908.

39 26. Procedure that is established pursuant to title 23, chapter 6,
40 article 6.

41 27. Rules, administrative policies, procedures and guidelines
42 adopted for any purpose by the Arizona commerce authority pursuant to
43 chapter 10 of this title if the authority provides, as appropriate under
44 the circumstances, for notice of an opportunity for comment on the
45 proposed rules, administrative policies, procedures and guidelines.

1 28. Rules made by a marketing commission or marketing committee
2 pursuant to section 3-414.

3 29. Administration of public assistance program monies authorized
4 for liabilities that are incurred for disasters declared pursuant to
5 sections 26-303 and 35-192.

6 30. User charges, tolls, fares, rents, advertising and sponsorship
7 charges, services charges or similar charges established pursuant to
8 section 28-7705.

9 31. Administration and implementation of the hospital assessment
10 pursuant to section 36-2901.08, except that the Arizona health care cost
11 containment system administration must provide notice and an opportunity
12 for public comment at least thirty days before establishing or
13 implementing the administration of the assessment.

14 32. Rules made by the Arizona department of agriculture to adopt
15 and implement the provisions of the federal milk ordinance as prescribed
16 by section 3-605.

17 33. Rules made by the Arizona department of agriculture to adopt,
18 implement and administer the United States food and drug administration
19 produce safety rule (21 Code of Federal Regulations part 112) and any
20 other federal produce safety regulation, order or guideline or other
21 requirement adopted pursuant to the FDA food safety modernization act
22 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
23 provided by title 3, chapter 3, article 4.1.

24 34. Calculations that are performed by the department of economic
25 security and that are associated with the adjustment of the sliding fee
26 scale and formula for determining child care assistance pursuant to
27 section 46-805.

28 35. Rules made by the Arizona department of agriculture to
29 implement and administer the livestock operator fire and flood assistance
30 grant program established by section 3-109.03.

31 B. Notwithstanding subsection A, paragraph 21 of this section, if
32 the federal highway administration authorizes the privatization of rest
33 areas, the state transportation board shall make rules governing the lease
34 or license by the department of transportation to a private entity for the
35 purposes of privatization of a rest area.

36 C. Coincident with the making of a final rule pursuant to an
37 exemption from the applicability of this chapter under this section,
38 another statute or session law, the agency shall:

39 1. Prepare a notice and follow formatting guidelines prescribed by
40 the secretary of state.

41 2. Prepare the rulemaking exemption notices pursuant to chapter 6.2
42 of this title.

43 3. File a copy of the rule with the secretary of state for
44 publication pursuant to section 41-1012 and provide a copy to the council.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment. The state board of education shall consider the fiscal impact of any proposed rule pursuant to this subsection.

G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board for charter schools, except that the board shall adopt policies or rules for the board and the charter schools sponsored by the board that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any policy or rule, the board shall provide at least two opportunities for public comment. The state board for charter schools shall consider the fiscal impact of any proposed rule pursuant to this subsection.

Sec. 7. Section 45-108, Arizona Revised Statutes, is amended to read:

45-108. Evaluation of subdivision water supply; definitions

A. In areas outside of active management areas established pursuant to chapter 2, article 2 of this title, the developer of a proposed subdivision including dry lot subdivisions, regardless of subdivided lot size, ~~prior to recordation of~~ BEFORE RECORDING the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy of the water supply to meet the needs projected by the developer to the director. The director shall evaluate the plans and issue a report on the plans.

B. The director shall evaluate the proposed source of water for the subdivision to determine whether there is an adequate water supply for the

1 subdivision, and shall forward a copy of the director's report to the
2 state real estate commissioner and the city, town or county responsible
3 for platting the subdivision.

4 C. The director may designate cities, towns and private water
5 companies as having an adequate water supply by reporting that designation
6 to the water department of the city or town or private water company and
7 the state real estate commissioner.

8 D. As an alternative to designation under subsection C of this
9 section, the director may designate a city or town that has entered into a
10 contract with the United States secretary of the interior or a county
11 water authority established pursuant to chapter 13 of this title for
12 permanent supplies of Colorado river water for municipal and industrial
13 use as having an adequate water supply if all of the following apply:

14 1. The city or town has entered into a contract with each private
15 water company that serves water within the city or town to provide
16 Colorado river water to those private water companies.

17 2. The Colorado river water for which the city or town has
18 contracted is sufficient together with other water supplies available to
19 the city or town and the private water companies that serve water within
20 that city or town to provide an adequate supply of water for the city or
21 town.

22 3. The director finds that new subdivisions within the city or town
23 will be served primarily with Colorado river water by the city or town or
24 one of the private water companies that serve water within that city or
25 town.

26 E. The director shall not require a developer to submit plans for
27 the water supply pursuant to subsection A of this section if either:

28 1. Both of the following apply:

29 (a) The developer has obtained a written commitment of water
30 service from cities, towns or private water companies that have been
31 designated as having an adequate water supply.

32 (b) That city, town or private water company has been designated as
33 having an adequate water supply pursuant to subsection C of this section.

34 2. All of the following apply:

35 (a) The city or town has been designated as having an adequate
36 water supply pursuant to subsection D of this section.

37 (b) The developer has obtained a written commitment of water
38 service from the city or town or a private water company that serves water
39 within that city or town.

40 (c) The developer has obtained the written concurrence of the city
41 or town that has been designated.

42 F. The director may revoke a designation made pursuant to this
43 section when the director finds that the water supply may become
44 inadequate.

G. ~~The~~ THIS state ~~of Arizona~~ and the director or department shall not be liable for any report, designation or evaluation prepared in good faith pursuant to this section.

H. If the director receives written notice from the board of supervisors of a county that it has adopted the provision authorized by section 11-823, subsection A, the director shall give written notice of the provision to the mayors of all cities and towns in the county. A city or town that receives the notice shall comply with section 9-463.01, subsections J, K, L, M and N. IF A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL ADOPTS A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF THE PROVISION TO ALL OF THE FOLLOWING:

1. THE MAYORS OF ALL CITIES AND TOWNS WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. A CITY OR TOWN THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 9-463.01, SUBSECTIONS J AND M.

2. THE BOARDS OF SUPERVISORS OF ALL COUNTIES WITH LANDS WITHIN THE BOUNDARIES OF THE RURAL GROUNDWATER MANAGEMENT AREA. A COUNTY THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 11-823.

3. THE REAL ESTATE COMMISSIONER.

4. THE DIRECTOR OF ENVIRONMENTAL QUALITY.

I. For the purposes of this section: ~~;~~

1. "Adequate water supply" means both of the following:

~~1-~~ (a) Sufficient groundwater, surface water or effluent of adequate quality will be continuously, legally and physically available to satisfy the water needs of the proposed use for at least one hundred years.

~~2-~~ (b) The financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The director may accept evidence of the construction assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to satisfy this requirement.

2. "RURAL GROUNDWATER MANAGEMENT AREA" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-402.

3. "RURAL GROUNDWATER MANAGEMENT AREA COUNCIL" MEANS A COUNCIL THAT IS FORMED TO MANAGE A RURAL GROUNDWATER AREA PURSUANT TO CHAPTER 2, ARTICLE 3.1 OF THIS TITLE.

Sec. 8. Section 45-108.01, Arizona Revised Statutes, is amended to read:

45-108.01. Application for water report or designation of adequate water supply; notice; objections; hearing; appeals

A. On receipt of an application for a water report or an application by a city, town or private water company to be designated as having an adequate water supply under section 45-108, if the proposed use

1 is in a county that has adopted the provision authorized by section
2 11-823, subsection A, **IN A RURAL GROUNDWATER MANAGEMENT AREA IN WHICH A**
3 **RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY**
4 **REQUIREMENT PURSUANT TO SECTION 45-441.13** or in a city or town that has
5 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
6 director shall publish notice of the application once each week for two
7 consecutive weeks in a newspaper of general circulation in the groundwater
8 basin in which the applicant proposes to use water. The first publication
9 shall occur within fifteen days after the application is determined or
10 deemed to be administratively complete. If the application is
11 substantially modified after notice of the application is given pursuant
12 to this subsection, the director shall give notice of the application as
13 modified in the manner prescribed by this subsection. The first
14 publication of any subsequent notice shall occur within fifteen days after
15 the modified application is determined or deemed to be administratively
16 complete.

17 B. Notice pursuant to subsection A of this section shall state that
18 written objections to the application may be filed with the director by
19 residents and landowners within the groundwater basin within fifteen days
20 after the last publication of notice. An objection shall state the name
21 and mailing address of the objector and be signed by the objector, the
22 objector's agent or the objector's attorney. The grounds for objection
23 are limited to whether the application meets the criteria for determining
24 an adequate water supply set forth in section 45-108, subsection I. The
25 objection shall clearly set forth reasons why the application does not
26 meet the criteria.

27 C. In appropriate cases, including cases in which a proper written
28 objection to the application has been filed, an administrative hearing may
29 be held before the director's decision on the application if the director
30 deems a hearing necessary. Thirty days before the date of the hearing,
31 the director shall give notice of the hearing to the applicant and to any
32 person who filed a proper written objection to the application. The
33 hearing shall be scheduled for at least sixty days but not more than
34 ninety days after the expiration of the time in which to file objections.

35 D. If the application is for a water report:

36 1. If the director determines that an adequate water supply exists
37 for the proposed use, the director shall issue a water report stating that
38 the water supply for the subdivision is adequate.

39 2. If the director determines that an adequate water supply does
40 not exist, the director shall issue a water report stating that the water
41 supply for the subdivision is inadequate.

42 E. If the application is for a designation of adequate water
43 supply:

44 1. If the director determines that an adequate water supply exists
45 for the proposed use, the director shall approve the application.

1 2. If the director determines that an adequate water supply does
2 not exist, the director shall deny the application.

3 F. The applicant or a person who contested the application by
4 filing a proper objection pursuant to subsection B of this section may
5 seek judicial review of the final decision of the director as provided in
6 section 45-114, subsection B in the superior court.

7 G. Section 45-114, subsections A and B govern administrative
8 proceedings, rehearings or reviews and judicial reviews of final decisions
9 of the director under this section. If an administrative hearing is held,
10 it shall be conducted in the groundwater basin in which the use is
11 located.

12 Sec. 9. Section 45-402, Arizona Revised Statutes, is amended to
13 read:

14 45-402. Definitions

15 In this chapter, unless the context otherwise requires:

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

19 2. "Active management area" means a geographical area that has been
20 designated pursuant to article 2 of this chapter as requiring active
21 management of groundwater or, in the case of the Santa Cruz active
22 management area, active management of any water, other than stored water,
23 withdrawn from a well.

24 3. "Animal industry use" means the production, growing and feeding
25 of livestock, range livestock or poultry, as ~~such~~ THOSE terms are defined
26 in section 3-1201. Animal industry use is included in the term and
27 general treatment of industry in this chapter, unless specifically
28 provided otherwise.

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

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

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

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

36 (a) With respect to an initial active management area, June 12,
37 1980.

38 (b) With respect to a subsequent active management area, the date
39 on which the director's order designating the active management area
40 becomes effective as provided in section 45-414 or the date on which the
41 final results of an election approving the establishment of the active
42 management area pursuant to section 45-415 are certified by the board of
43 supervisors of the county or counties in which the active management area
44 is located.

1 8. "Exempt well" means a well that has a pump with a maximum
2 capacity of not more than thirty-five gallons per minute and that is used
3 to withdraw groundwater pursuant to section 45-454.

4 9. "Expanded animal industry use" means increased water use by an
5 animal industrial enterprise on the land in use by the enterprise on June
6 12, 1980 or on immediately adjoining land, excluding irrigation uses.

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

11 11. "Farm unit" means:

12 (a) With respect to areas outside an active management area and
13 with respect to an active management area other than the Santa Cruz active
14 management area, one or more farms that are irrigated with groundwater and
15 that are contiguous or in proximity to each other with similar soil
16 conditions, crops and cropping patterns.

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

21 12. "Grandfathered right" means a right to withdraw and use
22 groundwater pursuant to article 5 of this chapter based on the fact of
23 lawful withdrawals and use of groundwater before the date of the
24 designation of an active management area.

25 13. "Groundwater basin" means an area that, as nearly as known
26 facts allow as determined by the director pursuant to this chapter, may be
27 designated so as to enclose a relatively hydrologically distinct body or
28 related bodies of groundwater, which shall be described horizontally by
29 surface description.

30 14. "Groundwater replenishment district" or "replenishment
31 district" means a district that is established pursuant to title 48,
32 chapter 27.

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

35 16. "Initial active management area" means the Phoenix, Prescott or
36 Pinal active management area established by section 45-411, the Tucson
37 active management area established by section 45-411 and modified by
38 section 45-411.02 and the Santa Cruz active management area established by
39 section 45-411.03.

40 17. "Integrated farming operation" means:

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

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

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

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

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

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

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

23. "Irrigation use" means:

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

(b) With respect to the Santa Cruz active management area, the use of water, other than stored water, withdrawn from a well on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as ~~such~~ THOSE terms are defined in section 3-1201.

24. "Irrigation water duty" or "water duty" means the amount of water in acre-feet per acre that is reasonable to apply to irrigated land in a farm unit during the accounting period, as determined by the director pursuant to sections 45-564 through 45-568 or as prescribed in section 45-483.

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

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

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

1 28. "Non-irrigation use" means:

2 (a) With respect to areas outside an active management area and
3 with respect to an active management area other than the Santa Cruz active
4 management area, a use of groundwater other than an irrigation use.

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

8 29. "Person" means an individual, public or private corporation,
9 company, partnership, firm, association, society, estate or trust, any
10 other private organization or enterprise, the United States, any state,
11 territory or country or a governmental entity, political subdivision or
12 municipal corporation organized under or subject to the constitution and
13 laws of this state.

14 30. "Private water company" means:

15 (a) With respect to areas outside an active management area and
16 with respect to an active management area other than the Santa Cruz active
17 management area, any entity that distributes or sells groundwater, except
18 a political subdivision or an entity that is established pursuant to title
19 48 and that is not regulated as a public service corporation by the
20 Arizona corporation commission under a certificate of public convenience
21 and necessity. A city or town is not a private water company.

22 (b) With respect to the Santa Cruz active management area, any
23 entity that distributes or sells water, other than stored water, withdrawn
24 from a well, except a political subdivision or an entity that is
25 established pursuant to title 48 and that is not regulated as a public
26 service corporation by the Arizona corporation commission under a
27 certificate of public convenience and necessity. A city or town is not a
28 private water company.

29 31. "RURAL GROUNDWATER MANAGEMENT AREA" MEANS A GEOGRAPHIC AREA
30 THAT IS DESIGNATED PURSUANT TO THIS ARTICLE AS REQUIRING MANAGEMENT OF
31 GROUNDWATER.

32 ~~31.~~ 32. "Service area" means:

33 (a) With respect to a city or town, the area of land actually being
34 served water, for a non-irrigation use, by the city or town plus:

35 (i) Additions to such area that contain an operating distribution
36 system owned by the city or town primarily for the delivery of water for a
37 non-irrigation use.

38 (ii) The service area of a city, town or private water company that
39 obtains its water from the city pursuant to a contract entered into before
40 the date of the designation of the active management area.

41 (b) With respect to a private water company, the area of land of
42 the private water company actually being served water, for a
43 non-irrigation use, by the private water company plus additions to such
44 area that contain an operating distribution system owned by the private

1 water company primarily for the delivery of water for a non-irrigation
2 use.

3 ~~32.~~ 33. "Service area of an irrigation district" means:

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

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

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

23 (ii) Any areas of land that contain an operating system of canals,
24 flumes, ditches and other works owned or operated by the irrigation
25 district for the withdrawal, delivery and distribution of water, except
26 that additional areas containing an operating system of canals, flumes,
27 ditches and other works owned or operated by the irrigation district may
28 not be added after December 31, 2027.

29 ~~33.~~ 34. "Stored water" means water that is stored underground for
30 the purpose of recovery pursuant to a permit issued under chapter 3.1 of
31 this title.

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

37 ~~35.~~ 36. "Subsequent active management area" means an active
38 management area established after June 12, 1980 pursuant to article 2 of
39 this chapter.

40 ~~36.~~ 37. "Subsidence" means the settling or lowering of the surface
41 of land that results from the withdrawal of groundwater.

42 ~~37.~~ 38. "Transportation" means the movement of groundwater from
43 the point of withdrawal to the point of use.

~~38.~~ 39. "Type 1 non-irrigation grandfathered right" means a non-irrigation grandfathered right associated with retired irrigated land and determined pursuant to section 45-463, 45-469 or 45-472.

~~39.~~ 40. "Type 2 non-irrigation grandfathered right" means a non-irrigation grandfathered right not associated with retired irrigated land and determined pursuant to section 45-464.

~~40.~~ 41. "Water district" means an active management area water district that is established under title 48, chapter 28 and that has adopted an ordinance or resolution to undertake water district groundwater replenishment obligations as defined and used in title 48, chapter 28, article 7.

~~41.~~ 42. "Water district member land" means real property that qualifies as water district member land of a water district as provided by title 48, chapter 28.

~~42.~~ 43. "Water district member service area" means the service area of the city, town or private water company that qualifies as a water district member service area of a water district as provided by title 48, chapter 28.

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

Sec. 10. Title 45, chapter 2, Arizona Revised Statutes, is amended by adding article 3.1, to read:

ARTICLE 3.1. RURAL GROUNDWATER MANAGEMENT AREAS

45-441. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CERTIFICATED VOLUME" MEANS THE ANNUAL VOLUME OF GROUNDWATER THAT IS IDENTIFIED BY THE DIRECTOR ON A CERTIFICATE OF GROUNDWATER USE ISSUED PURSUANT TO SECTION 45-441.10.

2. "COUNCIL" MEANS THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL FOR A RURAL GROUNDWATER MANAGEMENT AREA.

3. "DATE OF DESIGNATION" MEANS THE DATE THAT THE DIRECTOR'S ORDER DESIGNATING AN AREA AS A RURAL GROUNDWATER MANAGEMENT AREA BECOMES EFFECTIVE PURSUANT TO SECTION 45-441.06 SUBSECTION B.

4. "DATE OF INITIATION" MEANS THE DATE OF THE FIRST PUBLICATION OF NOTICE OF THE INITIATION OF PROCEEDINGS TO DESIGNATE A RURAL GROUNDWATER MANAGEMENT AREA.

5. "GROUNDWATER ALLOCATION" MEANS THE ANNUAL CERTIFICATED VOLUME OR THE PERMITTED VOLUME MINUS ANY ANNUAL CONSERVATION VOLUME FOR THAT YEAR.

6. "MANAGEMENT PERIOD" MEANS THE TEN-YEAR PERIOD DURING WHICH EACH MANAGEMENT PLAN IS IN EFFECT.

7. "MUNICIPAL PROVIDER" MEANS A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT THAT SUPPLIES WATER FOR NON-IRRIGATION USE.

8. "MUNICIPAL USE" MEANS ALL NON-IRRIGATION USES OF WATER SUPPLIED BY A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT, EXCEPT FOR

1 USES OF WATER, OTHER THAN COLORADO RIVER WATER, THAT IS RELEASED FOR
2 BENEFICIAL USE FROM STORAGE, DIVERSION OR DISTRIBUTION FACILITIES TO AVOID
3 SPILLING THAT WOULD OTHERWISE OCCUR DUE TO UNCONTROLLED SURFACE WATER
4 INFLOWS THAT EXCEED FACILITY CAPACITY.

5 9. "PERMITTED VOLUME" MEANS THE ANNUAL VOLUME OF GROUNDWATER THAT
6 IS IDENTIFIED BY THE DIRECTOR IN A PERMIT FOR GROUNDWATER USE ISSUED
7 PURSUANT TO SECTION 45-441.10.

8 10. "SAFE-YIELD" MEANS A GROUNDWATER MANAGEMENT GOAL THAT ATTEMPTS
9 TO ACHIEVE AND THEREAFTER MAINTAIN A LONG-TERM BALANCE BETWEEN THE ANNUAL
10 AMOUNT OF GROUNDWATER WITHDRAWN IN A RURAL GROUNDWATER MANAGEMENT AREA AND
11 THE ANNUAL AMOUNT OF NATURAL AND ARTIFICIAL RECHARGE IN A RURAL
12 GROUNDWATER MANAGEMENT AREA.

13 45-441.01. Initial rural groundwater management areas; maps

14 A. FIVE INITIAL RURAL GROUNDWATER MANAGEMENT AREAS ARE ESTABLISHED
15 ON THE EFFECTIVE DATE OF THIS SECTION. THE FIVE INITIAL RURAL GROUNDWATER
16 MANAGEMENT AREAS ARE:

17 1. THE GILA BEND RURAL GROUNDWATER MANAGEMENT AREA THAT INCLUDES
18 THE GILA BEND GROUNDWATER BASIN.

19 2. THE HUALAPAI VALLEY RURAL GROUNDWATER MANAGEMENT AREA THAT
20 INCLUDES THE HUALAPAI VALLEY GROUNDWATER BASIN.

21 3. THE RANEGRAS PLAIN RURAL GROUNDWATER MANAGEMENT AREA THAT
22 INCLUDES THE RANEGRAS PLAIN GROUNDWATER BASIN.

23 4. THE SAN SIMON VALLEY RURAL GROUNDWATER MANAGEMENT AREA THAT
24 INCLUDES THE SAN SIMON VALLEY SUBBASIN.

25 5. THE WILLCOX RURAL GROUNDWATER MANAGEMENT AREA THAT INCLUDES THE
26 WILLCOX GROUNDWATER BASIN.

27 B. THE BOUNDARIES OF EACH INITIAL RURAL GROUNDWATER MANAGEMENT AREA
28 SHALL BE THE SAME AS THE BOUNDARIES OF THE BASIN OR SUBBASIN THE RURAL
29 GROUNDWATER MANAGEMENT AREA INCLUDES AND THAT ARE SHOWN ON THE MAPS THAT
30 ARE MADE AND FILED IN THE DIRECTOR'S OFFICE PURSUANT TO SECTION 45-404.

31 45-441.02. Rural groundwater management areas; groundwater
32 use

33 A. NOTWITHSTANDING ANY OTHER LAW, IN A RURAL GROUNDWATER MANAGEMENT
34 AREA, A PERSON MAY:

35 1. WITHDRAW AND USE GROUNDWATER ONLY IN ACCORDANCE WITH THIS
36 ARTICLE OR SECTION 45-454 RELATING TO EXEMPT WELLS.

37 2. STORE WATER IN A STORAGE FACILITY AS DEFINED IN SECTION
38 45-802.01 ONLY IN ACCORDANCE WITH CHAPTER 3.1 OF THIS TITLE.

39 B. ALL USES OF GROUNDWATER IN A RURAL GROUNDWATER MANAGEMENT AREA
40 ARE SUBJECT TO CONSERVATION REQUIREMENTS AS AUTHORIZED BY THIS ARTICLE AND
41 DETERMINED BY A COUNCIL.

42 45-441.03. Initiation for rural groundwater management area;
43 procedures

44 A. THE DESIGNATION OF A BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN
45 THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER

MANAGEMENT AREA MAY BE INITIATED BY THE DIRECTOR ON THE DIRECTOR'S WRITTEN FINDING THAT ONE OR MORE OF THE CRITERIA PRESCRIBED IN SECTION 45-441.04 ARE MET OR BY PETITION TO THE DIRECTOR THAT IS SIGNED BY EITHER OF THE FOLLOWING:

1. THE MAJORITY OF A BOARD OF SUPERVISORS FOR A COUNTY WITH LANDS IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA SPECIFIED IN THE PETITION RESIDES. A BOARD THAT PETITIONS TO DESIGNATE A RURAL GROUNDWATER MANAGEMENT AREA SHALL INCLUDE WITH THE PETITION FOR DESIGNATION A RESOLUTION PASSED BY THE BOARD, INCLUDING A STATEMENT THAT THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA WILL SERVE THE PUBLIC INTEREST.

2. TEN PERCENT OF THE REGISTERED VOTERS RESIDING WITHIN THE GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA SPECIFIED IN THE PETITION AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H. THE FORM OF THE PETITION SHALL BE THE SAME AS FOR AN INITIATIVE PETITION AND THE APPLICANT FOR SUCH PETITION SHALL COMPLY WITH SECTION 19-111. IF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED IN TWO OR MORE COUNTIES, THE NUMBER OF REGISTERED VOTERS REQUIRED TO SIGN THE PETITION SHALL BE TEN PERCENT OF THE REGISTERED VOTERS RESIDING WITHIN THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA, AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H, WITHIN THE COUNTY IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA RESIDES.

B. AFTER RECEIVING A PETITION SIGNED BY REGISTERED VOTERS PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR SHALL TRANSMIT THE PETITION TO THE COUNTY RECORDER OF EACH COUNTY IN WHICH THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED FOR VERIFICATION OF SIGNATURES. ADDITIONALLY, THE DIRECTOR SHALL TRANSMIT A MAP OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA TO THE COUNTY RECORDER OF EACH COUNTY INCLUDED. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW WITH SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA CROSS THE BOUNDARIES OF COUNTY VOTING PRECINCTS. THE DIRECTOR SHALL TRANSMIT TO THE COUNTY RECORDER ALL OTHER FACTUAL DATA CONCERNING THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA THAT MAY AID THE COUNTY RECORDER IN DETERMINING WHICH REGISTERED VOTERS OF THE COUNTY ARE RESIDENTS OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA.

45-441.04. Rural groundwater management area; criteria

A. THE DIRECTOR MAY DESIGNATE A GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA THAT IS NOT INCLUDED WITHIN AN ACTIVE MANAGEMENT AREA AS A RURAL

1 GROUNDWATER MANAGEMENT AREA IF THE DIRECTOR DETERMINES THAT ONE OR MORE OF
2 THE FOLLOWING CRITERIA APPLY:

3 1. MANAGEMENT PRACTICES ARE NECESSARY TO PRESERVE THE EXISTING
4 SUPPLY OF GROUNDWATER FOR FUTURE NEEDS.

5 2. LAND SUBSIDENCE OR FISSURING IS ENDANGERING PROPERTY OR
6 POTENTIAL GROUNDWATER STORAGE CAPACITY.

7 3. THE USE OF GROUNDWATER IS RESULTING IN ACTUAL OR THREATENED
8 WATER QUALITY DEGRADATION.

9 B. A RURAL GROUNDWATER MANAGEMENT AREA MAY INCLUDE MORE THAN ONE
10 GROUNDWATER BASIN. A RURAL GROUNDWATER MANAGEMENT AREA MAY NOT BE SMALLER
11 THAN A GROUNDWATER SUBBASIN OR INCLUDE ONLY A PORTION OF A GROUNDWATER
12 SUBBASIN, EXCEPT IN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA.

13 C. BEGINNING IN 2030 AND EVERY TEN YEARS THEREAFTER, THE DIRECTOR
14 SHALL REVIEW ALL GROUNDWATER BASINS THAT ARE NOT INCLUDED WITHIN AN ACTIVE
15 MANAGEMENT AREA OR A RURAL GROUNDWATER MANAGEMENT AREA TO DETERMINE
16 WHETHER SUCH GROUNDWATER BASINS MEET ANY OF THE CRITERIA FOR RURAL
17 GROUNDWATER MANAGEMENT AREAS AS PRESCRIBED IN THIS SECTION.

18 45-441.05. Proceedings for designation; limit on expansion of
19 groundwater use; notice

20 A. IF THE DIRECTOR INITIATES PROCEEDINGS TO DESIGNATE A RURAL
21 GROUNDWATER MANAGEMENT AREA PURSUANT TO SECTION 45-441.03:

22 1. THE FOLLOWING APPLY:

23 (a) AN IRRIGATION GROUNDWATER USER MAY IRRIGATE WITHIN THE PROPOSED
24 RURAL GROUNDWATER MANAGEMENT AREA ONLY THOSE ACRES OF LAND THAT WERE
25 LEGALLY IRRIGATED AT ANY TIME DURING THE FIVE YEARS PRECEDING THE DATE OF
26 INITIATION.

27 (b) A NONIRRIGATION GROUNDWATER USER MAY USE GROUNDWATER WITHIN THE
28 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA FOR USES THAT WERE LEGALLY
29 CONDUCTED AT ANY TIME DURING THE FIVE YEARS PRECEDING THE DATE OF
30 INITIATION. THIS PARAGRAPH DOES NOT PROHIBIT A MUNICIPAL PROVIDER FROM
31 WITHDRAWING OR DELIVERING GROUNDWATER NECESSARY TO PROTECT PUBLIC HEALTH
32 AND SAFETY.

33 (c) THE LIMITATION ON THE ACRES THAT MAY BE IRRIGATED AND THE
34 LIMITATION ON NON-IRRIGATION USES PRESCRIBED IN SUBDIVISIONS (a) AND (b)
35 OF THIS PARAGRAPH SHALL CONTINUE IN EFFECT UNTIL THE DIRECTOR MAKES A
36 FINAL DETERMINATION PURSUANT TO THIS SECTION, EXCEPT THAT IF THE DIRECTOR
37 DESIGNATES THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA, THE LIMITATIONS
38 SHALL CONTINUE FOR EACH USER UNTIL THAT USER'S APPLICATION FOR A
39 CERTIFICATE OF GROUNDWATER USE IS APPROVED OR DENIED PURSUANT TO SECTION
40 45-441.08.

41 2. THE DIRECTOR SHALL:

42 (a) GIVE NOTICE OF THE INITIATION OF PROCEEDINGS TO DESIGNATE THE
43 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA, AS PRESCRIBED IN SUBSECTION B
44 OF THIS SECTION.

1 (b) CONDUCT AT LEAST ONE PUBLIC MEETING TO PROVIDE INFORMATION
2 WITHIN THE DIRECTOR'S POSSESSION REGARDING THE DESIGNATION OF THE
3 GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER
4 SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA.

5 (c) HOLD A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE
6 FOLLOWING:

7 (i) WHETHER TO ISSUE AN ORDER DESIGNATING THE GROUNDWATER BASIN,
8 SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF
9 NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA.

10 (ii) THE BOUNDARIES AND ANY BASINS AND SUBBASINS OF THE PROPOSED
11 RURAL GROUNDWATER MANAGEMENT AREA.

12 B. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE INITIATION OF
13 PROCEEDINGS TO DESIGNATE THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA,
14 WHICH SHALL INCLUDE PUBLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
15 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
16 RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED. ANY NOTICE SHALL CONTAIN
17 THE FOLLOWING:

18 1. THE LEGAL DESCRIPTION AND A MAP CLEARLY IDENTIFYING THE LANDS TO
19 BE INCLUDED IN THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA AND ANY
20 BASINS AND SUBBASINS.

21 2. THE TIME AND PLACE OF THE PUBLIC MEETING, WHICH SHALL BE HELD
22 NOT LESS THAN FOURTEEN DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE AND
23 NOT LESS THAN FOURTEEN DAYS BEFORE THE PUBLIC HEARING. THE MEETING SHALL
24 BE HELD AT A LOCATION WITHIN THE PROPOSED RURAL GROUNDWATER MANAGEMENT
25 AREA OR WITHIN A COUNTY WITH LANDS IN WHICH THE PLURALITY OF THE
26 REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES.

27 3. THE TIME AND PLACE OF THE PUBLIC HEARING, WHICH SHALL BE HELD
28 NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER THE FIRST
29 PUBLICATION OF THE NOTICE. THE PUBLIC HEARING SHALL BE HELD AT A LOCATION
30 WITHIN THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA OR WITHIN A COUNTY
31 WITH LANDS IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE
32 GROUNDWATER BASIN RESIDES.

33 4. ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

34 C. AT THE PUBLIC HEARING, THE DIRECTOR SHALL PROVIDE INFORMATION
35 WITHIN THE DIRECTOR'S POSSESSION REGARDING THE DESIGNATION OF THE
36 GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER
37 SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA. ANY
38 PERSON MAY APPEAR AT THE HEARING, EITHER IN PERSON OR BY REPRESENTATIVE,
39 AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE FOR OR AGAINST THE PROPOSED
40 ACTION. IN MAKING A DETERMINATION, THE DIRECTOR SHALL GIVE FULL
41 CONSIDERATION TO PUBLIC COMMENT.

42 45-441.06. Order for designation; public record; publication;
43 judicial review

44 A. WITHIN FORTY-FIVE DAYS AFTER A HEARING TO DESIGNATE AN AREA AS A
45 RURAL GROUNDWATER MANAGEMENT AREA, THE DIRECTOR SHALL MAKE AND FILE WITH

1 THE DEPARTMENT WRITTEN FINDINGS WITH RESPECT TO THE PROPOSED ACTION. IF
2 THE DIRECTOR DECIDES TO DECLARE THE AREA A RURAL GROUNDWATER MANAGEMENT
3 AREA, THE DIRECTOR SHALL MAKE AND FILE AN ORDER DESIGNATING THE RURAL
4 GROUNDWATER MANAGEMENT AREA.

5 B. THE FINDINGS AND ORDER SHALL BE PUBLISHED IN THE SAME MANNER AS
6 THE NOTICE OF INITIATION PROCEEDINGS PRESCRIBED IN SECTION 45-441.05 AND
7 THE ORDER IS EFFECTIVE WHEN PUBLISHED FOR THE FINAL TIME. ALL FACTUAL
8 DATA, THE MAP OF THE RURAL GROUNDWATER MANAGEMENT AREA, HEARING RECORDS
9 AND PUBLIC COMMENTS ARE A PUBLIC RECORD AND SHALL BE MADE AVAILABLE FOR
10 PUBLIC EXAMINATION DURING REGULAR BUSINESS HOURS. THE FINDINGS AND ORDER
11 ARE SUBJECT TO JUDICIAL REVIEW AS PROVIDED IN SECTION 45-114,
12 SUBSECTION C.

13 C. THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP IN THE OFFICE OF
14 THE COUNTY RECORDER OF THE COUNTY OR COUNTIES WHERE THE RURAL GROUNDWATER
15 MANAGEMENT AREA IS LOCATED.

16 45-441.07. Application for certificate of groundwater use;
17 notice

18 A. WITHIN NINETY DAYS AFTER THE DATE OF DESIGNATION, THE DIRECTOR
19 SHALL PROVIDE NOTICE THAT A PERSON MUST APPLY FOR A CERTIFICATE OF
20 GROUNDWATER USE TO USE, RECEIVE OR WITHDRAW GROUNDWATER FROM A NONEXEMPT
21 WELL IN THE RURAL GROUNDWATER MANAGEMENT AREA TO ALL OF THE FOLLOWING IN
22 THE AREA WHERE THE RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED:

- 23 1. THE CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OR COUNTIES.
- 24 2. THE MAYOR OF EACH CITY OR TOWN.
- 25 3. EACH PRIVATE WATER COMPANY.
- 26 4. THE PRESIDING OFFICER OF EACH POLITICAL SUBDIVISION OF THIS
27 STATE ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 17, 18, 19 OR 20.

28 5. EACH OWNER OF REAL PROPERTY WITHIN THE RURAL GROUNDWATER
29 MANAGEMENT AREA THAT IS LISTED ON THE TAX ROLLS OF THE COUNTY AND THAT IS
30 NOT LOCATED IN A VACANT SUBDIVISION OR WITHIN THE SERVICE AREA OF A CITY,
31 TOWN OR PRIVATE WATER COMPANY IN THE RURAL GROUNDWATER MANAGEMENT AREA.

32 B. THE DIRECTOR SHALL INCLUDE WITH THE WRITTEN NOTICE A DECLARATION
33 THAT IT IS THE DUTY OF THE RECIPIENT TO FORWARD THE NOTICE TO THE
34 BENEFICIAL OWNER OF THE PROPERTY AND A STATEMENT THAT A PERSON WHO FAILS
35 TO APPLY FOR A CERTIFICATE OF GROUNDWATER USE WITHIN A RURAL GROUNDWATER
36 MANAGEMENT AREA WAIVES AND RELINQUISHES ANY ELIGIBILITY TO WITHDRAW,
37 RECEIVE OR USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER USE.

38 C. FOR THE PURPOSES OF THIS SECTION, THE DIRECTOR MAY PROVIDE
39 WRITTEN NOTICE IN ANY MANNER THE DIRECTOR DETERMINES IS CONSISTENT WITH
40 THE PURPOSES OF THIS SECTION.

41 45-441.08. Application for certificate of groundwater use;
42 criteria; substantial capital investment in
43 future groundwater use

44 A. EXCEPT FOR THE WITHDRAWAL OF GROUNDWATER THAT IS CONSISTENT WITH
45 SECTION 45-454, A PERSON MAY WITHDRAW AN ANNUAL VOLUME OF GROUNDWATER FOR

1 USE WITHIN A RURAL GROUNDWATER MANAGEMENT AREA ONLY PURSUANT TO A
2 CERTIFICATE OF GROUNDWATER USE OR A PERMIT FOR GROUNDWATER USE IF THE
3 DIRECTOR DETERMINES THAT ONE OF THE FOLLOWING APPLIES:

4 1. THE PERSON OWNS LAND THAT WAS IRRIGATED WITH GROUNDWATER THAT
5 WAS LEGALLY WITHDRAWN FROM A NONEXEMPT WELL AT ANY TIME DURING THE FIVE
6 YEARS PRECEDING THE DATE OF INITIATION.

7 2. THE PERSON WAS LEGALLY WITHDRAWING GROUNDWATER FROM A NONEXEMPT
8 WELL FOR NON-IRRIGATION USE AT ANY TIME DURING THE FIVE YEARS PRECEDING
9 THE DATE OF INITIATION.

10 3. THE PERSON HAS MADE A SUBSTANTIAL CAPITAL INVESTMENT IN A
11 PROJECT IN RELIANCE ON THE ABILITY TO WITHDRAW GROUNDWATER BEFORE THE DATE
12 OF INITIATION.

13 B. WITHIN FIFTEEN MONTHS AFTER THE DATE OF DESIGNATION, A PERSON
14 WHO IS ELIGIBLE FOR A CERTIFICATE OF GROUNDWATER USE SHALL APPLY TO THE
15 DIRECTOR ON A FORM PROVIDED BY THE DEPARTMENT AND PROVIDE VERIFICATION OF
16 THE HISTORY OF LEGAL WITHDRAWAL AND USE OF GROUNDWATER. THE DIRECTOR
17 SHALL ACCEPT ANY OF THE FOLLOWING METHODS AS PROPER VERIFICATION:

18 1. FOR IRRIGATION USES, EVIDENCE OF THE AVERAGE AMOUNT OF
19 GROUNDWATER WITHDRAWN OR USED ANNUALLY OVER THE TEN YEARS BEFORE THE DATE
20 OF INITIATION. FOR THE PURPOSES OF CALCULATING THE AVERAGE PURSUANT TO
21 THIS PARAGRAPH, THE DIRECTOR SHALL USE ONLY THOSE YEARS IN WHICH
22 GROUNDWATER FOR IRRIGATION WAS ACTUALLY WITHDRAWN. THE AVERAGE AMOUNT OF
23 GROUNDWATER USED MAY BE DEMONSTRATED BY USING ANY OF THE FOLLOWING:

24 (a) DATA FROM A WATER MEASURING DEVICE THAT IS APPROVED BY THE
25 DIRECTOR PURSUANT TO SECTION 45-604.

26 (b) A CALCULATION OF THE AVERAGE AMOUNT OF WATER THAT IS REQUIRED
27 TO IRRIGATE THE CROPS HISTORICALLY GROWN IN THE FARM UNIT BASED ON THE
28 TOTAL IRRIGATION REQUIREMENT PER ACRE OF THE HISTORICALLY GROWN CROPS AND
29 A REASONABLE IRRIGATION EFFICIENCY FOR THE FARM UNIT AFTER FACTORING IN
30 THE HISTORIC CONDITIONS AND INFRASTRUCTURE.

31 (c) ANY OTHER METHOD THE DIRECTOR DETERMINES TO BE REASONABLE.

32 2. FOR NON-IRRIGATION USES, EVIDENCE OF THE HIGHEST AMOUNT OF
33 GROUNDWATER WITHDRAWN OR USED IN ANY YEAR IN THE FIVE YEARS BEFORE THE
34 DATE OF INITIATION. THE AVERAGE AMOUNT OF GROUNDWATER USED MAY BE
35 DEMONSTRATED BY USING DATA FROM A WATER MEASURING DEVICE APPROVED BY THE
36 DIRECTOR PURSUANT TO SECTION 45-604 OR ANY OTHER METHOD THE DIRECTOR
37 DETERMINES TO BE REASONABLE.

38 3. FOR MUNICIPAL USES, THE GROUNDWATER DEMAND ASSOCIATED WITH PLATS
39 RECORDED BEFORE THE DATE OF INITIATION AND DETERMINATIONS OF AN ADEQUATE
40 WATER SUPPLY ISSUED PURSUANT TO SECTION 45-108 BEFORE THE DATE OF
41 INITIATION THAT IS NOT INCLUDED AS NON-IRRIGATION USE.

42 4. EVIDENCE OF A SUBSTANTIAL CAPITAL INVESTMENT IN FUTURE
43 GROUNDWATER USE AS PRESCRIBED BY THIS SECTION AND EVIDENCE OF A REASONABLE
44 VOLUME OF GROUNDWATER LIKELY TO BE USED FOR THAT PURPOSE.

1 5. FOR ANY GROUNDWATER USE INITIATED LESS THAN TWELVE MONTHS BEFORE
2 THE DATE OF INITIATION, A REASONABLE ESTIMATE OF THE AMOUNT OF GROUNDWATER
3 THAT IS EXPECTED TO BE USED IN A TWELVE-MONTH PERIOD BASED ON THE PERSON'S
4 GROUNDWATER USE AS OF THE DATE OF INITIATION.

5 6. EVIDENCE OF A VARIANCE FROM THE TEN-YEAR HISTORICAL AVERAGE USE
6 DUE TO TEMPORARY CONSERVATION EFFORTS DURING THE TEN-YEAR PERIOD.

7 C. FOR THE PURPOSES OF THIS SECTION, SUBSTANTIAL CAPITAL INVESTMENT
8 IN FUTURE GROUNDWATER USE:

9 1. DOES NOT INCLUDE:

10 (a) COSTS THAT ARE ASSOCIATED WITH THE PURCHASE OF LAND ON WHICH
11 GROUNDWATER IS TO BE WITHDRAWN OR USED.

12 (b) COSTS THAT ARE ASSOCIATED WITH THE APPLICATION FOR A
13 CERTIFICATE OF GROUNDWATER USE.

14 2. MAY INCLUDE ONE OR MORE OF THE FOLLOWING:

15 (a) FOR IRRIGATION USE, COSTS THAT ARE RELATED TO THE SUBJUGATION
16 OF LAND FOR IRRIGATION USE, INCLUDING ON-SITE IRRIGATION DISTRIBUTION
17 FACILITIES AND A WELL OR WELLS, IF THE DRILLING AND CONSTRUCTION WERE
18 SUBSTANTIALLY COMMENCED BEFORE THE DATE OF INITIATION. THE DIRECTOR MAY
19 CONSIDER REASONABLE ESTIMATES OF THE LIKELY COST OF THE APPLICANT'S OWN
20 LABOR HAD THE APPLICANT CONTRACTED FOR THOSE SERVICES.

21 (b) FOR NON-IRRIGATION USES, COSTS THAT ARE RELATED TO ONE OR MORE
22 OF THE FOLLOWING:

23 (i) THE ACQUISITION OF PERMITS AND APPROVALS, INCLUDING LEGAL,
24 TECHNICAL AND ENVIRONMENTAL SERVICES THAT ARE REQUIRED TO OBTAIN THE
25 AUTHORIZATION TO PROCEED WITH THE PROJECT.

26 (ii) THE ACQUISITION OR LEASE OF LAND FOR PURPOSES OF
27 RIGHTS-OF-WAY.

28 (iii) THE IMPROVEMENT OF LAND FOR THE INTENDED USE, INCLUDING
29 CONSTRUCTION OF ANY PROJECT-RELATED INFRASTRUCTURE.

30 (iv) THE CONSTRUCTION OF GROUNDWATER-RELATED INFRASTRUCTURE,
31 INCLUDING WATER DISTRIBUTION FACILITIES, THE DRILLING OF WELLS,
32 GROUNDWATER TREATMENT FACILITIES, WATER AND POWER TRANSMISSION AND OTHER
33 PROJECT-ASSOCIATED FACILITIES.

34 (v) THE CONSTRUCTION AND MAINTENANCE OF ANCILLARY STRUCTURES THAT
35 ARE CRITICAL TO THE PROJECT.

36 D. THE DIRECTOR SHALL REVIEW AND EVALUATE APPLICATIONS. THE
37 DIRECTOR MAY REQUEST ADDITIONAL INFORMATION FROM AN APPLICANT AND CONDUCT
38 INDEPENDENT INVESTIGATIONS AS NECESSARY TO DETERMINE WHETHER AN
39 APPLICATION SATISFIES THE CRITERIA PRESCRIBED IN THIS SECTION.

40 E. A PERSON WHO DOES NOT FILE AN APPLICATION FOR A CERTIFICATE OF
41 GROUNDWATER USE OR A PERMIT FOR GROUNDWATER USE WITH THE DEPARTMENT WITHIN
42 FIFTEEN MONTHS AFTER THE DESIGNATION OF THE RURAL GROUNDWATER MANAGEMENT
43 AREA WAIVES AND RELINQUISHES ANY ELIGIBILITY TO WITHDRAW, RECEIVE OR USE
44 GROUNDWATER PURSUANT TO THIS ARTICLE.

1 45-441.09. Rural groundwater management areas; withdrawal of
2 groundwater; compliance account; conveyances;
3 retirement

4 A. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE OR A PERMIT OF
5 GROUNDWATER USE MAY ANNUALLY WITHDRAW, RECEIVE OR USE GROUNDWATER IN THE
6 RURAL GROUNDWATER MANAGEMENT AREA SUBJECT TO THE REQUIREMENTS OF THIS
7 SECTION.

8 B. EACH COUNCIL MAY ESTABLISH ONE OR MORE POLICIES FOR THE
9 MAINTENANCE OF A COMPLIANCE ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER
10 USE IN A RURAL GROUNDWATER MANAGEMENT AREA IN THE COUNCIL'S MANAGEMENT
11 PLAN.

12 C. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A
13 CERTIFICATE OF GROUNDWATER USE MAY:

14 1. USE UP TO ONE HUNDRED TWENTY-FIVE PERCENT OF THE GROUNDWATER
15 ALLOCATION. IF THE PERSON WITHDRAWS MORE THAN THE GROUNDWATER ALLOCATION,
16 THE DIRECTOR SHALL REGISTER A DEBIT TO THE COMPLIANCE ACCOUNT. THE OWNER
17 OF A CERTIFICATE OF GROUNDWATER USE AND THE PERSON USING GROUNDWATER
18 PURSUANT TO THE CERTIFICATE VIOLATE THIS SECTION IF THE COMPLIANCE ACCOUNT
19 FOR THE CERTIFICATE OF GROUNDWATER USE IS IN ARREARS AT ANY TIME IN EXCESS
20 OF TWENTY-FIVE PERCENT OF THE CERTIFICATED VOLUME. THE OWNER OR PERSON
21 MAY REMEDY THE VIOLATION BY PURCHASING COMPLIANCE ACCOUNT CREDITS PURSUANT
22 TO PARAGRAPH 3 OF THIS SUBSECTION IN AN AMOUNT SUFFICIENT TO ELIMINATE ANY
23 NEGATIVE BALANCE.

24 2. USE LESS THAN THE GROUNDWATER ALLOCATION IN ONE ACCOUNTING
25 PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE CERTIFICATE IN ONE OR
26 MORE OF THE TEN SUCCEEDING CALENDAR YEARS. IF THE PERSON WITHDRAWS LESS
27 THAN THE GROUNDWATER ALLOCATION FOR THAT YEAR, THE DIRECTOR SHALL REGISTER
28 A CREDIT TO THE COMPLIANCE ACCOUNT. COMPLIANCE ACCOUNTS CANNOT ROLL OVER
29 MORE THAN TWENTY-FIVE PERCENT OF THE CERTIFICATED VOLUME IN ONE YEAR.

30 3. A PERSON THAT HAS COMPLIANCE ACCOUNT CREDITS AND THAT DOES NOT
31 HAVE A DEBIT REGISTERED AGAINST THE PERSON'S COMPLIANCE ACCOUNT OR HAS
32 SETTLED ALL DEBITS MAY SELL OR ASSIGN THE ENTIRETY OR ANY PORTION OF THE
33 PERSON'S COMPLIANCE ACCOUNT CREDITS TO ANOTHER PERSON WITHIN THE SAME
34 SUBBASIN OF THE RURAL GROUNDWATER MANAGEMENT AREA FOR ANY EXISTING USE,
35 SUBJECT TO ANY CONSERVATION OR OTHER REQUIREMENTS ADOPTED PURSUANT TO A
36 RURAL GROUNDWATER MANAGEMENT AREA PLAN. ANY COMPLIANCE ACCOUNT CREDITS
37 THAT A PERSON CONVEYS TO ANOTHER PERSON SHALL BE REDUCED BY TWENTY PERCENT
38 ON EACH CONVEYANCE.

39 D. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE MAY SELL, ASSIGN
40 OR LEASE ALL OR PART OF THE PERSON'S CERTIFICATED VOLUME GRANTED UNDER THE
41 CERTIFICATE TO ANOTHER PERSON WITHIN THE SAME RURAL GROUNDWATER MANAGEMENT
42 AREA FOR ANY NEW OR EXISTING USE, SUBJECT TO ANY CONSERVATION OR OTHER
43 REQUIREMENTS ADOPTED PURSUANT TO A RURAL GROUNDWATER MANAGEMENT AREA PLAN.
44 ANY PORTION OF A CERTIFICATE OF GROUNDWATER USE THAT A PERSON CONVEYS TO

1 ANOTHER PERSON SHALL BE REDUCED BY FIFTEEN PERCENT ON EACH CONVEYANCE
2 EXCEPT:

3 1. A CONVEYANCE CONSISTING OF A CHANGE IN OWNERSHIP WHERE THE
4 CERTIFICATE OF GROUNDWATER USE IS USED IN THE SAME LOCATION FOR THE SAME
5 TYPE OF USE.

6 2. A CONVEYANCE CONSISTING OF A CHANGE IN LOCATION TO ONE OR MORE
7 FARMS UNDER COMMON OWNERSHIP THAT ARE IRRIGATED WITH GROUNDWATER AND THAT
8 ARE CONTIGUOUS TO EACH OTHER AND WITHIN THE SAME SUBBASIN.

9 3. FOR A LEASE OR ANY OTHER TEMPORARY CONVEYANCE, THE CONVEYANCE
10 REDUCTION IS ONLY APPLICABLE DURING THE TERM OF THE CONVEYANCE.

11 E. A PERSON MAY CONVEY ALL OR PART OF A CERTIFICATE OF GROUNDWATER
12 USE BY FILING AN APPLICATION ON A FORM PRESCRIBED BY THE DIRECTOR. ON A
13 DETERMINATION THAT THE INFORMATION IN THE APPLICATION IS ADMINISTRATIVELY
14 COMPLETE AND ACCURATE, THE DIRECTOR SHALL ISSUE A CERTIFICATE OF
15 GROUNDWATER USE TO THE RECIPIENT AND, IF APPLICABLE, A REVISED CERTIFICATE
16 OF GROUNDWATER USE FOR ANY RETAINED CERTIFICATED VOLUME TO THE TRANSFEROR.
17 THE CONVEYANCE BECOMES EFFECTIVE IN THE YEAR THE CERTIFICATE AND ANY
18 REVISED CERTIFICATE ARE ISSUED, UNLESS A LATER YEAR IS REQUESTED IN THE
19 NOTICE.

20 F. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE MAY RETIRE ALL OR
21 PART OF THE CERTIFICATE OF GROUNDWATER USE. A PERSON WHO PROPOSES TO
22 RETIRE ALL OR PART OF A CERTIFICATE OF GROUNDWATER USE SHALL NOTIFY THE
23 DIRECTOR OF THE RETIREMENT ON A FORM PRESCRIBED BY THE DIRECTOR. AFTER
24 RECEIVING NOTICE OF RETIREMENT OF ALL OR PART OF A CERTIFICATE OF
25 GROUNDWATER USE, THE DIRECTOR SHALL ISSUE TO THE PERSON WHO RETIRED THE
26 CERTIFICATE OF GROUNDWATER USE A REVISED CERTIFICATE OF GROUNDWATER USE
27 FOR THE PORTION OF THE CERTIFICATE NOT RETIRED, IF ANY.

28 45-441.10. Application registry; objections; hearing; permit
29 for groundwater use; perfection of certificate;
30 issuance of certificate of groundwater use

31 A. THE DIRECTOR SHALL MAINTAIN A REGISTRY OF APPLICATIONS FOR
32 CERTIFICATES OF GROUNDWATER USE AND MAKE THE REGISTRY AVAILABLE FOR
33 INSPECTION DURING REGULAR BUSINESS HOURS. WITHIN FIFTEEN DAYS AFTER A
34 DETERMINATION THAT AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER USE IS
35 ADMINISTRATIVELY COMPLETE, THE DIRECTOR SHALL INCLUDE THE APPLICATION IN
36 THE REGISTRY FOR NOT LESS THAN FORTY-FIVE DAYS.

37 B. THE DIRECTOR SHALL INCLUDE WITH THE REGISTRY A STATEMENT THAT
38 RESIDENTS OF THE RURAL GROUNDWATER MANAGEMENT AREA MAY OBJECT IN WRITING
39 TO THE DIRECTOR OFFICE'S TO THE ISSUANCE OF ANY CERTIFICATE ON THE
40 REGISTRY WITHIN FIFTEEN DAYS AFTER THE LAST DATE THE APPLICATION IS LISTED
41 ON THE REGISTRY. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS OF
42 THE OBJECTOR, BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S AGENT OR THE
43 OBJECTOR'S ATTORNEY AND CLEARLY SET FORTH REASONS WHY THE CERTIFICATE
44 SHOULD NOT BE ISSUED. A PERSON MAY OBJECT ONLY ON THE GROUNDS THAT THE

1 CERTIFICATE APPLICATION DOES NOT MEET THE CRITERIA PRESCRIBED IN SECTION
2 45-441.08.

3 C. IN APPROPRIATE CASES, INCLUDING CASES WHERE A PERSON HAS FILED
4 PROPER WRITTEN OBJECTION TO THE CERTIFICATE OR PERMIT APPLICATION, THE
5 DIRECTOR MAY HOLD AN ADMINISTRATIVE HEARING CHALLENGING THE DIRECTOR'S
6 DECISION ON AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER USE. NOT
7 LATER THAN THIRTY DAYS BEFORE THE HEARING, THE DIRECTOR SHALL PROVIDE
8 NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON WHO FILED A
9 PROPER WRITTEN OBJECTION TO THE ISSUANCE OF THE CERTIFICATE OR PERMIT.
10 THE HEARING SHALL BE SCHEDULED FOR NOT LESS THAN SIXTY DAYS NOR MORE THAN
11 NINETY DAYS AFTER THE EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

12 D. IF THE DIRECTOR FINDS THAT THE APPLICANT SATISFIES THE CRITERIA
13 PRESCRIBED IN SECTION 45-441.08, SUBSECTION A, PARAGRAPH 1 OR 2, THE
14 DIRECTOR SHALL ISSUE A CERTIFICATE OF GROUNDWATER USE TO THE APPLICANT
15 STATING THE CERTIFICATED VOLUME.

16 E. IF THE DIRECTOR FINDS THAT THE APPLICANT SATISFIES THE CRITERIA
17 PRESCRIBED IN SECTION 45-441.08, SUBSECTION A, PARAGRAPH 3, THE DIRECTOR
18 SHALL ISSUE A PERMIT FOR GROUNDWATER USE TO THE APPLICANT STATING THE
19 PERMITTED VOLUME. THE PERMIT SHALL SPECIFY THE TERMS AND CONDITIONS FOR
20 PERFECTION OF THE PERMITTED USE, INCLUDING ANY ACCEPTABLE METHOD FOR
21 DEMONSTRATING THAT THE GROUNDWATER HAS BEEN PUT TO USE FOR THE PURPOSE
22 DESCRIBED IN THE APPLICATION AND A REASONABLE TIME WITHIN WHICH THE
23 PERMITTED USE MUST BE PERFECTED. THE PERMIT MAY INCLUDE PROVISIONS FOR
24 INCREMENTAL PERFECTION OF THE GROUNDWATER USE. A PERMIT MAY BE CONVEYED
25 TO ANOTHER PERSON BUT MAY NOT BE PERFECTED FOR A USE OTHER THAN THE USE
26 DESCRIBED IN THE APPLICATION.

27 F. EVIDENCE OF USE OF GROUNDWATER PURSUANT TO THE TERMS AND
28 CONDITIONS OF A PERMIT FOR GROUNDWATER USE SHALL DEMONSTRATE THAT THE
29 ASSOCIATED VOLUME OF GROUNDWATER USE HAS BEEN PERFECTED. ON SATISFACTORY
30 DEMONSTRATION OF PERFECTION OF A GROUNDWATER USE PURSUANT TO A PERMIT
31 ISSUED UNDER THIS SECTION, OR ANY VOLUME THEREOF, THE DIRECTOR SHALL ISSUE
32 A CERTIFICATE OF GROUNDWATER USE OR MODIFY A PREVIOUSLY ISSUED CERTIFICATE
33 OF GROUNDWATER USE TO INCLUDE THE PERFECTED VOLUME. IF LESS THAN THE FULL
34 PERMITTED VOLUME IS PERFECTED, THE DIRECTOR SHALL ALSO ISSUE A REVISED
35 PERMIT FOR GROUNDWATER USE FOR THE REMAINDER.

36 G. AN AGGRIEVED PARTY OR A PERSON WHO CONTESTED A CERTIFICATE OR
37 PERMIT BY FILING A PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS
38 SECTION MAY SEEK JUDICIAL REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS
39 PROVIDED IN SECTION 45-114, SUBSECTION B IN THE SUPERIOR COURT.

40 H. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
41 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
42 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD,
43 THE DIRECTOR SHALL CONDUCT THE HEARING IN THE RURAL GROUNDWATER MANAGEMENT
44 AREA IN WHICH THE USE IS LOCATED, OR WITHIN A COUNTY WITH LANDS IN WHICH
45 THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES.

1 45-441.11. Rural groundwater management area council;
2 membership

3 A. A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL BE ESTABLISHED
4 IN EACH RURAL GROUNDWATER MANAGEMENT AREA. THE COUNCIL SHALL BE COMPOSED
5 OF FIVE MEMBERS WHO ARE KNOWLEDGEABLE OF THE CONDITION, DEVELOPMENT AND
6 USE OF GROUNDWATER WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. FOUR OF
7 THE FIVE MEMBERS SHALL RESIDE WITHIN THE RURAL GROUNDWATER MANAGEMENT
8 AREA. COUNCIL MEMBERS CONSIST OF:

9 1. ONE MEMBER WHO IS OR WHO REPRESENTS AN INDUSTRIAL USER WITH A
10 CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

11 2. ONE MEMBER WHO IS OR WHO REPRESENTS AN IRRIGATION USER WITH A
12 CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

13 3. ONE MEMBER WHO IS OR WHO REPRESENTS A MUNICIPAL PROVIDER WITH A
14 CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

15 4. TWO AT-LARGE MEMBERS WHO RESIDE IN THE RURAL GROUNDWATER
16 MANAGEMENT AREA AND WHO DO NOT QUALIFY FOR APPOINTMENT PURSUANT TO
17 PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION.

18 B. A COUNCIL MEMBER MAY ONLY SERVE ON ONE RURAL GROUNDWATER
19 MANAGEMENT AREA COUNCIL.

20 C. MEMBERS OF A COUNCIL SHALL BE APPOINTED WITHIN NINETY DAYS AFTER
21 THE DATE OF DESIGNATION BY THE FOLLOWING ENTITIES:

22 1. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR.

23 2. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE
24 NAMES THE SPEAKER OF THE HOUSE OF REPRESENTATIVES PROVIDES TO THE
25 GOVERNOR.

26 3. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE
27 NAMES THE PRESIDENT OF THE SENATE PROVIDES TO THE GOVERNOR.

28 4. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE
29 NAMES THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES PROVIDES TO THE
30 GOVERNOR.

31 5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE
32 NAMES THE MINORITY LEADER OF THE SENATE PROVIDES TO THE GOVERNOR.

33 D. THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO STAGGERED
34 TERMS OF NOT MORE THAN SIX YEARS IN OFFICE, WITH EACH STAGGERED TERM TO
35 END FROM AND AFTER DECEMBER 31 OF AN EVEN-NUMBERED YEAR. ALL SUBSEQUENT
36 MEMBERS SERVE SIX-YEAR TERMS. THE CHAIRPERSON SHALL NOTIFY ALL APPOINTING
37 AUTHORITIES OF THESE TERMS. ALL COUNCIL MEMBERS SHALL SERVE OR CONTINUE
38 IN OFFICE FOR THE RESPECTIVE TERMS AND UNTIL THEIR SUCCESSORS ARE
39 APPOINTED OR A COUNCIL MEMBER IS REMOVED FOR CAUSE BY THE GOVERNOR.

40 E. IF A VACANCY OCCURS, THE GOVERNOR SHALL APPOINT A REPLACEMENT
41 PURSUANT TO SUBSECTION A OF THIS SECTION.

42 45-441.12. Rural groundwater management area council; powers
43 and duties

44 A. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL:

1 1. ADOPT ONE OF THE FOLLOWING MANAGEMENT GOALS FOR THE RURAL
2 GROUNDWATER MANAGEMENT AREA:

3 (a) TO REDUCE OVERDRAFT BY A PERCENTAGE TO BE SET BY THE COUNCIL
4 BUT NOT LESS THAN FIFTY PERCENT FROM THE OVERDRAFT AT THE DATE OF
5 INITIATION.

6 (b) TO REDUCE GROUNDWATER PUMPING TO STABILIZE THE AQUIFER FOR THE
7 BENEFIT OF CURRENT AND FUTURE GENERATIONS.

8 (c) SAFE-YIELD.

9 2. DEVELOP A MANAGEMENT PLAN FOR EACH MANAGEMENT PERIOD THAT
10 INCLUDES WATER MANAGEMENT PRACTICES AND OTHER POSSIBLE ACTIONS THAT
11 ADDRESS THE GROUNDWATER CONDITIONS IDENTIFIED AS THE REASON FOR THE
12 DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA AND THAT WILL ACHIEVE
13 THE MANAGEMENT GOAL ADOPTED FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

14 3. COOPERATE WITH FEDERALLY RECOGNIZED INDIAN TRIBES, CITIES,
15 TOWNS, COUNTIES OR PUBLIC OR PRIVATE AGENCIES OR ORGANIZATIONS TO ENGAGE
16 IN COORDINATED REGIONAL WATER RESOURCES PLANNING.

17 4. KEEP MINUTES OF ALL MEETINGS AND PRESERVE ALL RECORDS, REPORTS
18 AND INFORMATION RELATIVE TO THE WORK AND PROGRAMS OF THE COUNCIL IN A
19 PERMANENT, INDEXED AND SYSTEMATICALLY FILED FORM THAT IS AVAILABLE TO
20 PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS IN THE OFFICE OF THE
21 DEPARTMENT.

22 5. ELECT A CHAIRPERSON AND A VICE CHAIRPERSON FROM THE COUNCIL
23 MEMBERSHIP WHO SERVE TWO-YEAR TERMS THAT EXPIRE ON THE THIRD MONDAY OF
24 EACH EVEN-NUMBERED YEAR.

25 6. DESIGNATE A PERSON OR PERSONS TO EXECUTE ALL DOCUMENTS AND
26 INSTRUMENTS ON BEHALF OF THE COUNCIL.

27 7. FORM A TECHNICAL COMMITTEE TO PROVIDE TECHNICAL SUPPORT TO THE
28 COUNCIL. THE TECHNICAL COMMITTEE SHALL INCLUDE AT LEAST ONE
29 REPRESENTATIVE FROM THE DEPARTMENT AND MAY INCLUDE MEMBERS OF THE COUNCIL
30 OR MEMBERS OF THE PUBLIC AS SELECTED BY THE COUNCIL.

31 B. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL MAY:

32 1. REQUEST TECHNICAL ASSISTANCE FROM THE DEPARTMENT TO DEVELOP A
33 MANAGEMENT PLAN FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

34 2. GATHER INFORMATION AND DATA.

35 3. ESTABLISH A STEERING COMMITTEE THAT CONSISTS OF MEMBERS OF THE
36 PUBLIC AND MEMBERS OF THE COUNCIL TO SOLICIT AND RECEIVE PUBLIC
37 PARTICIPATION, COMMENT AND ADVICE FROM RESIDENTS OF THE RURAL GROUNDWATER
38 MANAGEMENT AREA AND OTHER INTERESTED PARTIES ON THE DEVELOPMENT AND
39 OPERATION OF THE RURAL GROUNDWATER MANAGEMENT AREA AND MANAGEMENT PLAN.

40 C. THE COUNCIL AND ANY STEERING COMMITTEE ESTABLISHED BY THE
41 COUNCIL ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1.

45-441.13. Rural groundwater management area council:
management plan; notice

A. NOT LESS THAN ONE HUNDRED EIGHTY DAYS AFTER THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA, THE COUNCIL SHALL ADOPT A MANAGEMENT GOAL FOR THE RURAL GROUNDWATER MANAGEMENT AREA. IF THE COUNCIL DOES NOT ADOPT A MANAGEMENT GOAL WITHIN THAT TIME, THE MANAGEMENT GOAL SHALL BE TO REDUCE OVERDRAFT BY A PERCENTAGE TO BE SET BY THE COUNCIL BUT NOT LESS THAN FIFTY PERCENT FROM THE OVERDRAFT AT THE DATE OF INITIATION.

B. NOT LESS THAN TWO YEARS AFTER THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA, THE COUNCIL SHALL DEVELOP AND SUBMIT A MANAGEMENT PLAN TO THE DIRECTOR FOR ADOPTION. THE COUNCIL SHALL SUBMIT THE MANAGEMENT PLANS FOR THE SUBSEQUENT MANAGEMENT PERIODS TO THE DIRECTOR NOT LESS THAN FIFTEEN MONTHS BEFORE THE EXPIRATION OF THE PREVIOUS MANAGEMENT PLAN.

C. THE MANAGEMENT PLAN SHALL INCLUDE ALL OF THE FOLLOWING:

1. A DESCRIPTION OF THE APPROPRIATE PHYSICAL, GEOGRAPHIC, HYDROLOGIC AND ECONOMIC CONDITIONS OF THE AREA AND HOW THE MANAGEMENT GOAL RELATES TO THOSE CONDITIONS.

2. A SUMMARY OF CURRENT GROUNDWATER CONDITIONS AND CURRENT GROUNDWATER MANAGEMENT IN THE AREA, INCLUDING GROUNDWATER CONSERVATION PROGRAMS ADOPTED BY FEDERALLY RECOGNIZED INDIAN TRIBES, FEDERAL AND STATE AGENCIES AND LOCAL GOVERNMENTS.

3. METHODS TO MONITOR AND REPORT ON THE PROGRESS OF ACHIEVING THE MANAGEMENT GOALS.

4. REQUIREMENTS FOR THE LOCATION OF NEW AND REPLACEMENT WELLS WITHIN A RURAL GROUNDWATER MANAGEMENT AREA.

5. LIMITATIONS ON LOST AND UNACCOUNTED FOR WATER APPLICABLE TO ANY MUNICIPAL PROVIDER.

6. A CONSERVATION PROGRAM APPLICABLE TO ALL MUNICIPAL USES PURSUANT TO CERTIFICATES OF GROUNDWATER USE. THE PROGRAM SHALL:

(a) IDENTIFY A SUITE OF BEST MANAGEMENT PRACTICES FROM WHICH EACH MUNICIPAL PROVIDER MAY SELECT A NUMBER OF MANAGEMENT PRACTICES TO IMPLEMENT. THE PROGRAM MAY ASSIGN POINTS TO EACH MANAGEMENT PRACTICE AND REQUIRE IMPLEMENTATION OF A CUMULATIVE NUMBER OF POINTS ACCORDING TO THE NUMBER OF SERVICE CONNECTIONS.

(b) INCLUDE REQUIREMENTS FOR REDUCING LOST AND UNACCOUNTED FOR WATER.

(c) INCLUDE A REQUIREMENT TO IMPLEMENT A MINIMUM NUMBER OF BEST MANAGEMENT PRACTICES PROGRAM THAT REQUIRES THE MUNICIPAL PROVIDER TO IMPLEMENT THE MUNICIPAL PROVIDER'S CHOICE OF CONSERVATION PROGRAMS APPROVED BY THE DEPARTMENT. REQUIREMENTS FOR EACH MUNICIPAL CERTIFICATE OF GROUNDWATER USE SHALL INCLUDE REQUIREMENTS FOR LOST AND UNACCOUNTED FOR WATER.

7. A SCHEDULE FOR ANNUAL CONSERVATION REDUCTIONS IN GROUNDWATER USE FOR ALL USES OF GROUNDWATER PURSUANT TO CERTIFICATES OF GROUNDWATER USE,

1 OTHER THAN MUNICIPAL USES. EACH ANNUAL CONSERVATION REDUCTION SHALL BE A
2 PERCENTAGE OF THE CERTIFICATED VOLUME FOR EACH YEAR AND MAY NOT CHANGE BY
3 MORE THAN TWO PERCENTAGE POINTS IN ANY SINGLE YEAR. THE SCHEDULE FOR
4 ANNUAL CONSERVATION REDUCTIONS SHALL BE CONSISTENT WITH SUBSECTIONS F AND
5 G OF THIS SECTION.

6 D. A RURAL GROUNDWATER MANAGEMENT AREA MANAGEMENT PLAN MAY INCLUDE:

7 1. A PROGRAM TO APPROVE AND FUND INCENTIVES AND VOLUNTARY
8 COMPENSATED WATER CONSERVATION PLANS WITH ACTIONS THAT LANDOWNERS AND
9 WATER USERS IN THE RURAL GROUNDWATER MANAGEMENT AREA MAY PARTICIPATE IN TO
10 CONSERVE OR AUGMENT GROUNDWATER SUPPLIES WITHIN THE RURAL GROUNDWATER
11 MANAGEMENT AREA.

12 2. GROUNDWATER WITHDRAWAL FEES TO BE SET, LEVIED AND COLLECTED BY
13 THE DIRECTOR FROM EACH PERSON WITHDRAWING GROUNDWATER IN A RURAL
14 GROUNDWATER MANAGEMENT AREA PURSUANT TO A CERTIFICATE OF GROUNDWATER USE.
15 THE DIRECTOR SHALL USE THE MONIES COLLECTED PURSUANT TO A GROUNDWATER
16 WITHDRAWAL FEE FOR CONSERVATION PROGRAMS THAT SUPPORT THE CONSERVATION,
17 REUSE AND RECHARGE OF WATER SUPPLIES PURSUANT TO THE RURAL GROUNDWATER
18 MANAGEMENT AREA MANAGEMENT PLAN. CONSERVATION PROGRAMS THAT ARE ADOPTED
19 PURSUANT TO THIS PARAGRAPH MAY INCLUDE:

20 (a) VOLUNTARY LAND OR WATER USE AGREEMENTS WITH LANDOWNERS OR WATER
21 USERS.

22 (b) STORMWATER RETENTION AND RECHARGE INCENTIVES.

23 (c) LOW WATER USE DEVELOPMENT INCENTIVES.

24 (d) INCENTIVES FOR LOW WATER USE PRACTICES, FIXTURES OR
25 LANDSCAPING.

26 (e) IRRIGATION EFFICIENCY, CONSERVATION AND LOW WATER USE
27 AGRICULTURAL INCENTIVES.

28 3. NOTWITHSTANDING ANY OTHER LAW, A REQUIREMENT THAT THE COUNTY
29 BOARD OF SUPERVISORS OR THE COUNCIL OF A CITY OR TOWN NOT APPROVE A FINAL
30 PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION
31 32-2101 THAT ARE LOCATED WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA
32 UNLESS ONE OF THE FOLLOWING APPLIES:

33 (a) THE DIRECTOR HAS DETERMINED THAT THERE IS AN ADEQUATE WATER
34 SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE SUBDIVIDER
35 HAS INCLUDED THE REPORT WITH THE PLAT.

36 (b) THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
37 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
38 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR PURSUANT TO
39 SECTION 45-108.

40 E. NOT LATER THAN THREE YEARS BEFORE THE END OF EACH MANAGEMENT
41 PERIOD, THE DIRECTOR SHALL ISSUE A REPORT ON THE RURAL GROUNDWATER
42 MANAGEMENT AREA. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

43 1. A DESCRIPTION OF GROUNDWATER MANAGEMENT ACTIVITIES IN THE RURAL
44 GROUNDWATER MANAGEMENT AREA.

1 2. INFORMATION ABOUT THE HYDROLOGIC CONDITIONS IN THE RURAL
2 GROUNDWATER MANAGEMENT AREA.

3 3. A DETERMINATION OF WHETHER THE MANAGEMENT GOAL HAS BEEN ACHIEVED
4 OR MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD.

5 F. FOR THE FIRST MANAGEMENT PERIOD, THE ANNUAL CONSERVATION
6 REDUCTIONS SHALL BE TEN PERCENT OF THE CERTIFICATED VOLUME BY THE TENTH
7 YEAR.

8 G. FOR THE SECOND GROUNDWATER MANAGEMENT PERIOD, THE SCHEDULE FOR
9 ANNUAL CONSERVATION REDUCTIONS SHALL BE ADJUSTED ACCORDING TO THE
10 FOLLOWING:

11 1. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
12 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS NOT BEEN ACHIEVED OR
13 MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD, THE SCHEDULE FOR THE NEXT
14 MANAGEMENT PERIOD SHALL INCREASE THE ANNUAL CONSERVATION REDUCTIONS BY A
15 MINIMUM OF AN ADDITIONAL FIVE PERCENTAGE POINTS UP TO AN ADDITIONAL TEN
16 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

17 2. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
18 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS BEEN ACHIEVED OR
19 MAINTAINED, THE SCHEDULE FOR THE NEXT MANAGEMENT PERIOD MAY MAINTAIN THE
20 ANNUAL CONSERVATION REDUCTIONS FOR THE LAST YEAR OF THE CURRENT MANAGEMENT
21 PERIOD.

22 H. FOR THE THIRD AND FOURTH GROUNDWATER MANAGEMENT PERIODS, THE
23 SCHEDULE FOR ANNUAL CONSERVATION REDUCTIONS SHALL BE ADJUSTED ACCORDING TO
24 THE FOLLOWING:

25 1. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
26 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS NOT BEEN ACHIEVED OR
27 MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD, THE SCHEDULE FOR THE NEXT
28 MANAGEMENT PERIOD SHALL INCREASE THE ANNUAL CONSERVATION REDUCTIONS BY A
29 MINIMUM OF AN ADDITIONAL FIVE PERCENTAGE POINTS UP TO AN ADDITIONAL TEN
30 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

31 2. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
32 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS BEEN ACHIEVED OR
33 MAINTAINED, THE SCHEDULE FOR THE NEXT MANAGEMENT PERIOD MAY MAINTAIN THE
34 ANNUAL CONSERVATION REDUCTIONS FOR THE LAST YEAR OF THE CURRENT MANAGEMENT
35 PERIOD OR DECREASE THE ANNUAL CONSERVATION REDUCTIONS BY UP TO TEN
36 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

37 3. THE CONSERVATION REDUCTIONS IN EFFECT IN THE FOURTH MANAGEMENT
38 PERIOD DO NOT EXPIRE AFTER THE END OF THE FOURTH MANAGEMENT PERIOD.

39 45-441.14. Submission of a management plan; director's
40 review; notice; hearing; final plan approval

41 A. WITHIN NINETY DAYS AFTER A COUNCIL'S SUBMITTAL OF A MANAGEMENT
42 PLAN TO THE DIRECTOR, THE DIRECTOR SHALL REVIEW THE MANAGEMENT PLAN TO
43 MAKE PRELIMINARY DETERMINATIONS WHETHER IT SATISFIES ALL OF THE
44 REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C AND WHETHER ITS
45 IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING THE

1 MANAGEMENT GOAL OF THE RURAL GROUNDWATER MANAGEMENT AREA. IF THE DIRECTOR
2 MAKES A PRELIMINARY DETERMINATION THAT THE MANAGEMENT PLAN DOES NOT
3 SATISFY THE REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C OR
4 THAT ITS IMPLEMENTATION IS NOT LEGAL, FEASIBLE OR CONSISTENT WITH
5 ACHIEVING THE MANAGEMENT GOAL, THE DIRECTOR SHALL RETURN THE MANAGEMENT
6 PLAN TO THE COUNCIL WITH A WRITTEN EXPLANATION OF ALL DEFICIENCIES. IF
7 THE DIRECTOR MAKES A PRELIMINARY DETERMINATION THAT THE MANAGEMENT PLAN
8 SATISFIES THE REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C
9 AND THAT IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING
10 THE MANAGEMENT GOAL, THE DIRECTOR SHALL NOTIFY THE COUNCIL IN WRITING THAT
11 THE MANAGEMENT PLAN IS COMPLETE.

12 B. IF THE DIRECTOR NOTIFIES THE COUNCIL OF ANY DEFICIENCIES IN THE
13 MANAGEMENT PLAN, THE COUNCIL SHALL ADDRESS THE DEFICIENCIES AND SUBMIT A
14 REVISED MANAGEMENT PLAN NOT LATER THAN SIXTY DAYS AFTER RECEIVING THE
15 NOTICE OF DEFICIENCY. THE DIRECTOR SHALL REVIEW THE REVISED MANAGEMENT
16 PLAN AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

17 C. BEFORE FINAL ADOPTION OF A MANAGEMENT PLAN, THE DIRECTOR SHALL
18 HOLD A PUBLIC HEARING ON THE MANAGEMENT PLAN.

19 D. THE DIRECTOR SHALL PROVIDE NOTICE OF THE HEARING NOT LESS THAN
20 THIRTY DAYS AFTER NOTIFYING THE COUNCIL THAT THE MANAGEMENT PLAN IS
21 COMPLETE. THE NOTICE SHALL INCLUDE A SUMMARY OF THE MANAGEMENT PLAN, A
22 MAP OR A DESCRIPTION OF THE BOUNDARIES OF THE RURAL GROUNDWATER MANAGEMENT
23 AREA AND THE TIME AND PLACE OF THE HEARING. THE NOTICE SHALL BE PUBLISHED
24 ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL
25 CIRCULATION IN EACH COUNTY IN WHICH THE RURAL GROUNDWATER MANAGEMENT AREA
26 IS LOCATED.

27 E. THE HEARING SHALL BE HELD AT A LOCATION WITHIN THE RURAL
28 GROUNDWATER MANAGEMENT AREA OR WITHIN A COUNTY WITH LANDS IN WHICH THE
29 PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES. THE
30 HEARING SHALL BE HELD NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY
31 DAYS AFTER THE INITIAL NOTICE IS PUBLISHED.

32 F. AT THE PUBLIC HEARING TO APPROVE THE MANAGEMENT PLAN, ONE OR
33 MORE MEMBERS OF THE COUNCIL SHALL PRESENT DATA AND INFORMATION IN SUPPORT
34 OF THE MANAGEMENT PLAN AND A SUMMARY OF ALL PUBLIC COMMENT CONSIDERED WHEN
35 CONSIDERING THE MANAGEMENT PLAN.

36 G. ANY PERSON MAY APPEAR AT THE HEARING, EITHER IN PERSON OR BY
37 REPRESENTATIVE, AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE FOR OR AGAINST THE
38 ADOPTION OF THE MANAGEMENT PLAN.

39 H. WITHIN THIRTY DAYS AFTER THE HEARING, THE COUNCIL SHALL SUBMIT
40 TO THE DIRECTOR ANY WRITTEN RESPONSE TO PUBLIC COMMENTS GIVEN ORALLY OR IN
41 WRITING AT THE HEARING.

42 I. WITHIN SIXTY DAYS AFTER THE HEARING, THE DIRECTOR SHALL MAKE AND
43 FILE WITH THE DEPARTMENT A WRITTEN SUMMARY AND FINDINGS OF ALL MATTERS
44 CONSIDERED DURING THE HEARING AND ANY WRITTEN COMMENTS RECEIVED.

J. IF IN THE FINDINGS UNDER SUBSECTION I OF THIS SECTION THE DIRECTOR DETERMINES THAT THE MANAGEMENT PLAN SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C AND THAT PLAN IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL OF THE RURAL GROUNDWATER MANAGEMENT AREA, THE DIRECTOR SHALL ISSUE AN ORDER ADOPTING THE MANAGEMENT PLAN. IF THE DIRECTOR DETERMINES THAT MODIFICATIONS TO THE MANAGEMENT PLAN ARE NECESSARY IN ORDER TO MAKE SUCH DETERMINATIONS, THE DIRECTOR SHALL MAKE THE MODIFICATIONS, SHALL ISSUE AN ORDER ADOPTING THE MODIFIED PLAN AND SHALL INCLUDE THE DIRECTOR'S REASONS FOR THE MODIFICATIONS.

K. THE DIRECTOR SHALL PUBLISH NOTICE OF THE ADOPTED MANAGEMENT PLAN. THE NOTICE SHALL INCLUDE A SUMMARY OF THE MANAGEMENT PLAN, FINDINGS AND ORDER. THE NOTICE SHALL BE PUBLISHED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED. THE ORDER IS FINAL WHEN THE NOTICE IS PUBLISHED FOR THE LAST TIME. THE ADOPTED MANAGEMENT PLAN SHALL TAKE EFFECT FROM AND AFTER DECEMBER 31 OF THE CALENDAR YEAR IN WHICH THE MANAGEMENT PLAN IS ADOPTED.

L. ALL INFORMATION THAT IS COMPILED BY THE DIRECTOR PURSUANT TO THE DEVELOPMENT AND APPROVAL OF THE MANAGEMENT PLAN, INCLUDING ALL RECORDS OF THE HEARINGS AND PUBLIC COMMENTS, COPIES OF THE FINDINGS, THE MANAGEMENT GOALS AND THE MANAGEMENT PLAN, ARE PUBLIC RECORDS. THE DIRECTOR SHALL MAKE THESE RECORDS AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS.

M. THE DIRECTOR'S FINAL DECISION IS SUBJECT TO REHEARING OR REVIEW AND JUDICIAL REVIEW AS PROVIDED IN SECTION 45-114, SUBSECTION C.

N. IF THE COUNCIL DOES NOT SUBMIT A MANAGEMENT PLAN WITHIN THE TIME PRESCRIBED IN SECTION 45-441.13, SUBSECTION B, THE DIRECTOR SHALL DO ALL OF THE FOLLOWING:

1. ISSUE AN ORDER EXTENDING THE EFFECTIVE DATE OF THE CURRENT MANAGEMENT PLAN AND MANAGEMENT PERIOD BY ONE YEAR.

2. PREPARE A MANAGEMENT PLAN.

3. OTHERWISE IMPLEMENT THE PROCEDURES PRESCRIBED IN THIS SECTION.

O. IF THE COUNCIL DOES NOT SUBMIT A REVISED MANAGEMENT PLAN WITHIN THE TIME PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE DIRECTOR SHALL MAKE THE NECESSARY REVISIONS AND OTHERWISE IMPLEMENT THE PROCEDURES PRESCRIBED IN THIS SECTION.

45-441.15. Rural groundwater management area fund; report

A. THE RURAL GROUNDWATER MANAGEMENT AREA FUND IS ESTABLISHED CONSISTING OF LEGISLATIVE APPROPRIATIONS. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

B. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. SEPARATE ACCOUNTS SHALL BE ESTABLISHED WITHIN THE FUND FOR EACH RURAL GROUNDWATER MANAGEMENT AREA FROM WHICH THE MONIES ARE COLLECTED. THE MONIES IN EACH ACCOUNT SHALL BE USED FOR THE BENEFIT OF THE RURAL GROUNDWATER MANAGEMENT AREA WITH WHICH THE ACCOUNT IS ASSOCIATED.

C. THE DEPARTMENT SHALL SPEND MONIES IN THE FUND TO IMPLEMENT AND SUPPORT RURAL GROUNDWATER MANAGEMENT AREAS THAT ARE ESTABLISHED PURSUANT TO THIS ARTICLE, INCLUDING ADMINISTERING THE PLAN IMPLEMENTED BY THE DEPARTMENT, AND MAY GRANT MONIES TO PROVIDE CONSERVATION ASSISTANCE TO ANY PERSON WITH A CERTIFICATE OF GROUNDWATER USE WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA AND TO IMPLEMENT PROGRAMS TO APPROVE INCENTIVIZE AND FUND VOLUNTARY, COMPENSATED CONSERVATION PLANS TO CONSERVE, REUSE AND RECHARGE WATER SUPPLIES AS APPROVED BY THE DIRECTOR.

D. THE DEPARTMENT MAY NOT EXERCISE ANY POWER OF EMINENT DOMAIN TO ACQUIRE PROPERTY USING MONIES FROM THE FUND.

E. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT AN ANNUAL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE AND HOUSE OF REPRESENTATIVES COMMITTEES ON NATURAL RESOURCES, ENERGY AND WATER, OR THEIR SUCCESSOR COMMITTEES, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL INCLUDE INFORMATION ON 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 IMPLEMENTING AND SUPPORTING RURAL GROUNDWATER MANAGEMENT AREAS AND VOLUNTARY COMPENSATED LAND AND WATER CONSERVATION PLANS AND INCENTIVES. THE DIRECTOR SHALL PROVIDE COPIES OF THE REPORT TO ALL MEMBERS OF ALL COUNCILS.

Sec. 11. Section 45-453, Arizona Revised Statutes, is amended to read:

45-453. Groundwater rights and uses in areas outside active management areas; amounts; transportation; irrigation non-expansion areas

In areas outside of active management areas, a person may:

1. Withdraw and use groundwater for reasonable and beneficial use, except as provided in article 8.1 of this chapter.

2. Transport groundwater pursuant to articles 8 and 8.1 of this chapter.

3. Use groundwater for irrigation purposes within the exterior boundaries of an irrigation non-expansion area only pursuant to article 3 of this chapter.

4. WITHDRAW AND USE GROUNDWATER IN A RURAL GROUNDWATER MANAGEMENT AREA AS PRESCRIBED IN ARTICLE 3.1 OF THIS CHAPTER.

1 Sec. 12. Section 45-454, Arizona Revised Statutes, is amended to
2 read:

3 45-454. Exemption of small non-irrigation wells; definitions

4 A. Withdrawals of groundwater for non-irrigation uses from wells
5 having a pump with a maximum capacity of not more than thirty-five gallons
6 per minute ~~which~~ THAT were drilled before April 28, 1983 or ~~which~~ THAT
7 were drilled after April 28, 1983 pursuant to a notice of intention to
8 drill ~~which~~ THAT was on file with the department on such date are exempt
9 from this chapter, except that:

10 1. Wells drilled before June 12, 1980 ~~which~~ THAT are not abandoned
11 or capped or wells ~~which~~ THAT were not completed on June 12, 1980 but for
12 which a notice of intention to drill was on file with the Arizona water
13 commission on such date are subject to subsections J, K and L of this
14 section and must be registered pursuant to section 45-593. If two or more
15 wells in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA
16 are exempt under this paragraph and are used to serve the same
17 non-irrigation use at the same location, the aggregate quantity of
18 groundwater withdrawn from the wells shall not exceed fifty-six acre-feet
19 per year.

20 2. Wells drilled between June 12, 1980 and April 28, 1983, except
21 as provided in paragraph 1 of this subsection, and wells drilled after
22 April 28, 1983 pursuant to a notice of intention to drill ~~which~~ THAT was
23 on file with the department on April 28, 1983, are subject to subsections
24 G, I, J and K of this section.

25 B. Withdrawals of groundwater for non-irrigation uses from wells
26 having a pump with a maximum capacity of not more than thirty-five gallons
27 per minute drilled on or after April 28, 1983, except wells drilled after
28 April 28, 1983 pursuant to a notice of intention to drill which was on
29 file with the department on such date, are exempt from this chapter,
30 except that:

31 1. Such wells are subject to subsections G through K of this
32 section.

33 2. In an active management area OR RURAL GROUNDWATER MANAGEMENT
34 AREA, other than a subsequent active management area OR RURAL GROUNDWATER
35 MANAGEMENT AREA designated for a portion of a groundwater basin in the
36 regional aquifer systems of northern Arizona, withdrawals of groundwater
37 from such wells for non-irrigation uses other than domestic purposes and
38 stock watering shall not exceed ten acre-feet per year.

39 3. In a subsequent active management area that is designated for a
40 portion of a groundwater basin in the regional aquifer systems of northern
41 Arizona, groundwater withdrawn from such wells may be used only for
42 domestic purposes and stock watering.

43 C. On or after January 1, 2006, an exempt well otherwise allowed by
44 this section may not be drilled on land if any part of the land is within
45 one hundred feet of the operating water distribution system of a municipal

1 provider with an assured water supply designation within the boundaries of
 2 an active management area established on or before July 1, 1994, as shown
 3 on a digitized service area map provided to the director by the municipal
 4 provider and updated by the municipal provider as specified by the
 5 director.

6 D. On request from the owner of the land on which an exempt well is
 7 prohibited pursuant to subsection C of this section on a form prescribed
 8 by the director, the director shall issue an exemption from subsection C
 9 of this section if the landowner demonstrates to the satisfaction of the
 10 director that any of the following applies:

11 1. The landowner submitted a written request for service to the
 12 municipal provider that operates the distribution system and the municipal
 13 provider did not provide written verification to the landowner within
 14 thirty calendar days after ~~receipt of~~ RECEIVING the request that water
 15 service is available to the landowner after payment of any applicable fee
 16 to the municipal provider.

17 2. The total capital cost and fees for connecting to the operating
 18 water distribution system exceed the total capital cost and fees for
 19 drilling and fully equipping an exempt well.

20 3. If the applicant must obtain an easement across other land to
 21 connect to the water distribution system of the municipal provider, the
 22 applicant sent the owner of the land a request for the easement by
 23 certified mail, return receipt requested, and either the applicant did not
 24 receive a response to the request within thirty calendar days of mailing
 25 the request or the request was denied.

26 4. The landowner does not qualify for an exemption pursuant to
 27 paragraph 1, 2 or 3 of this subsection and the landowner provides written
 28 verification from the municipal provider that the landowner shall not
 29 receive or request water service from the municipal provider while the
 30 exempt well is operational. The exemption for that well is revoked if the
 31 landowner or any subsequent landowner receives water service from the
 32 municipal provider. In determining whether to approve or reject a permit
 33 application filed under section 45-599, the director shall not consider
 34 any impacts the proposed well may have on an exempt well drilled pursuant
 35 to this paragraph.

36 E. This section does not prohibit a property owner, after January
 37 1, 2006, from drilling a replacement exempt well for a lawful exempt well
 38 if the replacement well does not increase the total number of operable
 39 exempt wells on the applicant's land.

40 F. A remediation well drilled for the purpose of remediating
 41 groundwater is exempt from this section if it meets one of the following:

42 1. The remediation well is for an approved department of
 43 environmental quality or United States environmental protection agency
 44 remediation program.

1 2. A registered geologist certifies that the remediation well is
2 for the purpose of remediation.

3 G. A person shall file a notice of intention to drill with the
4 director pursuant to section 45-596 before drilling an exempt well or
5 causing an exempt well to be drilled.

6 H. The registered well owner shall file a completion report
7 pursuant to section 45-600, subsection B.

8 I. In an active management area **AND RURAL GROUNDWATER MANAGEMENT**
9 **AREA** only one exempt well may be drilled or used to serve the same
10 non-irrigation use at the same location, except that a person may drill or
11 use a second exempt well to serve the same non-irrigation use at the same
12 location if the director determines that all of the following apply:

13 1. Because of its location, the first exempt well is not capable of
14 consistently producing more than three gallons per minute of groundwater
15 when equipped with a pump with a maximum capacity of thirty-five gallons
16 per minute.

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

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

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

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

30 J. An exempt well is subject to sections 45-594 and 45-595.

31 K. Groundwater withdrawn from an exempt well may be transported
32 only pursuant to articles 8 and 8.1 of this chapter.

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

37 **M. A PERSON WHO OWNS LAND FROM WHICH EXEMPT WITHDRAWALS WERE BEING**
38 **MADE AS OF THE DATE OF THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT**
39 **AREA IS NOT ELIGIBLE FOR A CERTIFICATE OF GROUNDWATER USE FOR SUCH**
40 **WITHDRAWALS.**

41 ~~M.~~ **N.** For the purposes of this section:

42 1. "Domestic purposes" means uses related to the supply, service
43 and activities of households and private residences and includes the
44 application of water to less than two acres of land to produce plants or
45 parts of plants for sale or human consumption, or for use as feed for

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

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

5 3. "Stock watering" means the watering of livestock, range
6 livestock or poultry, as such terms are defined in section 3-1201.

7 Sec. 13. Section 45-596, Arizona Revised Statutes, is amended to
8 read:

9 45-596. Notice of intention to drill; fee

10 A. In an area not subject to active management OR THE JURISDICTION
11 OF A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL ESTABLISHED PURSUANT TO
12 ARTICLE 3.1 OF THIS CHAPTER, a person may not drill or cause to be drilled
13 any well or deepen an existing well without first filing notice of
14 intention to drill pursuant to subsection C of this section or obtaining a
15 permit pursuant to section 45-834.01. Only one notice of intention to
16 drill is required for all wells that are drilled by or for the same person
17 to obtain geophysical, mineralogical or geotechnical data within a single
18 section of land.

19 B. In an active management area OR RURAL GROUNDWATER MANAGEMENT
20 AREA, a person may not drill or cause to be drilled an exempt well, a
21 replacement well in approximately the same location or any other well for
22 which a permit is not required under this article, article 7 of this
23 chapter or section 45-834.01 or deepen an existing well without first
24 filing a notice of intention to drill pursuant to subsection C of this
25 section. Only one notice of intention to drill is required for all wells
26 that are drilled by or for the same person to obtain geophysical,
27 mineralogical or geotechnical data within a single section of land.

28 C. A notice of intention to drill shall be filed with the director
29 on a form that is prescribed and furnished by the director and that shall
30 include:

- 31 1. The name and mailing address of the person filing the notice.
- 32 2. The legal description of the land on which the well is proposed
33 to be drilled and the name and mailing address of the owner of the land.
- 34 3. The legal description of the location of the well on the land.
- 35 4. The depth, diameter and type of casing of the proposed well.
- 36 5. Such legal description of the land on which the groundwater is
37 proposed to be used as may be required by the director to administer this
38 chapter.
- 39 6. When construction is to begin.
- 40 7. The proposed uses to which the groundwater will be applied.
- 41 8. The name and well driller's license number of the well driller
42 who is to construct the well.
- 43 9. The design pumping capacity of the well.
- 44 10. If for a replacement well, the maximum capacity of the original
45 well and the distance of the replacement well from the original well.

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

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

13. If for a second exempt well at the same location for the same use pursuant to section 45-454, subsection I, proof that the requirements of that subsection are met.

14. If for a well to obtain geophysical, mineralogical or geotechnical data within a single section of land, the information prescribed by this subsection for each well that will be included in that section of land before each well is drilled.

15. Such other information as the director may require.

D. On receiving a notice of intention to drill and the fee required by subsection L of this section, the director shall endorse on the notice the date of its receipt. The director shall then determine whether all information that is required has been submitted and whether the requirements of subsection C, paragraphs 11 and 12 and subsection I of this section have been met. If so, within fifteen days ~~of~~ AFTER receipt of the notice, or such longer time as provided in subsection J of this section, the director shall record the notice, mail a drilling card that authorizes the drilling of the well to the well driller identified in the notice and mail written notice of the issuance of the drilling card to the person filing the notice of intention to drill at the address stated in the notice. On receipt of the drilling card, the well driller may proceed to drill or deepen the well as described in the notice of intention to drill. If the director determines that the required information has not been submitted or that the requirements of subsection C, paragraphs 11 and 12 or subsection I of this section have not been met, the director shall mail a statement of the determination to the person giving the notice to the address stated in the notice, and the person giving the notice may not proceed to drill or deepen the well.

E. The well shall be completed within one year after the date of the notice unless the director approves a longer period of time pursuant to this subsection. If the well is not completed within one year or within the time approved by the director pursuant to this subsection, the person shall file a new notice before proceeding with further construction. At the time the drilling card for the well is issued, the director may provide for and approve a completion period that is greater

1 than one year but not to exceed five years from the date of the notice if
2 both of the following apply:

3 1. The proposed well is a nonexempt well within an active
4 management area OR RURAL GROUNDWATER MANAGEMENT AREA and qualifies as a
5 replacement well in approximately the same location as prescribed in rules
6 adopted by the director pursuant to section 45-597.

7 2. The applicant has submitted evidence that demonstrates one of
8 the following:

9 (a) This state or a political subdivision of this state has
10 acquired or has begun a condemnation action to acquire the land on which
11 the original well is located.

12 (b) The original well has been rendered inoperable due to flooding,
13 subsidence or other extraordinary physical circumstances that are beyond
14 the control of the well owner.

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

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

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

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

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

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

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

28 I. Except as prescribed in subsection K of this section, the
29 director shall not approve the drilling of the well if the director
30 determines that the well will likely cause the migration of contaminated
31 groundwater from a remedial action site to another well, resulting in
32 unreasonably increasing damage to the owner of the well or persons using
33 water from the well. In making this determination, the director of water
34 resources shall follow the applicable criteria in the rules adopted by the
35 director of water resources pursuant to section 45-598, subsection A and
36 shall consult with the director of environmental quality. For the
37 purposes of this subsection:

38 1. "Contaminated groundwater" means groundwater that has been
39 contaminated by a release of a hazardous substance, as defined in section
40 49-201, or a pollutant, as defined in section 49-201.

41 2. "Remedial action site" means any of the following:

42 (a) The site of a remedial action undertaken pursuant to the
43 comprehensive environmental response, compensation, and liability act of
44 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code
45 sections 9601 through 9657), commonly known as "superfund".

1 (b) The site of a corrective action undertaken pursuant to title
2 49, chapter 6.

3 (c) The site of a voluntary remediation action undertaken pursuant
4 to title 49, chapter 1, article 5.

5 (d) The site of a remedial action undertaken pursuant to title 49,
6 chapter 2, article 5, including mitigation of a nonhazardous release
7 undertaken pursuant to an order issued by the department of environmental
8 quality pursuant to section 49-286.

9 (e) The site of a remedial action undertaken pursuant to the
10 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat.
11 2795; 42 United States Code sections 6901 through 6992).

12 (f) The site of remedial action undertaken pursuant to the
13 department of defense environmental restoration program (P.L. 99-499; 100
14 Stat. 1719; 10 United States Code section 2701).

15 J. Except as prescribed in subsection K of this section, the
16 director shall approve or deny the drilling of a well within forty-five
17 days after receipt of the notice of intention to drill if one of the
18 following applies:

19 1. The proposed well is located within a remedial action site.

20 2. The proposed well is located within one mile of any of the
21 following remedial action sites:

22 (a) A remedial action undertaken pursuant to title 49, chapter 2,
23 article 5, including mitigation of a nonhazardous release undertaken
24 pursuant to an order issued by the department of environmental quality
25 pursuant to section 49-286.

26 (b) A remedial action undertaken pursuant to the comprehensive
27 environmental response, compensation, and liability act of 1980, as
28 amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601
29 through 9657), commonly known as "superfund".

30 (c) A remedial action undertaken pursuant to the department of
31 defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10
32 United States Code section 2701).

33 3. The proposed well is located within one-half mile of either of
34 the following remedial action sites:

35 (a) A remedial action undertaken pursuant to title 49, chapter 1,
36 article 5.

37 (b) A remedial action undertaken pursuant to the resource
38 conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42
39 United States Code sections 6901 through 6992).

40 4. The proposed well is located within five hundred feet of the
41 site of a corrective action undertaken pursuant to title 49, chapter 6.

42 K. Subsections I and J of this section do not apply to the
43 deepening of a well or to the drilling of a replacement well in
44 approximately the same location.

1 L. A notice of intention to drill filed under this section shall be
 2 accompanied by a filing fee of ~~one hundred fifty dollars~~ \$150, except that
 3 a notice filed for a proposed well that will not be located within an
 4 active management area, ~~or~~ an irrigation nonexpansion area, ~~OR A RURAL~~
 5 ~~GROUNDWATER MANAGEMENT AREA~~ that will be used solely for domestic purposes
 6 as defined in section 45-454 and that will have a pump with a maximum
 7 capacity of not more than thirty-five gallons per minute shall be
 8 accompanied by a filing fee of ~~one hundred dollars~~ \$100. The director
 9 shall deposit, pursuant to sections 35-146 and 35-147, all fees collected
 10 pursuant to this subsection in the well administration and enforcement
 11 fund established by section 45-606.

12 Sec. 14. Section 45-597, Arizona Revised Statutes, is amended to
 13 read:

14 45-597. Deepening and replacement of wells in active
 15 management areas or rural groundwater management
 16 areas; filing of notice

17 A. A person WHO IS entitled to withdraw groundwater in an active
 18 management area OR A RURAL GROUNDWATER MANAGEMENT AREA or a person WHO IS
 19 entitled to recover stored water pursuant to section 45-834.01 may deepen
 20 an existing well or construct a replacement well at approximately the same
 21 location. The director shall by rule define what constitutes a
 22 replacement well, including the distance from the original well site that
 23 is deemed to be the same location for a replacement well.

24 B. ~~Prior to~~ BEFORE deepening an existing well or constructing a
 25 replacement well at approximately the same location, the person shall file
 26 a notice of intention to drill pursuant to section 45-596 and provide the
 27 director with any other information as the director may by ~~rules~~ RULE
 28 require.

29 Sec. 15. Section 45-598, Arizona Revised Statutes, is amended to
 30 read:

31 45-598. New wells and replacement wells in new locations in
 32 active management areas or rural groundwater
 33 management areas; rules; permit required

34 A. The director shall adopt rules governing the location of new
 35 wells and replacement wells in new locations in active management areas
 36 AND RURAL GROUNDWATER MANAGEMENT AREAS to prevent unreasonably increasing
 37 damage to surrounding land or other water users from the concentration of
 38 wells.

39 B. A person WHO IS entitled to withdraw groundwater in an active
 40 management area pursuant to article 5 or 6 of this chapter OR A RURAL
 41 GROUNDWATER MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER may
 42 construct a new well or a replacement well in a new location if the
 43 location of the new well or the replacement well complies with the rules
 44 adopted by the director pursuant to subsection A of this section and if

the person has applied for and received a permit from the director pursuant to section 45-599.

C. An applicant for a general industrial use permit pursuant to sections 45-515 and 45-521 who proposes to construct a new well or a replacement well in a new location shall also apply for a permit pursuant to section 45-599.

D. A person who is entitled to withdraw groundwater in an active management area under article 5 or 6 of this chapter OR A RURAL GROUNDWATER MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER may withdraw groundwater under article 3.1, 5 or 6 of this chapter from a well drilled to withdraw groundwater pursuant to a groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599. A person WHO IS entitled to withdraw groundwater in an active management area under a general industrial use permit issued under section 45-515 may withdraw groundwater under section 45-515 from a well used to withdraw groundwater pursuant to another category of groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599.

Sec. 16. Section 45-599, Arizona Revised Statutes, is amended to read:

45-599. Permit application; contents; correction of defective application; issuance of permit; fee

A. An application for a permit to construct a new well or replacement well in a new location shall be made on a form that is prescribed and furnished by the director and that includes:

1. The name and mailing address of the applicant.
2. The legal description of the land ~~upon~~ ON which the new well is proposed to be constructed and the name and mailing address of the owner of the land.
3. The legal description of the proposed location of the new well on the land.
4. If for a replacement well, the legal description of the land ~~upon~~ ON which the original well is located, the name and mailing address of the owner of the land, the legal description of the location of the original well on the land, the depth and diameter of the original well and evidence of proper abandonment.
5. The depth, diameter and type of casing of the new well.
6. Such legal description of the land ~~upon~~ ON which the groundwater is proposed to be used as may be required by the director to administer this chapter.
7. When construction is to begin.

1 8. The proposed use of the groundwater to be withdrawn.
2 9. The design pumping capacity of the new well.
3 10. The name and well driller's license number of the well driller
4 who is to construct the well.
5 11. The estimated time required to complete the well, if more than
6 one year from the date of receipt of the permit.
7 12. Such other information including any maps, drawings and data as
8 the director may require.
9 B. ~~Upon~~ ON receipt of a permit application and the fee required by
10 subsection J of this section, the director shall endorse on the
11 application the date of its receipt. If the application is incorrect or
12 incomplete, the director may request additional information from the
13 applicant. The director may conduct independent investigations as may be
14 necessary to determine whether the application should be approved or
15 rejected.
16 C. The director shall approve an application for a permit for a new
17 well or a replacement well in a new location if the proposed well complies
18 with the rules adopted pursuant to section 45-598, subsection A and, if
19 the proposed well is in the Santa Cruz active management area, if the
20 location of the proposed well is consistent with the management plan for
21 the active management area.
22 D. Except as provided in subsection E of this section, within sixty
23 days ~~of~~ AFTER receipt of a complete and correct application and the fee
24 required by subsection J of this section, the director shall approve or
25 reject the application and mail notice of the action to the applicant.
26 E. If the director determines that an administrative hearing should
27 be held before approving or rejecting an application, the director shall
28 notify the applicant of the date of the hearing within sixty days ~~of~~ AFTER
29 receipt of the complete and correct application and the fee required by
30 subsection J of this section.
31 F. If at the request of the applicant the director determines that
32 an emergency exists, the director shall expedite all decisions under this
33 section.
34 G. If the application is approved, the director shall issue a
35 permit and the applicant may proceed to construct the well. If the
36 application is rejected, the applicant shall not proceed with construction
37 of the well. The well shall be completed within one year of receipt of
38 the permit, unless the director in granting the permit approves a longer
39 period to complete the well. If the well is not completed within one year
40 or the longer period approved by the director, the applicant shall file a
41 new application before proceeding with construction.
42 H. The permit shall state the following:
43 1. The legal description of the land ~~upon~~ ON which the well may be
44 constructed.

2. The legal description of the location of the new well on the land.
3. The depth and diameter of the well and type of casing.
4. The maximum pumping capacity of the well.
5. The legal description of the land ~~upon~~ ON which the groundwater will be used.
6. The use of the groundwater to be withdrawn.
7. The latest date for completing the well.

I. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area OR RURAL GROUNDWATER MANAGEMENT AREA in which the use is located OR WITHIN A COUNTY WITH LANDS IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDE.

J. An application for a permit filed under this section shall be accompanied by a filing fee of one hundred fifty dollars. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant to this subsection in the well administration and enforcement fund established by section 45-606.

Sec. 17. Section 45-601, Arizona Revised Statutes, is amended to read:

45-601. Operating rules for multiple wells

The director may adopt rules governing pumping patterns of persons who withdraw groundwater or recover stored water, as defined in section 45-802.01, from multiple wells in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA to minimize damage to adjacent groundwater users. The director may not require a person who withdraws groundwater or recovers stored water from multiple wells to change the person's pumping patterns if the person or user cannot reasonably accommodate such changes.

Sec. 18. Section 45-604, Arizona Revised Statutes, is amended to read:

45-604. Water measuring devices

A. Except as provided in subsections B, C and D of this section, a person who withdraws groundwater from a nonexempt well in an active management area, ~~or an~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA, a person who withdraws water from a ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area or a person who withdraws groundwater for transportation to an initial active management area pursuant to article 8.1 of this chapter shall use a water measuring device approved by the director.

B. A person with a type 2 non-irrigation grandfathered right or a groundwater withdrawal permit in the amount of ten or fewer acre-feet per year is not required to use a water measuring device to measure withdrawals pursuant to that grandfathered right or groundwater withdrawal

1 permit unless the person holds more than one such right or permit in the
2 aggregate amount of more than ten acre-feet per year and withdraws more
3 than ten acre-feet of groundwater per year pursuant to those rights or
4 permits from one well.

5 C. In an irrigation non-expansion area:

6 1. A person who withdraws ten or fewer acre-feet of groundwater per
7 year from a ~~non-exempt~~ NONEXEMPT well for a non-irrigation use is not
8 required to use a water measuring device to measure withdrawals from that
9 well.

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

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

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

19 D. In an active management area, a person, other than an irrigation
20 district, who withdraws groundwater from a ~~non-exempt~~ NONEXEMPT well for
21 use pursuant to an irrigation grandfathered right that is appurtenant to
22 ten or fewer irrigation acres is not required to use a water measuring
23 device to measure withdrawals from that well unless groundwater withdrawn
24 from the well is also used pursuant to either a service area right
25 pursuant to article 6 of this chapter or a grandfathered groundwater right
26 other than an irrigation grandfathered right that is appurtenant to
27 irrigation acres that are exempt from irrigation water duties pursuant to
28 section 45-563.02.

29 E. The director shall adopt rules setting forth the requirements
30 and specifications for water measuring devices. IF THE DIRECTOR MODIFIES
31 THE RULES AFTER DECEMBER 31, 2024, THE MODIFIED RULES SHALL PROVIDE THAT
32 ANY WATER MEASURING DEVICE MUST CONTINUE TO BE APPROVED BY THE DIRECTOR
33 FOR USE WITHIN RURAL GROUNDWATER MANAGEMENT AREAS PURSUANT TO ARTICLE 3.1
34 OF THIS CHAPTER.

35 Sec. 19. Section 45-632, Arizona Revised Statutes, is amended to
36 read:

37 45-632. Records and annual report of groundwater pumping,
38 transportation and use; penalty

39 A. Each person who is required to file an annual report under this
40 section or who files an annual report under subsection E of this section
41 shall maintain current accurate records of the person's withdrawals,
42 transportation, deliveries and use of groundwater and, in the Santa Cruz
43 active management area, current accurate records of the person's
44 withdrawals, deliveries and use of all water withdrawn from a well, as
45 prescribed by the director under subsection ~~P~~ Q of this section.

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

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

2. Uses groundwater ~~which~~ THAT is transported from an active management area.

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

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

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

6. WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL IN A RURAL GROUNDWATER MANAGEMENT AREA.

C. Persons who withdraw groundwater from exempt wells and non-irrigation customers of cities, towns, private water companies and irrigation districts, except customers receiving water pursuant to a permit, are exempt from the record keeping and reporting requirements of this section for such water.

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

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

2. Groundwater is withdrawn from the land to which the irrigation grandfathered right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a grandfathered groundwater right other than an irrigation grandfathered right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

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

E. An irrigation district ~~which~~ THAT delivers and distributes groundwater in an active management area may file an annual report with the director for each person with an irrigation grandfathered right

1 appurtenant to irrigation acres within the service area of the irrigation
2 district, if the irrigation district delivers all the water used on the
3 person's irrigation acres. If an irrigation district files an annual
4 report for such a person, the irrigation district shall report the
5 following information for each such person:

6 1. The name of the person and the certificate number of the
7 person's irrigation grandfathered right.

8 2. The quantity of groundwater, if any, delivered during the
9 calendar year.

10 F. Persons who are required to report under subsection B, paragraph
11 1 of this section and who withdraw groundwater during the calendar year in
12 an active management area shall report the following information for each
13 well:

14 1. The registration number and location of the well.

15 2. The quantity of groundwater withdrawn from the well during the
16 calendar year. A person who, under section 45-604, subsection B, is not
17 required to use and does not use a water measuring device to measure
18 withdrawals made pursuant to a type 2 non-irrigation grandfathered right
19 or a groundwater withdrawal permit shall estimate the quantity of
20 groundwater withdrawn pursuant to the grandfathered right or withdrawal
21 permit.

22 3. The quantity of fuel or electricity consumed by the pump during
23 the calendar year.

24 4. The uses to which the groundwater was applied or the persons to
25 whom the groundwater was delivered during the calendar year.

26 G. Persons who are required to report under subsection B, paragraph
27 1 of this section and who use groundwater during the calendar year in an
28 active management area and persons who are required to report under
29 subsection B, paragraph 2 of this section shall report the following
30 information:

31 1. The source of the groundwater, including:

32 (a) The name of the person from whom the groundwater was obtained.

33 (b) The registration number and location of the well, if known.

34 2. The quantity of groundwater used during the calendar year.

35 3. The specific uses to which the groundwater was applied during
36 the calendar year.

37 H. Persons who are required to report under subsection B, paragraph
38 4 of this section and who transport groundwater during the calendar year
39 to an initial active management area under article 8.1 of this chapter
40 shall report the following information:

41 1. The registration number and location of each well.

42 2. The quantity of groundwater withdrawn from each well during the
43 calendar year.

44 3. The quantity of groundwater transported during the calendar year
45 to an initial active management area.

1 4. The quantity of groundwater that was withdrawn during the
2 calendar year and that was not transported to an initial active management
3 area and the uses to which the groundwater was applied.

4 5. The quantity of fuel or electricity consumed by each pump during
5 the calendar year.

6 6. The uses to which the groundwater was applied or the persons to
7 whom the groundwater was delivered during the calendar year.

8 I. Persons who are required to report under subsection B, paragraph
9 1 of this section and who neither withdraw nor use groundwater during the
10 calendar year shall report the following information:

11 1. The fact that no groundwater was withdrawn or used during the
12 calendar year.

13 2. The registration number and location of each well, if any.

14 J. Persons who are required to report under subsection B, paragraph
15 5 of this section and who withdraw water from a ~~non-exempt~~ NONEXEMPT well
16 in the Santa Cruz active management area during the calendar year shall
17 report the following information:

18 1. The registration number and location of the well.

19 2. The quantity of water, by type, withdrawn from the well during
20 the calendar year.

21 3. The quantity of fuel or electricity consumed by the pump during
22 the calendar year.

23 4. The uses to which the water was applied or the persons to whom
24 the water was delivered during the calendar year.

25 K. Persons who are required to report under subsection B, paragraph
26 5 of this section and who use water withdrawn from a ~~non-exempt~~ NONEXEMPT
27 well in the Santa Cruz active management area during the calendar year
28 shall report the following information:

29 1. The source of the water, including:

30 (a) The name of the person from whom the water was obtained.

31 (b) The registration number and location of the well, if known.

32 2. The quantity of the water, by type, used during the calendar
33 year.

34 3. The specific uses to which the water was applied during the
35 calendar year.

36 L. A PERSON WHO IS REQUIRED TO REPORT PURSUANT TO SUBSECTION B,
37 PARAGRAPH 6 OF THIS SECTION AND WHO WITHDRAWS WATER FROM A NONEXEMPT WELL
38 IN A RURAL GROUNDWATER MANAGEMENT AREA DURING THE CALENDAR YEAR SHALL
39 REPORT THE FOLLOWING INFORMATION:

40 1. THE REGISTRATION NUMBER AND LOCATION OF THE WELL.

41 2. THE QUANTITY OF WATER, BY TYPE, BY LEGAL AUTHORITY AND BY USE
42 THAT IS WITHDRAWN FROM THE WELL DURING THE CALENDAR YEAR.

43 3. THE SPECIFIC USES TO WHICH THE WATER WAS APPLIED DURING THE
44 CALENDAR YEAR.

1 4. IF THE PERSON DID NOT WITHDRAW THE WATER FOR THE PERSON'S OWN
2 USE, ANY PERSON TO WHOM THE WATER WAS DELIVERED, OTHER THAN MUNICIPAL USE
3 CUSTOMERS OF A MUNICIPAL PROVIDER.

4 ~~t.~~ M. If a person both withdraws groundwater in an active
5 management area and uses such water, the person may combine the
6 information required by subsections F and G of this section into one
7 report. If a person both withdraws water, other than stored water, from a
8 ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area and
9 uses such water, the person may combine the information required by
10 subsections J and K of this section into one report.

11 ~~M.~~ N. The director may require such other information in the
12 report as may be necessary to accomplish the management goals of the
13 applicable active management area OR RURAL GROUNDWATER MANAGEMENT AREA.

14 ~~N.~~ O. Each report shall contain either a sworn statement or a
15 certification, under penalty of perjury, that the information contained in
16 the report is true and correct according to the best belief and knowledge
17 of the person filing the report.

18 ~~O.~~ P. The annual report shall be maintained on a calendar year
19 basis and shall be filed with the director no later than March 31 of each
20 year for the preceding calendar year. If a person who is required under
21 this section to file an annual report for calendar year 1985 or any
22 subsequent calendar year fails to file a report for the calendar year in
23 question on or before March 31 of the following year, the director may
24 assess and collect a penalty of ~~twenty-five dollars~~ \$25 for each month or
25 portion of a month that the annual report is delinquent. The total
26 penalty assessed under this subsection shall not exceed ~~one hundred fifty~~
27 ~~dollars~~ \$150. The director shall deposit, pursuant to sections 35-146 and
28 35-147, all penalties collected under this subsection in the state general
29 fund.

30 ~~P.~~ Q. The records and reports required to be kept and filed under
31 this section shall be in such form as the director prescribes. The
32 director shall prepare blank forms and distribute them on a timely
33 schedule throughout each active management area AND RURAL GROUNDWATER
34 MANAGEMENT AREA and furnish them ~~upon~~ ON request. Failure to receive or
35 obtain the forms does not relieve any person from keeping the required
36 records or making any required report. The director shall cooperate with
37 cities and towns, private water companies and irrigation districts in
38 establishing the form of the records and reports to be kept and filed by
39 them.

40 Sec. 20. Section 45-635, Arizona Revised Statutes, is amended to
41 read:

42 45-635. Violation; civil penalties

43 A. A person who is determined pursuant to section 45-634 to be in
44 violation of this chapter or a permit, rule, regulation or order issued or

1 adopted pursuant to this chapter may be assessed a civil penalty in an
2 amount not exceeding:

3 1. Except as provided in paragraph 3 of this subsection, ~~one~~
4 ~~hundred dollars~~ \$100 per day of violation not directly related to illegal
5 withdrawal, use or transportation of groundwater.

6 2. ~~Ten thousand dollars~~ \$10,000 per day of violation directly
7 related to illegal withdrawal, use or transportation of groundwater.

8 3. In the Santa Cruz active management area, ~~ten thousand dollars~~
9 \$10,000 per day of violation for a violation of an applicable conservation
10 requirement established by the director pursuant to article 9 of this
11 chapter for the withdrawal of water, other than stored water, from a well
12 or the distribution or use of water, other than stored water, withdrawn
13 from a well.

14 B. IN ADDITION TO OR IN LIEU OF THE MONETARY PENALTIES UNDER
15 SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR MAY REQUIRE A
16 PERSON WHO IS DETERMINED TO BE IN VIOLATION OF ARTICLE 3.1 OF THIS CHAPTER
17 TO REDUCE THE PERSON'S USE OF GROUNDWATER IN THE FUTURE BY A VOLUME THAT
18 IS EQUIVALENT TO THE VOLUME OF GROUNDWATER UNLAWFULLY WITHDRAWN.

19 ~~B.~~ C. An action to recover penalties under this section shall be
20 brought by the director in the superior court in the county in which the
21 violation occurred.

22 ~~C.~~ D. In determining the amount of the penalty, the court shall
23 consider the degree of harm to the public, whether the violation was
24 knowing or wilful, the past conduct of the defendant, whether the
25 defendant should have been on notice of the violation, whether the
26 defendant has taken steps to cease, remove or mitigate the violation and
27 any other relevant information.

28 ~~D.~~ E. All civil penalties assessed pursuant to this section shall
29 be deposited, pursuant to sections 35-146 and 35-147, in the state general
30 fund.

31 Sec. 21. Section 45-812.01, Arizona Revised Statutes, is amended to
32 read:

33 45-812.01. Groundwater savings facility permit

34 A. A person may apply to the director for a groundwater savings
35 facility permit and may operate a groundwater savings facility only
36 pursuant to a permit.

37 B. The director may issue a permit to operate a groundwater savings
38 facility if the director determines that all of the following apply:

39 1. Operation of the facility will cause the direct reduction or
40 elimination of groundwater withdrawals in an active management area, ~~or~~ an
41 irrigation non-expansion area OR A RURAL GROUNDWATER MANAGEMENT AREA by
42 means of delivery of water other than groundwater pumped from within that
43 active management area, ~~or~~ irrigation non-expansion area OR RURAL
44 GROUNDWATER MANAGEMENT AREA that the recipient will use in lieu of
45 groundwater that the recipient would otherwise have used.

2. The applicant will deliver water other than groundwater pumped from within the active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA in which the groundwater savings facility is located to an identified groundwater user who will use and agrees in writing to use the water delivered to the facility on a gallon-for-gallon substitute basis directly in lieu of groundwater that otherwise would have been pumped from within the active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA.

3. The in lieu water is the only reasonably available source of water for the recipient other than groundwater pumped from within the same active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA in which the groundwater savings facility is located.

4. The water delivered as in lieu water would not have been a reasonable alternative source of water for the recipient except through the operation of the groundwater savings facility.

5. The water delivered to the recipient as in lieu water was not delivered before October 1, 1990.

6. The applicant has submitted a plan satisfactory to the director that describes how the applicant will prove the quantity of groundwater saved at the facility each year and what evidence will be submitted with the applicant's annual report as required by section 45-875.01 to prove the groundwater savings. The plan may rely on the following factors:

(a) The recipient's cost of pumping groundwater relative to the cost of in lieu water and alternative sources of water available to the recipient.

(b) The historic quantity of groundwater pumped by the recipient at the location of the intended use of the in lieu water.

(c) The recipient's anticipated demand for groundwater and anticipated total demand for water, including groundwater.

(d) The recipient's legal right to withdraw or use groundwater pursuant to chapter 2 of this title.

(e) The amount of central Arizona project water for which the recipient anticipates accepting delivery.

(f) The historic amount of power used to pump groundwater at the groundwater savings facility compared to the power used during a year in which the recipient received in lieu water.

(g) The factors that prevent the recipient from using the water delivered as in lieu water without the operation of the groundwater savings facility.

(h) Any other criteria the director may deem to be relevant.

1 Sec. 22. Section 45-831.01, Arizona Revised Statutes, is amended to
2 read:

3 45-831.01. Water storage permits

4 A. A person may apply to the director for a water storage permit
5 and may store water at a storage facility only pursuant to a water storage
6 permit.

7 B. The director may issue a water storage permit to store water at
8 a storage facility if the director determines that all of the following
9 apply:

10 1. The applicant has a right to use the proposed source of water.
11 Any determination made by the director for purposes of this subsection
12 regarding the validity, nature, extent or relative priority of a water
13 right claimed by the applicant or another person is not binding in any
14 other administration proceeding or in any judicial proceeding.

15 2. The applicant has applied for any water quality permit required
16 by the department of environmental quality under title 49, chapter 2,
17 article 3 and by federal law.

18 3. The water storage will occur at a permitted storage facility.

19 C. In addition to the requirements of subsection B of this section,
20 if the applicant has applied for a water storage permit to store water at
21 a groundwater savings facility, the director shall not issue the water
22 storage permit unless the applicant has agreed in writing to comply with
23 the plan by which the quantity of groundwater saved at the facility will
24 be proved each year.

25 D. If the director issues a water storage permit, the director may
26 make, if possible, the following determinations:

27 1. Whether the water to be stored is water that cannot reasonably
28 be used directly by the applicant and otherwise meets the requirements of
29 section 45-852.01 for long-term storage credits.

30 2. If use of the water to be stored is appurtenant to a particular
31 location, and if so, where the water may be legally used after recovery.
32 Any determination made by the director for purposes of this subsection
33 regarding the validity, nature, extent or relative priority of a water
34 right claimed by the applicant or another person is not binding in any
35 other administrative proceeding or in any judicial proceeding.

36 E. The director may issue a water storage permit for a period of
37 not more than fifty years, except that:

38 1. On request of the holder of the permit, the director may renew
39 the permit if the director determines that the requirements of subsection
40 B of this section apply and, if the requirement of subsection C of this
41 section applied at the time of issuance, that the requirement of
42 subsection C of this section applies at the time of renewal.

43 2. Subject to the provisions of this chapter, the holder of
44 long-term storage credits earned pursuant to the permit may recover the
45 water over a period longer than the duration of the permit.

F. The holder of a water storage permit may apply to the director for approval to convey the permit to another person. The director may approve the conveyance if the director determines that the person to whom the permit is to be conveyed and the water storage will continue to meet the applicable requirements of this section. If long-term storage credits accrued pursuant to the water storage permit are being assigned pursuant to section 45-854.01 with the water storage permit, the director shall be given notice of the impending assignment of long-term storage credits at the time the holder of the water storage permit applies to convey the permit.

G. A person who holds a water storage permit may apply to the director on a form approved by the director for a modification of that water storage permit. The director may modify the permit within twenty days ~~of~~ AFTER receiving the application without complying with section 45-871.01 if all of the following apply:

1. The holder of the storage facility permit with which the water storage permit is affiliated has consented to the modification.

2. The modification to the water storage permit does not require a modification of the affiliated water storage facility permit.

3. The only modification requested is to add an amount of Colorado river water as a type of water to be stored under the water storage permit.

4. Water storage of Colorado river water has previously been permitted at the affiliated storage facility.

5. The person requesting the modification has the right to use the Colorado river water.

H. A water storage permit shall include the following information:

1. The name and mailing address of the person to whom the permit is issued.

2. The storage facility where the water storage will occur and the name of the active management area, RURAL GROUNDWATER MANAGEMENT AREA, irrigation non-expansion area, groundwater basin or groundwater ~~sub-basin~~ SUBBASIN, as applicable, in which that facility is located.

3. The maximum annual amount of water that may be stored.

4. If the applicable finding of subsection D of this section has been made, whether the water to be stored is water that cannot reasonably be used directly by the applicant.

5. If the applicable finding of subsection D of this section has been made, any restrictions on where the water to be stored may legally be used.

6. Other conditions consistent with this chapter.

7. The duration of the permit.

I. If the water storage will occur at a groundwater savings facility, the water storage permit shall include, in addition to the information required by subsection H of this section, the requirements of

1 the plan by which the quantity of groundwater saved at the storage
2 facility will be proved each year.

3 J. If the director of the department of water resources decides to
4 issue a water storage permit and the applicant has not received a water
5 quality permit required by the department of environmental quality under
6 title 49, chapter 2, article 3 and by federal law, the director of the
7 department of water resources shall make receipt of the water quality
8 permit a condition of the water storage permit and the holder of the water
9 storage permit shall not store water until receiving the water quality
10 permit.

11 Sec. 23. Section 45-832.01, Arizona Revised Statutes, is amended to
12 read:

13 45-832.01. Use of stored water

14 A. Water that has been stored pursuant to a water storage permit
15 may be used or exchanged only in the manner in which it was permissible to
16 use or exchange the water before it was stored.

17 B. Water that has been stored pursuant to a water storage permit
18 may be used only in the location in which it was permissible to use the
19 water before it was stored.

20 C. Water that has been stored pursuant to a water storage permit
21 may be used for replenishment purposes only in the active management area
22 OR RURAL GROUNDWATER MANAGEMENT AREA in which the water is stored, unless
23 the water is recovered and transported to another active management area
24 OR RURAL GROUNDWATER MANAGEMENT AREA.

25 D. Stored water may be used only as follows:

26 1. The water may be recovered by the storer and used on an annual
27 basis in accordance with section 45-851.01.

28 2. The water may be credited to the storer's long-term storage
29 account, if the water meets the requirements of section 45-852.01, and the
30 long-term storage credits may be used in accordance with ~~the provisions of~~
31 this chapter.

32 3. A district that is storing water may have the stored water
33 credited to its master replenishment account, if the water would meet the
34 requirements of long-term storage credits as prescribed by section
35 45-852.01.

36 4. A conservation district that is storing water may have the
37 stored water credited to its conservation district account, if the water
38 would meet the requirements of long-term storage credits as prescribed by
39 section 45-852.01.

40 5. A water district that is storing water may have the stored water
41 credited to its water district account, if the water would meet the
42 requirements of long-term storage credits as prescribed by section
43 45-852.01.

1 Sec. 24. Section 45-834.01, Arizona Revised Statutes, is amended to
2 read:

3 45-834.01. Recovery of stored water; recovery well permit;
4 emergency temporary recovery well permit; well
5 construction

6 A. A person who holds long-term storage credits or who may recover
7 water on an annual basis may recover the water stored pursuant to a water
8 storage permit only:

9 1. If the person seeking to recover stored water has applied for
10 and received a recovery well permit under this article.

11 2. For water stored within an active management area **OR RURAL**
12 **GROUNDWATER MANAGEMENT AREA**, if one of the following applies:

13 (a) The proposed recovery well is located within the area of impact
14 of the stored water, as determined by the director, and either the person
15 recovering the water is the storer or the stored water to be recovered is
16 Colorado River water. If the stored water to be recovered is effluent
17 that is stored in a managed underground storage facility and if the
18 proposed recovery well is not an already constructed well owned by the
19 person recovering the water and is located within the exterior boundaries
20 of the service area of a city, town, private water company or irrigation
21 district, that city, town, private water company or irrigation district
22 must be notified by the person recovering the stored water and must have
23 the right to offer to recover the water stored on behalf of that person.
24 If the city, town, private water company or irrigation district offers to
25 recover the water on behalf of the person seeking recovery and the water
26 that is offered for recovery is of comparable quality to the water that
27 the person could recover, the person seeking to recover the water shall
28 consider accepting the best offer from the city, town, private water
29 company or irrigation district overlying the area of impact that has
30 offered to recover the stored water.

31 (b) The proposed recovery well is located outside the area of
32 impact of the stored water, as determined by the director, and all of the
33 following apply:

34 (i) The proposed recovery well is located within the same active
35 management area **OR RURAL GROUNDWATER MANAGEMENT AREA** as storage.

36 (ii) The director determines that recovery at the proposed location
37 is consistent with the management plan and achievement of the management
38 goal for the active management area **OR RURAL GROUNDWATER MANAGEMENT AREA**.

39 (iii) If the proposed recovery well is located within the exterior
40 boundaries of the service area of a city, town, private water company or
41 irrigation district, that city, town, private water company or irrigation
42 district is the person seeking to recover the water or has consented to
43 the location of the recovery well.

44 (iv) If the proposed recovery well is located outside, but within
45 three miles of, the exterior boundaries of the service area of a city,

town, private water company or irrigation district, the closest city, town, private water company or irrigation district has consented to the location of the recovery well.

(c) The proposed recovery well is located within the area of impact of the stored water, as determined by the director, the person recovering the water is not the storer, the stored water to be recovered is not Colorado River water and all of the conditions prescribed by subdivision (b), items (i) through (iv) of this paragraph are met.

3. For water stored outside of an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, if recovery will occur within the same irrigation non-expansion area, groundwater basin or groundwater ~~sub-basin~~ SUBBASIN, as applicable, in which the water was stored.

B. Before recovering from any well water stored pursuant to a water storage permit, a person shall apply for and receive a recovery well permit from the director. The director shall issue the recovery well permit if the director determines that:

1. If the application is for a new well, as defined in section 45-591, or except as provided in paragraphs 2 and 3 of this subsection for an existing well, as defined in section 45-591, the proposed recovery of stored water will not unreasonably increase damage to surrounding land or other water users from the concentration of wells. The director shall make this determination pursuant to rules adopted by the director.

2. If the applicant is a city, town, private water company or irrigation district in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA and the application is for an existing well within the service area of the city, town, private water company or irrigation district, the applicant has a right to use the existing well.

3. If the applicant is a conservation district and the application is for an existing well within the conservation district and within the groundwater basin or ~~sub-basin~~ SUBBASIN in which the stored water is located, the applicant has a right to use the existing well.

C. A city, town, private water company or irrigation district in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA may apply with a single application to the director to have all existing wells, as defined in section 45-591, that the applicant has the right to use within its service area listed as recovery wells on the recovery well permit, if those wells otherwise meet the requirements of this section.

D. If the applicant is a conservation district, the director may issue an emergency temporary recovery well permit without complying with section 45-871.01, subsection F if the director determines that all of the following apply:

1 1. The conservation district cannot reasonably continue to supply
2 central Arizona project water directly to a city, town, private water
3 company or irrigation district due to an unplanned failure of a portion of
4 the central Arizona project delivery system.

5 2. The emergency temporary recovery well permit is necessary to
6 allow the conservation district to provide immediate delivery of
7 replacement water to the city, town, private water company or irrigation
8 district.

9 3. The application is for an existing well as defined in section
10 45-591 that is within the groundwater basin or groundwater ~~sub-basin~~
11 SUBBASIN in which the stored water is located, is within the conservation
12 district and is within the service area of the city, town, private water
13 company or irrigation district.

14 E. An emergency temporary recovery well permit issued pursuant to
15 subsection D of this section may be issued for a period of up to ninety
16 days and may be extended for additional ninety day periods if the director
17 determines that the conditions prescribed in subsection D of this section
18 continue to apply.

19 F. If the application for a recovery well permit is approved, the
20 director shall issue a permit and the applicant may proceed to construct
21 or use the well. If the application is rejected, the applicant shall not
22 proceed to construct or use the well. A new well shall be completed
23 within one year of receipt of the permit, unless the director in granting
24 the permit approves a longer period to complete the well. If the well is
25 not completed within one year or the longer period approved by the
26 director, the applicant shall file a new application before proceeding
27 with construction.

28 G. A recovery well permit shall include the following information:

29 1. The name and mailing address of the person to whom the permit is
30 issued.

31 2. The legal description of the location of the existing well or
32 proposed new well from which stored water may be recovered pursuant to the
33 permit.

34 3. The purpose for which the stored water will be recovered.

35 4. The depth and diameter of the existing well or proposed new well
36 from which stored water may be recovered pursuant to the permit.

37 5. The legal description of the land on which the stored water will
38 be used.

39 6. The maximum pumping capacity of the existing well or proposed
40 new well.

41 7. If the permit is for a proposed new well, the latest date for
42 completing the proposed new well.

43 8. Any other information as the director may determine.

1 Sec. 25. Section 45-841.01, Arizona Revised Statutes, is amended to
2 read:

3 45-841.01. Accrual of long-term storage credits; Indian water
4 rights settlements

5 A. To further the implementation of Indian water rights settlements
6 in this state, an Indian community may accrue long-term storage credits as
7 prescribed by this section.

8 B. This section applies only to the settlement of a water rights
9 claim by a federally recognized Indian community in this state if the
10 settlement provides for off-reservation storage of its central Arizona
11 project water and only after the settlement results in a dismissal with
12 prejudice of a class action claim that has been pending in the United
13 States district court for more than five years.

14 C. Before accruing any long-term storage credits under this
15 section, both of the following conditions apply:

16 1. A party seeking to participate in the accrual of long-term
17 storage credits under this section shall file written notice with the
18 director that the requirements of subsection B of this section have been
19 met.

20 2. The director shall find that the requirements of subsection B of
21 this section have been met.

22 D. Before accruing any long-term storage credits under this
23 section, a party seeking to participate in the accrual of long-term
24 storage credits under this section shall file with the director all of the
25 following information:

26 1. A written notice of the party's intent to begin the delivery of
27 central Arizona project water that is available to the Indian community to
28 the holder of grandfathered groundwater rights in an active management
29 area OR RURAL GROUNDWATER MANAGEMENT AREA.

30 2. A sworn statement by the holder of the grandfathered groundwater
31 rights that the holder will use the water delivered off of Indian
32 community lands on a gallon-for-gallon substitute basis instead of
33 groundwater that otherwise would have been pumped pursuant to the
34 grandfathered groundwater rights OR CERTIFICATE OF GROUNDWATER USE from
35 within an active management area OR RURAL GROUNDWATER MANAGEMENT AREA.

36 3. A listing and description of the grandfathered groundwater
37 rights that will not be exercised by the holder because of the delivery of
38 the water that is delivered by the Indian community.

39 4. A hydrologic report assessing the effect of nonexercise of
40 grandfathered groundwater rights under this section on any underground
41 storage facility that was constructed as a state demonstration project and
42 that is located within ten miles of the point of withdrawal for the
43 grandfathered groundwater rights.

1 E. The director shall review the hydrologic report filed pursuant
2 to subsection D, paragraph 4 of this section and shall make such
3 modifications to the state demonstration project's underground storage
4 facility permit as the director deems appropriate.

5 F. If the director determines that the parties have complied with
6 subsection D of this section, the Indian community may begin accruing
7 long-term storage credits for the delivery of central Arizona project
8 water to the holder of the grandfathered groundwater rights, but only if
9 the following apply:

10 1. By March 31 of each year, the holder of the grandfathered
11 groundwater rights files an annual report with the director for the
12 preceding calendar year. The annual report shall include the following
13 information:

14 (a) The total quantity of water received from the Indian community
15 during the year for use by the holder under this section.

16 (b) A listing of those grandfathered groundwater rights that were
17 not exercised during the year by the holder because of the receipt of
18 central Arizona project water delivered by the Indian community.

19 (c) Such other information as the director may reasonably require.

20 2. The director finds that the water reported as received by the
21 grandfathered groundwater right holder was used on a gallon-for-gallon
22 substitute basis for groundwater.

23 3. The Indian community has offered to sell the Arizona water
24 banking authority ten ~~per cent~~ PERCENT of any long-term storage credits
25 accruable by the Indian community under this section at a price per
26 acre-foot at the time of sale equal to the authority's cost of delivering
27 and storing water at an underground storage facility that was constructed
28 as a state demonstration project and that is located within ten miles of
29 the point of withdrawal of any of the grandfathered groundwater rights
30 identified in the list filed with the director pursuant to subsection D,
31 paragraph 3 of this section, except that any credits purchased pursuant to
32 such offer may not be recovered within five miles of the exterior
33 reservation boundary of the Indian community.

34 G. The water that is received under this section by the holder of
35 the grandfathered groundwater right is deemed to be groundwater for all
36 purposes of chapter 2 of this title as if the holder had withdrawn it from
37 a well. The holder is responsible for all records, reports and fees
38 required by chapter 2 of this title relating to the water received.

39 H. The director shall establish a long-term storage account for the
40 Indian community in accordance with section 45-852.01 and each year shall
41 credit to that long-term storage account ninety-five ~~per cent~~ PERCENT of
42 the water received by the holder of the grandfathered groundwater right
43 during the preceding year that meets the requirements of subsection F of
44 this section.

1 I. Long-term storage credits accrued pursuant to this section may
2 be used or assigned in any manner that is consistent with this chapter.

3 J. The maximum amount of long-term storage credits that may be
4 accrued by an Indian community under this section in any year is ten
5 thousand acre-feet.

6 Sec. 26. Section 45-852.01, Arizona Revised Statutes, is amended to
7 read:

8 45-852.01. Long-term storage accounts

9 A. The director shall establish one long-term storage account for
10 each person holding long-term storage credits. The director shall
11 establish subaccounts within the long-term storage account according to
12 each active management area, **RURAL GROUNDWATER MANAGEMENT AREA**, irrigation
13 non-expansion area, groundwater basin or groundwater subbasin in which the
14 person's stored water is located. The long-term storage account shall be
15 further subdivided by type of water, if the person holds long-term storage
16 credits for more than one type of water.

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

20 1. Either:

21 (a) The water that was stored was water that cannot reasonably be
22 used directly.

23 (b) The water was stored in a groundwater savings facility located
24 in an active management area **OR RURAL GROUNDWATER MANAGEMENT AREA** that
25 does not have a management goal of achieving or maintaining a safe yield
26 condition, the water was stored between January 1, 2020 and December 31,
27 2026 and the director determines that the storage assists in implementing
28 within this state a drought contingency plan for the lower basin of the
29 Colorado River. The total maximum amount that may qualify under this
30 subdivision is fifteen thousand acre-feet per year.

31 2. If the stored water was stored at a storage facility within an
32 active management area **OR RURAL GROUNDWATER MANAGEMENT AREA**, either:

33 (a) The water would not have been naturally recharged within the
34 active management area **OR RURAL GROUNDWATER MANAGEMENT AREA**.

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

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

43 C. The director shall credit ninety-five percent of the recoverable
44 amount of stored water that meets the requirements of subsection B of this
45 section to the storer's long-term storage account, except that:

1 1. If the water was stored at a managed underground storage
2 facility that does not qualify as an existing effluent managed underground
3 storage facility and that had not been designated at the time of storage
4 as a facility that could add value to a national park, national monument
5 or state park and the water stored is effluent, the director shall credit
6 to the storer's long-term storage account fifty percent of the recoverable
7 amount of water that meets the requirements of subsection B of this
8 section. For storage of effluent in a managed underground storage
9 facility that is located in a recreational corridor channelization
10 district established pursuant to title 48, chapter 35, the director may
11 increase the storage credits earned from fifty percent to ninety-five
12 percent if both of the following apply:

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

16 (b) The director determines that the storage of effluent in the
17 facility will provide a greater benefit to aquifer conditions in the
18 active management area OR RURAL GROUNDWATER MANAGEMENT AREA or, if outside
19 an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, to the
20 groundwater basin than would accrue to the active management area, RURAL
21 GROUNDWATER MANAGEMENT AREA or groundwater basin if the effluent is used
22 or disposed of in another manner.

23 2. If the water was stored at a groundwater savings facility and
24 the storer has not met the burden of proving that one hundred percent of
25 the in lieu water was used on a gallon-for-gallon substitute basis for
26 groundwater, the director shall credit to the storer's long-term storage
27 account only the percentage of the in lieu water that meets the
28 requirements of subsection B of this section and that was proven to the
29 director's satisfaction as being used on a gallon-for-gallon substitute
30 basis for groundwater.

31 3. The director shall credit to the storer's long-term storage
32 account ninety percent of the recoverable amount of the water that meets
33 the requirements of subsection B of this section if all of the following
34 apply:

35 (a) The stored water was central Arizona project water that
36 qualifies as water that cannot reasonably be used directly due solely to
37 the exclusion of groundwater withdrawn by the storer for mineral
38 extraction or metallurgical processing under section 45-802.01, paragraph
39 23, subdivision (c).

40 (b) The storer was engaged in mineral extraction and metallurgical
41 processing within an initial active management area on or before January
42 1, 2011.

43 (c) All exterior boundaries of the storage facility that is used to
44 store the stored water are more than twenty miles from a well owned by the

1 storer on January 1, 2012 and that well is not an exempt well and any one
2 or more of the following apply:

3 (i) The well is an existing well as defined in section 45-591,
4 paragraph 1.

5 (ii) The department has issued a permit for the well under section
6 45-599, subsection C.

7 (iii) The well was drilled pursuant to a mineral extraction and
8 metallurgical processing permit issued by the department under section
9 45-514.

10 4. Except as otherwise provided in paragraph 2 of this subsection,
11 the director shall credit to the storer's long-term storage account or
12 conservation district account one hundred percent of the recoverable
13 amount of water that meets the requirements of subsection B of this
14 section if any of the following applies:

15 (a) The water stored was effluent that was stored at a constructed
16 underground storage facility, a groundwater savings facility or a managed
17 underground storage facility that was designated at the time of storage as
18 a facility that could add value to a national park, national monument or
19 state park.

20 (b) The water was stored in an active management area OR RURAL
21 GROUNDWATER MANAGEMENT AREA and the stored water is water from outside the
22 active management area OR RURAL GROUNDWATER MANAGEMENT AREA that would not
23 have reached the active management area OR RURAL GROUNDWATER MANAGEMENT
24 AREA without the efforts of the holder of the long-term storage credits.

25 (c) The water was stored outside an active management area OR RURAL
26 GROUNDWATER MANAGEMENT AREA and the stored water is water from outside the
27 groundwater basin in which the water was stored that would not have
28 reached the groundwater basin without the efforts of the holder of the
29 long-term storage credits.

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

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

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

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

41 1. One hundred percent of the amount of stored water that the
42 holder of the long-term storage credits has recovered during the calendar
43 year pursuant to the permit.

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

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

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

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

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

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

Sec. 27. Section 45-855.01, Arizona Revised Statutes, is amended to read:

45-855.01. Effect of long-term storage credits on assured water supply and adequate water supply

A. In an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, except as provided in section 45-853.01, subsection C, and on the request of a person who holds long-term storage credits, the director shall include the amount of long-term storage credits requested by the person in determining whether to issue a certificate of assured water supply to the person pursuant to section 45-576, or if the person is a city, town or private water company, whether to designate or redesignate the city, town or private water company as having an assured water supply. This subsection ~~shall~~ DOES not ~~be construed to~~ prohibit or require the director to include projected additions to a long-term storage account in determining whether to issue a certificate of assured water

1 supply to the person, or if the person is a city, town or private water
2 company, whether to designate or redesignate the city, town or private
3 water company as having an assured water supply.

4 B. Outside an active management area **OR RURAL GROUNDWATER**
5 **MANAGEMENT AREA**, except as provided in section 45-853.01, subsection C and
6 on the request of a person who holds long-term storage credits, the
7 director shall include the amount of long-term storage credits requested
8 by the person in determining whether to issue a report of adequate water
9 supply pursuant to section 45-108 for a subdivision to the person, or if
10 the person is a city, town or private water company, whether to designate
11 the city, town or private water company as having an adequate water
12 supply. This subsection ~~shall~~ **DOES** not ~~be construed to~~ prohibit or
13 require the director to include projected additions to a long-term storage
14 account in determining whether to issue a report of adequate water supply
15 for a subdivision to the person, or if the person who holds the long-term
16 storage account is a city, town or private water company, whether to
17 designate the city, town or private water company as having an adequate
18 water supply.

19 C. Long-term storage credits included by the director in making the
20 determinations and designations in subsections A and B of this section are
21 not assignable by the person holding the credits, unless the director has
22 determined that the credits will continue to be used for the subdivision
23 for which the certificate of assured water supply or certificate of
24 adequate water supply has been issued or for the service area that has
25 been designated as having an assured water supply or an adequate water
26 supply.

27 Sec. 28. Section 45-2602, Arizona Revised Statutes, is amended to
28 read:

29 **45-2602. Establishment of southside protection zones;**
30 **reporting requirements**

31 A. The following southside protection zones are established on the
32 effective date of this section:

- 33 1. The eastern protection zone north.
- 34 2. The eastern protection zone south.
- 35 3. The western municipal and industrial protection zone.
- 36 4. The western municipal protection zone.
- 37 5. The central protection zone.

38 B. The boundaries of the southside protection zones established
39 under subsection A are shown on the maps that are dated March 25, 2002 and
40 that are on file in the department. The maps shall be available for
41 examination by the public during regular business hours.

42 C. Each person in the Pinal active management area who withdraws
43 underground water during a calendar year in a southside protection zone
44 established under this section, other than the central protection zone,
45 shall file an annual report with the director no later than March 31 of

1 each year for the preceding calendar year. The report shall contain the
2 following information in addition to any other information required by
3 section 45-632:

4 1. The amount of underground water withdrawn within the southside
5 protection zone and the name of the protection zone.

6 2. If the underground water was used for a nonirrigation use, the
7 purpose for which the underground water was used, the location of the use,
8 the acreage of the parcel or parcels of land on which the underground
9 water was used and the date the use commenced.

10 3. The amount of any water replenished during the year pursuant to
11 section 45-2611, subsection B, paragraph 2, the water use for which the
12 water was replenished and the manner in which the water was replenished.

13 4. The amount of any water replaced during the year pursuant to
14 section 45-2611, subsection B, paragraph 3, the water use for which the
15 water was replaced and the manner in which the water was replaced.

16 D. A person who is required to file an annual report for a year
17 under subsection C of this section:

18 1. Shall use a water measuring device approved by the director
19 unless exempt under section 45-604.

20 2. Shall maintain current accurate records of the person's
21 withdrawals, transportation, deliveries and use of underground water as
22 prescribed by the director.

23 3. May combine the report with an annual report for the same year
24 filed under section 45-632.

25 4. Shall comply with the requirements prescribed in section 45-632,
26 subsections ~~N, O and P~~ O, P AND Q and is subject to the penalties
27 prescribed in section 45-632, subsection ~~O~~ P as if the report was
28 required by section 45-632.

29 E. A person who withdraws underground water from an exempt well is
30 exempt from the record keeping and reporting requirements of subsections C
31 and D of this section. For the purposes of this subsection, "exempt well"
32 means a well that has a pump with a maximum capacity of not more than
33 thirty-five gallons per minute, that is used to withdraw underground water
34 and that would qualify as an exempt well under section 45-454 if used to
35 withdraw groundwater.

36 F. If stored water is withdrawn in the Pinal active management area
37 in a southside protection zone established under this section, other than
38 the central protection zone, the annual report filed under section
39 45-875.01, subsection D shall include:

40 1. The amount of stored water withdrawn within the southside
41 protection zone and the name of the protection zone.

42 2. If the stored water was used for a nonirrigation use, the
43 purpose for which the water was used, the acreage of the parcel or parcels
44 of land on which the water was used, the location of the use and the date
45 the use commenced.

1 3. The identification of the storage facility in which the water
2 was stored.

3 4. The amount of any water replenished during the year pursuant to
4 section 45-2611, subsection B, paragraph 2, the water use for which the
5 water was replenished and the manner in which the water was replenished.

6 5. The amount of any water replaced during the year pursuant to
7 section 45-2611, subsection B, paragraph 3, the water use for which the
8 water was replaced and the manner in which the water was replaced.

9 Sec. 29. Department of water resources; expedited rulemaking

10 The department of water resources may conduct expedited rulemaking
11 to implement this act.

12 Sec. 30. Willcox basin; applicability; delayed repeal

13 A. On the effective date of this act:

14 1. The Willcox active management area established pursuant to
15 section 45-412, Arizona Revised Statutes, is repealed and supplanted by
16 the Willcox rural groundwater management area.

17 2. The director of the department of water resources shall file an
18 order designating the Willcox active management area as repealed and
19 supplanted by the Willcox rural groundwater management area. The order
20 shall be published not less than once each week for two weeks immediately
21 following the effective date of this act in a newspaper of general
22 circulation in each county where the Willcox rural groundwater management
23 area is located.

24 B. This section is repealed from and after December 31, 2025.

25 Sec. 31. Short title

26 This act may be cited as the "Rural Groundwater Management Act".

REFERENCE TITLE: rural groundwater management areas; establishment

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

HB 2714

Introduced by
Representative Mathis: Senator Sundareshan

AN ACT

AMENDING SECTIONS 11-823, 32-2181, 32-2183, 32-2197.08, 33-406, 41-1005, 45-108, 45-108.01 AND 45-402, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTIONS 45-453, 45-454, 45-596, 45-597, 45-598, 45-599, 45-601, 45-604, 45-632, 45-635, 45-812.01, 45-831.01, 45-832.01, 45-834.01, 45-841.01, 45-852.01, 45-855.01 AND 45-2602, ARIZONA REVISED STATUTES; 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. Section 11-823, Arizona Revised Statutes, is amended to
3 read:

4 11-823. Water supply; adequacy; exemptions; definition

5 A. To protect the public health and safety, the general regulations
6 adopted by the board pursuant to section 11-821, subsection B, if approved
7 by unanimous vote of the board of supervisors, may provide that, except as
8 provided in subsection ~~C~~ D and subsection ~~D~~ E, paragraph 1 of this
9 section, the board shall not approve a final plat for a subdivision
10 composed of subdivided lands, as defined in section 32-2101, located
11 outside of an active management area, as defined in section 45-402, unless
12 one of the following applies:

13 1. The director of water resources has determined that there is an
14 adequate water supply for the subdivision pursuant to section 45-108 and
15 the subdivider has included the report with the plat.

16 2. The subdivider has obtained a written commitment of water
17 service for the subdivision from a city, town or private water company
18 designated as having an adequate water supply by the director of water
19 resources pursuant to section 45-108.

20 B. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION AND
21 SUBSECTION E, PARAGRAPH 1 OF THIS SECTION, IF THE DIRECTOR OF WATER
22 RESOURCES HAS GIVEN WRITTEN NOTICE PURSUANT TO SECTION 45-108, SUBSECTION
23 H THAT A COUNCIL HAS ADOPTED A MANDATORY WATER ADEQUACY REQUIREMENT, THE
24 BOARD OF SUPERVISORS MAY NOT APPROVE A FINAL PLAT FOR A SUBDIVISION
25 COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101 THAT ARE
26 LOCATED WITHIN A RURAL GROUNDWATER MANAGEMENT AREA, UNLESS ONE OF THE
27 FOLLOWING APPLIES:

28 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
29 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND
30 THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

31 2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
32 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
33 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER
34 RESOURCES PURSUANT TO SECTION 45-108.

35 ~~B.~~ C. If the board unanimously adopts the provision authorized by
36 subsection A of this section:

37 1. The board may include in the general regulations an exemption
38 from the provision for a subdivision that the director of water resources
39 has determined will have an inadequate water supply because the water
40 supply will be transported to the subdivision by motor vehicle or train if
41 all of the following apply:

42 (a) The board determines that there is no feasible alternative
43 water supply for the subdivision and that the transportation of water to
44 the subdivision will not constitute a significant risk to the health and
45 safety of the residents of the subdivision.

1 (b) If the water to be transported to the subdivision will be
2 withdrawn or diverted in the service area of a municipal provider as
3 defined in section 45-561, the municipal provider has consented to the
4 withdrawal or diversion.

5 (c) If the water to be transported is groundwater, the
6 transportation complies with the provisions governing the transportation
7 of groundwater in title 45, chapter 2, article 8.

8 (d) The transportation of water to the subdivision meets any
9 additional conditions imposed by the county.

10 2. The board shall promptly give written notice of the adoption of
11 the provision to the director of water resources, the director of
12 environmental quality and the state real estate commissioner. The notice
13 shall include a certified copy of the provision and any exemptions adopted
14 pursuant to paragraph 1 of this subsection. Water providers may be
15 eligible to receive monies in a water supply development fund, as
16 otherwise provided by law.

17 3. The board shall not rescind the provision or amend it in a
18 manner that is inconsistent with subsection A of this section. If the
19 board amends the provision, it shall give written notice of the amendment
20 to the director of water resources, the director of environmental quality
21 and the state real estate commissioner. The board may rescind an
22 exemption adopted pursuant to paragraph 1 of this subsection. If the
23 board rescinds the exemption, it shall give written notice of the
24 rescission to the director of water resources, the director of
25 environmental quality and the state real estate commissioner, and the
26 board shall not readopt the exemption for at least five years after the
27 rescission becomes effective.

28 4. If the board approves a subdivision plat pursuant to subsection
29 A, paragraph 1 or 2 of this section, the board shall note on the face of
30 the plat that the director of water resources has reported that the
31 subdivision has an adequate water supply or that the subdivider has
32 obtained a commitment of water service for the proposed subdivision from a
33 city, town or private water company designated as having an adequate water
34 supply pursuant to section 45-108.

35 5. If the board approves a subdivision plat pursuant to an
36 exemption authorized by paragraph 1 of this subsection or granted by the
37 director of water resources pursuant to section 45-108.02 or 45-108.03:

38 (a) The board shall give written notice of the approval to the
39 director of water resources and the director of environmental quality.

40 (b) The board shall include on the face of the plat a statement
41 that the director of water resources has determined that the water supply
42 for the subdivision is inadequate and a statement describing the exemption
43 under which the plat was approved, including a statement that the board or
44 the director of water resources, whichever applies, has determined that
45 the specific conditions of the exemption were met. If the director of

1 water resources subsequently informs the board that the subdivision is
2 being served by a water provider that has been designated by the director
3 as having an adequate water supply pursuant to section 45-108, the board
4 shall record in the county recorder's office a statement disclosing that
5 fact.

6 ~~C.~~ D. Subsection A of this section does not apply to:

7 1. A proposed subdivision that the director of water resources has
8 determined will have an inadequate water supply pursuant to section 45-108
9 if the director grants an exemption for the subdivision pursuant to
10 section 45-108.02 and the exemption has not expired or the director grants
11 an exemption pursuant to section 45-108.03.

12 2. A proposed subdivision that received final plat approval from
13 the county before the requirement for an adequate water supply became
14 effective in the county if the plat has not been materially changed since
15 it received the final plat approval. If changes were made to the plat
16 after the plat received the final plat approval, the director of water
17 resources shall determine whether the changes are material pursuant to the
18 rules adopted by the director to implement section 45-108. If the county
19 approves a plat pursuant to this paragraph and the director of water
20 resources has determined that there is an inadequate water supply for the
21 subdivision pursuant to section 45-108, the county shall note this on the
22 face of the plat.

23 ~~D.~~ E. If the subdivision is composed of subdivided lands as
24 defined in section 32-2101 outside of an active management area and the
25 board has not adopted a provision pursuant to subsection A of this section
26 OR THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES HAS NOT PROVIDED
27 NOTICE PURSUANT TO SECTION 45-108, SUBSECTION H:

28 1. If the director of water resources has determined that there is
29 an adequate water supply for the subdivision pursuant to section 45-108 or
30 if the subdivider has obtained a written commitment of water service for
31 the subdivision from a city, town or private water company designated as
32 having an adequate water supply by the director of water resources
33 pursuant to section 45-108, the board shall note this on the face of the
34 plat if the plat is approved.

35 2. If the director of water resources has determined that there is
36 an inadequate water supply for the subdivision pursuant to section 45-108,
37 the board shall note this on the face of the plat if the plat is approved.

38 F. FOR THE PURPOSES OF THIS SECTION, "COUNCIL" MEANS A RURAL
39 GROUNDWATER MANAGEMENT AREA COUNCIL THAT IS ESTABLISHED PURSUANT TO
40 SECTION 45-441.11.

1 Sec. 2. Section 32-2181, Arizona Revised Statutes, is amended to
2 read:

3 32-2181. Notice to commissioner of intention to subdivide
4 lands; unlawful acting in concert; exceptions; deed
5 restrictions; definition

6 A. Before offering subdivided lands for sale or lease, the
7 subdivider shall notify the commissioner in writing of the subdivider's
8 intention. The notice shall contain:

9 1. The name and address of the owner. If the holder of any
10 ownership interest in the land is other than an individual, such as a
11 corporation, partnership or trust, **THE NOTICE SHALL CONTAIN** a statement
12 naming the type of legal entity and listing the interest and the extent of
13 any interest of each principal in the entity. For the purposes of this
14 section, "principal" means any person or entity having a ten ~~per cent~~
15 **PERCENT** or more financial interest or, if the legal entity is a trust,
16 each beneficiary of the trust holding a ten ~~per cent~~ **PERCENT** or more
17 beneficial interest.

18 2. The name and address of the subdivider.

19 3. The legal description and area of the land.

20 4. A true statement of the condition of the title to the land,
21 including all encumbrances on the land, and a statement of the provisions
22 agreed to by the holder of any blanket encumbrance enabling a purchaser to
23 acquire title to a lot or parcel free of the lien of the blanket
24 encumbrance on completion of all payments and performance of all of the
25 terms and provisions required to be made or performed by the purchaser
26 under the real estate sales contract by which the purchaser has acquired
27 the lot or parcel. The subdivider shall file copies of documents
28 acceptable to the department containing these provisions with the
29 commissioner before the sale of any subdivision lot or parcel subject to a
30 blanket encumbrance.

31 5. The terms and conditions on which it is intended to dispose of
32 the land, together with copies of any real estate sales contract,
33 conveyance, lease, assignment or other instrument intended to be used, and
34 any other information the owner or the owner's agent or subdivider desires
35 to present.

36 6. A map of the subdivision that has been filed in the office of
37 the county recorder in the county in which the subdivision is located.

38 7. A brief but comprehensive statement describing the land on and
39 the locality in which the subdivision is located.

40 8. A statement of the provisions that have been made for permanent
41 access and provisions, if any, for health department approved sewage and
42 solid waste collection and disposal and public utilities in the proposed
43 subdivision, including water, electricity, gas and telephone facilities.

1 9. A statement as to the location of the nearest public common and
2 high schools available for the attendance of ~~school-age~~ SCHOOL-AGE pupils
3 residing on the subdivision property.

4 10. A statement of the use or uses for which the proposed
5 subdivision will be offered.

6 11. A statement of the provisions, if any, limiting the use or
7 occupancy of the parcels in the subdivision, together with copies of any
8 restrictive covenants affecting all or part of the subdivision.

9 12. The name and business address of the principal broker selling or
10 leasing, within this state, lots or parcels in the subdivision.

11 13. A true statement of the approximate amount of indebtedness that
12 is a lien on the subdivision or any part of the subdivision and that was
13 incurred to pay for the construction of any on-site or off-site
14 improvement, or any community or recreational facility.

15 14. A true statement or reasonable estimate, if applicable, of the
16 amount of any indebtedness that has been or is proposed to be incurred by
17 an existing or proposed special district, entity, taxing area or
18 assessment district, within the boundaries of which the subdivision, or
19 any part of the subdivision, is located, and that is to pay for the
20 construction or installation of any improvement or to furnish community or
21 recreational facilities to the subdivision, and which amounts are to be
22 obtained by ad valorem tax or assessment, or by a special assessment or
23 tax ~~upon~~ ON the subdivision or any part of the subdivision.

24 15. A true statement as to the approximate amount of annual taxes,
25 special assessments or fees to be paid by the buyer for the proposed
26 annual maintenance of common facilities in the subdivision.

27 16. A statement of the provisions for easements for permanent access
28 for irrigation water ~~where~~ IF applicable.

29 17. A true statement of assurances for the completion of off-site
30 improvements, such as roads, utilities, community or recreational
31 facilities and other improvements to be included in the offering or
32 represented as being in the offering, and approval of the offering by the
33 political subdivision with authority. This statement shall include a
34 trust agreement or any other evidence of assurances for delivery of the
35 improvements and a statement of the provisions, if any, for the continued
36 maintenance of the improvements.

37 18. A true statement of the nature of any improvements to be
38 installed by the subdivider, the estimated schedule for completion and the
39 estimated costs related to the improvements that will be borne by
40 purchasers of lots in the subdivision.

41 19. A true statement of the availability of sewage disposal
42 facilities and other public utilities, including water, electricity, gas
43 and telephone facilities in the subdivision, the estimated schedule for
44 their installation, and the estimated costs related to the facilities and
45 utilities that will be borne by purchasers of lots in the subdivision.

1 20. A true statement as to whether all or any portion of the
2 subdivision is located in an open range or area in which livestock may
3 roam at large under the laws of this state and what provisions, if any,
4 have been made for ~~the~~ fencing ~~of~~ the subdivision to preclude livestock
5 from roaming within the subdivided lands.

6 21. If the subdivider is a subsidiary corporation, a true statement
7 identifying the parent corporation and any of the following in which the
8 parent or any of its subsidiaries is or has been involved within the past
9 five years:

10 (a) Any subdivision in this state.

11 (b) Any subdivision, wherever located, for which registration is
12 required pursuant to the federal interstate land sales full disclosure
13 act.

14 (c) Any subdivision, wherever located, for which registration would
15 have been required pursuant to the federal interstate land sales full
16 disclosure act but for the exemption for subdivisions whose lots are all
17 twenty acres or more in size.

18 22. A true statement identifying all other subdivisions, designated
19 in paragraph 21 of this subsection, in which any of the following is or,
20 within the last five years, has been directly or indirectly involved:

21 (a) The holder of any ownership interest in the land.

22 (b) The subdivider.

23 (c) Any principal or officer in the holder or subdivider.

24 23. A true statement as to whether all or any portion of the
25 subdivision is located in territory in the vicinity of a military airport
26 or ancillary military facility as defined in section 28-8461, in territory
27 in the vicinity of a public airport as defined in section 28-8486, on or
28 after July 1, 2001, in a high noise or accident potential zone as defined
29 in section 28-8461 or on or after July 1 of the year in which the
30 subdivision becomes located in a high noise or accident potential zone.
31 The statement required pursuant to this paragraph does not require the
32 amendment or refileing of any notice filed before July 1, 2001 or before
33 July 1 of the year in which the subdivision becomes located in a high
34 noise or accident potential zone.

35 24. If the subdivision is a conversion from multifamily rental to
36 condominiums as defined in section 33-1202, a true statement as to the
37 following:

38 (a) That the property is a conversion from multifamily rental to
39 condominiums.

40 (b) The date original construction was completed.

41 25. Other information and documents and certifications as the
42 commissioner may reasonably require, ~~provided~~ EXCEPT that the subdivider
43 shall not be required to disclose any critical infrastructure information
44 as defined in section 41-1801 or any information contained in a report
45 issued pursuant to section 41-4273.

1 B. The commissioner, on application, may grant a subdivider of lots
2 or parcels within a subdivision for which a public report was previously
3 issued by the commissioner an exemption from all or part of the
4 notification requirements of subsection A of this section. The subdivider
5 shall file a statement with the commissioner indicating the change of
6 ownership in the lots or parcels together with any material changes
7 occurring subsequent to the original approval of the subdivision within
8 which the lots or parcels are located. The statement shall further refer
9 to the original approval by the commissioner.

10 C. If the subdivision is within an active management area, as
11 defined in section 45-402, the subdivider shall accompany the notice with
12 a certificate of assured water supply issued by the director of water
13 resources along with proof that all applicable fees have been paid
14 pursuant to sections 48-3772 and 48-3774.01, unless the subdivider has
15 obtained a written commitment of water service for the subdivision from a
16 city, town or private water company designated as having an assured water
17 supply by the director of water resources pursuant to section 45-576 or is
18 exempt from the requirement pursuant to section 45-576. If the subdivider
19 has submitted a certificate of assured water supply to a city, town or
20 county ~~prior to~~ BEFORE approval of the plat by the city, town or county
21 and this has been noted on the face of the plat, the submission
22 constitutes compliance with this subsection if the subdivider provides
23 proof to the commissioner that all applicable fees have been paid pursuant
24 to sections 48-3772 and 48-3774.01.

25 D. It is unlawful for a person or group of persons acting in
26 concert to attempt to avoid this article by acting in concert to divide a
27 parcel of land or sell subdivision lots by using a series of owners or
28 conveyances or by any other method that ultimately results in the division
29 of the lands into a subdivision or the sale of subdivided land. The plan
30 or offering is subject to this article. Unlawful acting in concert
31 pursuant to this subsection with respect to the sale or lease of
32 subdivision lots requires proof that the real estate licensee or other
33 licensed professional knew or with the exercise of reasonable diligence
34 should have known that property ~~which~~ THAT the licensee listed or for
35 which the licensee acted in any capacity as agent was subdivided land
36 subject to this article. A familial relationship alone is not sufficient
37 to constitute unlawful acting in concert.

38 E. A creation of six or more lots, parcels or fractional interests
39 in improved or unimproved land, lots or parcels of any size is subject to
40 this article except when:

41 1. Each of the lots, parcels or fractional interests represents, on
42 a partition basis, thirty-six acres or more in area of land located in
43 this state, including to the centerline of dedicated roads or easements,
44 if any, contiguous to the land in which the interests are held.

1 2. The lots, parcels or fractional interests are the result of a
2 foreclosure sale, the exercise by a trustee under a deed of trust of a
3 power of sale or the grant of a deed in lieu of foreclosure. This
4 paragraph does not allow circumvention of the requirements of this
5 article.

6 3. The lots, parcels or fractional interests are created by a valid
7 order or decree of a court pursuant to and through compliance with title
8 12, chapter 8, article 7 or by operation of law. This paragraph does not
9 allow circumvention of the requirements of this article.

10 4. The lots, parcels or fractional interests consist of interests
11 in any oil, gas or mineral lease, permit, claim or right therein and such
12 interests are regulated as securities by the United States or by this
13 state.

14 5. The lots, parcels or fractional interests are registered as
15 securities under the laws of the United States or the laws of this state
16 or are exempt transactions under section 44-1844, 44-1845 or 44-1846.

17 6. The commissioner by special order exempts offerings or
18 dispositions of any lots, parcels or fractional interests from compliance
19 with this article on written petition and on a showing satisfactory to the
20 commissioner that compliance is not essential to the public interest or
21 for the protection of buyers.

22 7. A sale or lease of a lot, parcel or fractional interest occurs
23 ten or more years after the sale or lease of another lot, parcel or
24 fractional interest and the other lot, parcel or fractional interest is
25 not subject to this article and is treated as an independent parcel
26 unless, ~~upon~~ ON investigation by the commissioner, there is evidence of
27 intent to subdivide.

28 F. In areas outside of active management areas established pursuant
29 to title 45, chapter 2, article 2:

30 1. If the subdivision is located in a county that has adopted the
31 provision authorized by section 11-823, subsection A, **IN A RURAL**
32 **GROUNDWATER MANAGEMENT AREA FOR WHICH A RURAL GROUNDWATER MANAGEMENT AREA**
33 **COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION**
34 **45-441.13** or in a city or town that has enacted an ordinance pursuant to
35 section 9-463.01, subsection 0, the subdivider shall accompany the notice
36 with a report issued by the director of water resources pursuant to
37 section 45-108 stating that the subdivision has an adequate water supply,
38 unless one of the following applies:

39 (a) The subdivider submitted the report to a city, town or county
40 before approval of the plat by the city, town or county and this has been
41 noted on the face of the plat.

42 (b) The subdivider has obtained a written commitment of water
43 service for the subdivision from a city, town or private water company
44 designated as having an adequate water supply by the director of water
45 resources pursuant to section 45-108.

1 (c) The plat was approved pursuant to an exemption authorized by
2 section 9-463.01, subsection K, pursuant to an exemption authorized by
3 section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an exemption
4 granted by the director of water resources under section 45-108.02 and the
5 exemption has not expired or pursuant to an exemption granted by the
6 director under section 45-108.03. If the plat was approved pursuant to an
7 authorized exemption, the state real estate commissioner shall require
8 that all promotional material and contracts for the sale of lots in the
9 subdivision adequately display the following:

10 (i) The director of water resources' report or the developer's
11 brief summary of the report as approved by the commissioner on the
12 proposed water supply for the subdivision.

13 (ii) A statement describing the exemption under which the
14 subdivision was approved, including the specific conditions of the
15 exemption that were met. If the plat was approved by the legislative body
16 of a city or town pursuant to an exemption authorized by section 9-463.01,
17 subsection K or by the board of supervisors of a county pursuant to an
18 exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1, the
19 subdivider shall record the document required by section 33-406.

20 (d) The subdivision received final plat approval from the city,
21 town or county before the requirement for an adequate water supply became
22 effective in the city, town or county, and there have been no material
23 changes to the plat since the final plat approval. If changes were made
24 to the plat after the final plat approval, the director of water resources
25 shall determine whether the changes are material pursuant to the rules
26 adopted by the director to implement section 45-108. If this subdivision
27 applies, the state real estate commissioner shall require that all
28 promotional materials and contracts for the sale of lots in the
29 subdivision adequately display the director of water resources' report or
30 the developer's brief summary of the report as approved by the
31 commissioner on the proposed water supply for the subdivision.

32 2. If the subdivision is not located in a county that has adopted
33 the provision authorized by section 11-823, subsection A, **IN A RURAL**
34 **GROUNDWATER MANAGEMENT AREA IN WHICH A RURAL GROUNDWATER MANAGEMENT AREA**
35 **COUNCIL HAS ADOPTED A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION**
36 **45-441.13** or in a city or town that has enacted an ordinance pursuant to
37 section 9-463.01, subsection O, and if the director of water resources,
38 pursuant to section 45-108, reports an inadequate on-site supply of water
39 to meet the needs projected by the developer or if no water is available,
40 the state real estate commissioner shall require that all promotional
41 material and contracts for the sale of lots in subdivisions approved by
42 the commissioner adequately display the director of water resources'
43 report or the developer's brief summary of the report as approved by the
44 commissioner on the proposed water supply for the subdivision.

1 G. The commissioner may require the subdivider to supplement the
 2 notice of intention to subdivide lands and may require the filing of
 3 periodic reports to update the information contained in the original
 4 notice of intention to subdivide lands.

5 H. The commissioner may authorize the subdivider to file as the
 6 notice of intention to subdivide lands, in lieu of some or all of the
 7 requirements of subsection A of this section, a copy of the statement of
 8 record filed with respect to the subdivision pursuant to the federal
 9 interstate land sales full disclosure act if the statement complies with
 10 the requirements of the act and the regulations pertinent to the act.

11 I. ~~Neither~~ A real estate sales contract, conveyance, lease,
 12 assignment or other instrument to transfer any interest in subdivided land
 13 ~~not~~ AND any covenant or restriction affecting real property shall NOT
 14 contain any provision limiting the right of any party to appear or testify
 15 in support of or opposition to zoning changes, building permits or any
 16 other official acts affecting real property before a governmental body or
 17 official considering zoning changes, building permits or any other
 18 official acts affecting real property, whether the property is located
 19 within or outside of the boundaries of the subdivision. All contractual
 20 provisions that conflict with this subsection are declared to be contrary
 21 to public policy. ~~Nothing contained in~~ This subsection ~~shall~~ DOES NOT
 22 prohibit private restrictions on the use of any real property.

23 J. Before offering subdivided lands for lease or sale, the
 24 subdivider who makes any promises through any form of advertising media
 25 that the subdivided lands will be exclusively a retirement community or
 26 one that is limited to the residency of adults or senior citizens shall
 27 include the promises in the deed restrictions affecting any interest in
 28 real property within the subdivided lands.

29 K. Except as otherwise provided in this section, a subdivider ~~shall~~
 30 IS not ~~be~~ required to disclose items that are over one mile from the
 31 subdivision boundaries. The existence of foreign nations or tribal lands
 32 shall also be disclosed if located within the one mile radius of the
 33 subdivision boundaries.

34 Sec. 3. Section 32-2183, Arizona Revised Statutes, is amended to
 35 read:

36 32-2183. Subdivision public reports; denial of issuance;
 37 unlawful sales; voidable sale or lease; order
 38 prohibiting sale or lease; investigations;
 39 hearings; summary orders

40 A. On examination of a subdivision, the commissioner, unless there
 41 are grounds for denial, shall issue to the subdivider a public report
 42 authorizing the sale or lease in this state of the lots, parcels or
 43 fractional interests within the subdivision. The report shall contain the
 44 data obtained in accordance with section 32-2181 and any other information
 45 that the commissioner determines is necessary to implement the purposes of

1 this article. If any of the lots, parcels or fractional interests within
2 the subdivision are located within territory in the vicinity of a military
3 airport or ancillary military facility as defined in section 28-8461,
4 under a military training route as delineated in the military training
5 route map prepared pursuant to section 37-102, in a military installation
6 or range or Arizona national guard site influence area as delineated in
7 the maps prepared pursuant to section 37-102, subsection H, paragraph 4,
8 under restricted air space as delineated in the restricted air space map
9 prepared pursuant to section 37-102 or contained in the military
10 electronics range as delineated in the military electronics range map
11 prepared pursuant to section 37-102, the report shall include, in bold
12 twelve-point font block letters on the first page of the report, the
13 statements required pursuant to section 28-8484, subsection A, section
14 32-2183.05 or section 32-2183.06 and, if the department has been provided
15 a map prepared pursuant to section 28-8484, subsection B or section
16 37-102, the report shall include a copy of the map. The military airport
17 report requirements do not require the amendment or reissuance of any
18 public report issued on or before December 31, 2001 or on or before
19 December 31 of the year in which the lots, parcels or fractional interests
20 within a subdivision become territory in the vicinity of a military
21 airport or ancillary military facility. The military training route
22 report requirements do not require the amendment or reissuance of any
23 public report issued on or before December 31, 2004. The restricted air
24 space report requirements do not require the amendment or reissuance of
25 any public report issued on or before December 31, 2006. The military
26 electronics range report requirements do not require the amendment or
27 reissuance of any public report issued on or before December 31, 2008.
28 ~~A~~ Military installation or range or Arizona national guard site report
29 requirements do not require the amendment or reissuance of any public
30 report issued on or before December 31, 2024. The commissioner shall
31 require the subdivider to reproduce the report, make the report available
32 to each initial prospective customer and furnish each initial buyer or
33 lessee with a copy before the buyer or lessee signs any offer to purchase
34 or lease, taking a receipt therefor.

35 B. This section does not require a public report issued sixty or
36 fewer days before the filing of the military electronics range map or the
37 military installation or range or Arizona national guard site influence
38 area map prepared pursuant to section 37-102 to meet the military
39 electronics range or military installation or range or Arizona national
40 guard site notification requirements of this section.

41 C. A public report issued sixty-one or more days after the filing
42 of the military electronics range map or the military installation or
43 range or Arizona national guard site influence area map prepared pursuant
44 to section 37-102 shall meet all of the requirements of subsection A of
45 this section.

1 D. Notwithstanding subsection A of this section, a subdivider may
2 elect to prepare a final public report for use in the sale of improved
3 lots as defined in section 32-2101, as follows:

4 1. The subdivider shall prepare the public report and provide a
5 copy of the report to the commissioner with the submission of the
6 notification required by sections 32-2181 and 32-2184 and shall comply
7 with all other requirements of this article.

8 2. An initial filing fee of \$500 or an amended filing fee of \$250
9 shall accompany the notification required by paragraph 1 of this
10 subsection.

11 3. The department shall assign a registration number to each
12 notification and public report submitted pursuant to this subsection and
13 shall maintain a database of all of these submissions. The subdivider
14 shall place the number on each public report.

15 4. On receipt of the notification and public report, the department
16 shall review and issue within ten business days either a certification
17 that the notification and public report are administratively complete or a
18 denial letter if it appears that the application or project is not in
19 compliance with all legal requirements, that the applicant has a
20 background of violations of state or federal law or that the applicant or
21 project presents an unnecessary risk of harm to the public. If the
22 commissioner has received the notification and public report but has not
23 issued a certification or a denial letter within ten business days
24 pursuant to this paragraph, the notification and public report are
25 administratively complete.

26 5. A subdivider may commence sales or leasing activities as
27 ~~permitted~~ ALLOWED under this article after obtaining a certificate of
28 administrative completeness from the commissioner.

29 6. Before or after the commissioner issues a certificate of
30 administrative completeness or, if applicable, after the notification and
31 public report are deemed to be administratively complete pursuant to
32 paragraph 4 of this subsection, the department may examine any public
33 report, subdivision or applicant that has applied for or received the
34 certificate. If the commissioner determines that the subdivider or
35 subdivision is not in compliance with any requirement of state law or that
36 grounds exist under this chapter to suspend, deny or revoke a public
37 report, the commissioner may commence an administrative action under
38 section 32-2154 or 32-2157. If the subdivider immediately corrects the
39 deficiency and comes into full compliance with state law, the commissioner
40 shall vacate any action that the commissioner may have commenced pursuant
41 to section 32-2154 or 32-2157.

42 7. The department shall provide forms and guidelines for the
43 submission of the notification and public report pursuant to this section.

44 E. The commissioner may suspend, revoke or deny issuance of a
45 public report on any of the following grounds:

1 1. Failure to comply with this article or the rules of the
2 commissioner pertaining to this article.

3 2. The sale or lease would constitute misrepresentation to or
4 deceit or fraud of the purchasers or lessees.

5 3. Inability to deliver title or other interest contracted for.

6 4. Inability to demonstrate that adequate financial or other
7 arrangements acceptable to the commissioner have been made for completion
8 of all streets, sewers, electric, gas and water utilities, drainage and
9 flood control facilities, community and recreational facilities and other
10 improvements included in the offering.

11 5. Failure to make a showing that the lots, parcels or fractional
12 interests can be used for the purpose for which they are offered.

13 6. The owner, agent, subdivider, officer, director or partner,
14 subdivider trust beneficiary holding ten percent or more direct or
15 indirect beneficial interest or, if a corporation, any stockholder owning
16 ten percent or more of the stock in the corporation has:

17 (a) Been convicted of a felony or misdemeanor involving fraud or
18 dishonesty or involving conduct of any business or a transaction in real
19 estate, cemetery property, timeshare intervals or membership camping
20 campgrounds or contracts.

21 (b) Been permanently or temporarily enjoined by order, judgment or
22 decree from engaging in or continuing any conduct or practice in
23 connection with the sale or purchase of real estate or cemetery property,
24 timeshare intervals, membership camping contracts or campgrounds, or
25 securities or involving consumer fraud or the racketeering laws of this
26 state.

27 (c) Had an administrative order entered against the person by a
28 real estate regulatory agency or security regulatory agency.

29 (d) Had an adverse decision or judgment entered against the person
30 involving fraud or dishonesty or involving the conduct of any business or
31 transaction in real estate, cemetery property, timeshare intervals or
32 membership camping campgrounds or contracts.

33 (e) Disregarded or violated this chapter or the rules of the
34 commissioner pertaining to this chapter.

35 (f) Controlled an entity to which subdivision (b), (c), (d) or (e)
36 OF THIS PARAGRAPH applies.

37 7. Procurement or an attempt to procure a public report by fraud,
38 misrepresentation or deceit or by filing an application for a public
39 report that is materially false or misleading.

40 8. Failure of the declaration for a condominium created pursuant to
41 title 33, chapter 9, article 2 to comply with the requirements of section
42 33-1215 or failure of the plat for the condominium to comply with the
43 requirements of section 33-1219. The commissioner may require an
44 applicant for a public report to submit a notarized statement signed by
45 the subdivider or an engineer or attorney licensed to practice in this

1 state certifying that the condominium plat and declaration of condominium
2 are in compliance with the requirements of sections 33-1215 and 33-1219.
3 If the notarized statement is provided, the commissioner is entitled to
4 rely on this statement.

5 9. Failure of any blanket encumbrance or valid supplementary
6 agreement executed by the holder of the blanket encumbrance to contain
7 provisions that enable the purchaser to acquire title to a lot or parcel
8 free of the lien of the blanket encumbrance, on completion of all payments
9 and performance of all of the terms and provisions required to be made or
10 performed by the purchaser under the real estate sales contract by which
11 the purchaser has acquired the lot or parcel. The subdivider shall file
12 copies of documents acceptable to the commissioner containing these
13 provisions with the commissioner before the sale of any subdivision lot or
14 parcel subject to a blanket encumbrance.

15 10. Failure to demonstrate permanent access to the subdivision lots
16 or parcels.

17 11. The use of the lots presents an unreasonable health risk.

18 F. It is unlawful for a subdivider to sell any lot in a subdivision
19 unless one of the following occurs:

20 1. All proposed or promised subdivision improvements are completed.

21 2. The completion of all proposed or promised subdivision
22 improvements is assured by financial arrangements acceptable to the
23 commissioner. The financial arrangements may be made in phases for common
24 community and recreation facilities required by a municipality or county
25 as a stipulation for approval of a plan for a master planned community.

26 3. The municipal or county government agrees to prohibit occupancy
27 and the subdivider agrees not to close escrow for lots in the subdivision
28 until all proposed or promised subdivision improvements are completed.

29 4. The municipal or county government enters into an assurance
30 agreement with any trustee not to convey lots until improvements are
31 completed within the portion of the subdivision containing these lots, if
32 the improvements can be used and maintained separately from the
33 improvements required for the entire subdivision plat. The agreement
34 shall be recorded in the county in which the subdivision is located.

35 G. If the subdivision is within an active management area, as
36 defined in section 45-402, the commissioner shall deny issuance of a
37 public report or the use of any exemption pursuant to section 32-2181.02,
38 subsection B unless the subdivider has been issued a certificate of
39 assured water supply by the director of water resources and has paid all
40 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
41 subdivider has obtained a written commitment of water service for the
42 subdivision from a city, town or private water company designated as
43 having an assured water supply by the director of water resources pursuant
44 to section 45-576 or is exempt from the requirement pursuant to section
45 45-576.

1 H. In areas outside of active management areas, if the subdivision
2 is located in a county that has adopted the provision authorized by
3 section 11-823, subsection A, **IN A RURAL GROUNDWATER MANAGEMENT AREA IN**
4 **WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY**
5 **ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13** or in a city or town
6 that has enacted an ordinance pursuant to section 9-463.01, subsection 0,
7 the commissioner shall deny issuance of a public report or the use of any
8 exemption pursuant to section 32-2181.02, subsection B unless one of the
9 following applies:

10 1. The director of water resources has reported pursuant to section
11 45-108 that the subdivision has an adequate water supply.

12 2. The subdivider has obtained a written commitment of water
13 service for the subdivision from a city, town or private water company
14 designated as having an adequate water supply by the director of water
15 resources pursuant to section 45-108.

16 3. The plat was approved pursuant to an exemption authorized by
17 section 9-463.01, subsection K, pursuant to an exemption authorized by
18 section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an exemption
19 granted by the director of water resources under section 45-108.02 and the
20 exemption has not expired or pursuant to an exemption granted by the
21 director of water resources under section 45-108.03.

22 4. The subdivision received final plat approval from the city, town
23 or county before the requirement for an adequate water supply became
24 effective in the city, town or county, and there have been no material
25 changes to the plat since the final plat approval. If changes were made
26 to the plat after the final plat approval, the director of water resources
27 shall determine whether the changes are material pursuant to the rules
28 adopted by the director to implement section 45-108.

29 I. A subdivider shall not sell or lease or offer for sale or lease
30 in this state any lots, parcels or fractional interests in a subdivision
31 without first obtaining a public report from the commissioner except as
32 provided in section 32-2181.01 or 32-2181.02, and a certificate of
33 administrative completeness issued pursuant to this section. Unless
34 exempt, the sale or lease of subdivided lands before issuance of the
35 public report or failure to deliver the public report to the purchaser or
36 lessee shall render the sale or lease rescindable by the purchaser or
37 lessee. An action by the purchaser or lessee to rescind the transaction
38 shall be brought within three years after the date of execution of the
39 purchase or lease agreement by the purchaser or lessee. In any rescission
40 action, the prevailing party is entitled to reasonable attorney fees as
41 determined by the court.

42 J. On a print advertisement in a magazine or newspaper or on an
43 internet advertisement that advertises a specific lot or parcel of a
44 subdivider, the subdivider shall include a disclosure stating that "a
45 public report is available on the state real estate department's website".

1 K. Any applicant objecting to the denial of a public report, within
2 thirty days after receipt of the order of denial, may file a written
3 request for a hearing. The commissioner shall hold the hearing within
4 twenty days after receipt of the request for a hearing unless the party
5 requesting the hearing has requested a postponement. If the hearing is
6 not held within twenty days after a request for a hearing is received,
7 plus the period of any postponement, or if a proposed decision is not
8 rendered within forty-five days after submission, the order of denial
9 shall be rescinded and a public report issued.

10 L. On the commissioner's own motion, or when the commissioner has
11 received a complaint and has satisfactory evidence that the subdivider or
12 the subdivider's agent is violating this article or the rules of the
13 commissioner or has engaged in any unlawful practice as defined in section
14 44-1522 with respect to the sale of subdivided lands or deviated from the
15 provisions of the public report, the commissioner may investigate the
16 subdivision project and examine the books and records of the subdivider.
17 For the purpose of examination, the subdivider shall keep and maintain
18 records of all sales transactions and funds received by the subdivider
19 pursuant to the sales transactions and shall make them accessible to the
20 commissioner on reasonable notice and demand.

21 M. On the commissioner's own motion, or when the commissioner has
22 received a complaint and has satisfactory evidence that any person has
23 violated this article or the rules of the commissioner or has engaged in
24 any unlawful practice as defined in section 44-1522 with respect to the
25 sale of subdivided lands or deviated from the provisions of the public
26 report or special order of exemption, or has been indicted for fraud or
27 against whom an information for fraud has been filed or has been convicted
28 of a felony, before or after the commissioner issues the public report as
29 provided in subsection A of this section, the commissioner may conduct an
30 investigation of the matter, issue a summary order as provided in section
31 32-2157, or provide notice and hold a public hearing and, after the
32 hearing, may issue the order or orders the commissioner deems necessary to
33 protect the public interest and ensure compliance with the law, rules or
34 public report or the commissioner may bring action in any court of
35 competent jurisdiction against the person to enjoin the person from
36 continuing the violation or engaging in or doing any act or acts in
37 furtherance of the violation. The court may make orders or judgments,
38 including the appointment of a receiver, ~~THAT ARE~~ necessary to prevent the
39 use or employment by a person of any unlawful practices, or ~~which~~ ~~THAT~~ may
40 be necessary to restore to any person in interest any monies or property,
41 real or personal, that may have been acquired by means of any practice in
42 this article declared to be unlawful.

43 N. When it appears to the commissioner that a person has engaged in
44 or is engaging in a practice declared to be unlawful by this article and
45 that the person is concealing assets or self or has made arrangements to

1 conceal assets or is about to leave the state, the commissioner may apply
2 to the superior court, ex parte, for an order appointing a receiver of the
3 assets of the person or for a writ of ne exeat, or both.

4 0. The court, on receipt of an application for the appointment of a
5 receiver or for a writ of ne exeat, or both, shall examine the verified
6 application of the commissioner and other evidence that the commissioner
7 may present the court. If satisfied that the interests of the public
8 require the appointment of a receiver or the issuance of a writ of ne
9 exeat without notice, the court shall issue an order appointing the
10 receiver or issue the writ, or both. If the court determines that the
11 interests of the public will not be harmed by the giving of notice, the
12 court shall set a time for a hearing and require notice be given as the
13 court deems satisfactory.

14 P. If the court appoints a receiver without notice, the court shall
15 further direct that a copy of the order appointing a receiver be served on
16 the person engaged in or engaging in a practice declared to be unlawful
17 under this article by delivering the order to the last address of the
18 person that is on file with the state real estate department. The order
19 shall inform the person that the person has the right to request a hearing
20 within ten days after the date of the order and, if requested, the hearing
21 shall be held within thirty days after the date of the order.

22 Sec. 4. Section 32-2197.08, Arizona Revised Statutes, is amended to
23 read:

24 32-2197.08. Issuance of public report and amended public
25 report by commissioner on timeshare plan;
26 denial of issuance; additional information; use
27 of another state's public report

28 A. On examination of a timeshare plan, the commissioner, unless
29 there are grounds for denial, shall approve for use by the developer a
30 public report authorizing the sale or lease of the timeshare interests
31 within the timeshare plan. For all timeshare interests sold in this
32 state, the commissioner shall require the developer to reproduce the
33 public report and furnish each prospective customer with a copy, taking a
34 receipt for each copy. The public report shall be made available to each
35 prospective purchaser in written format either by electronic means or in
36 hard copy. The public report shall include the following:

- 37 1. The name and principal address of the owner and developer.
- 38 2. A description of the type of timeshare interests being offered.
- 39 3. A description of the existing and proposed accommodations and
40 amenities of the timeshare plan, including type and number, any use
41 restrictions and any required fees for use.

42 4. A description of any accommodations and amenities that are
43 committed to be built, including:

- 44 (a) The developer's schedule of commencement and completion of all
45 accommodations and amenities.

1 (b) The estimated number of accommodations per site that may become
2 subject to the timeshare plan.

3 5. A brief description of the duration, phases and operation of the
4 timeshare plan.

5 6. The current annual budget if available or the projected annual
6 budget for the timeshare plan. The budget shall include:

7 (a) A statement of the amount or a statement that there is no
8 amount included in the budget as a reserve for repairs and replacement.

9 (b) The projected common expense liability, if any, by category of
10 expenditures for the timeshare plan.

11 (c) A statement of any services or expenses that are not reflected
12 in the budget and that the developer provides or pays.

13 7. A description of any liens, defects or encumbrances on or
14 affecting the title to the timeshare interests.

15 8. A statement that by midnight of the tenth calendar day after
16 execution of the purchase agreement a purchaser may cancel any purchase
17 agreement for a timeshare interest from a developer together with a
18 statement providing the name and street address where the purchaser should
19 mail any notice of cancellation. If, by agreement of the parties through
20 the purchase agreement, the purchase agreement allows for cancellation of
21 the purchase agreement for a period of time exceeding ten calendar days,
22 the public report shall include a statement that the cancellation of the
23 purchase agreement is allowed for that period of time exceeding ten
24 calendar days.

25 9. A description of any bankruptcies, pending suits, adjudications
26 or disciplinary actions material to the timeshare interests of which the
27 developer has knowledge.

28 10. Any restrictions on alienation of any number or portion of any
29 timeshare interests.

30 11. Any current or expected fees or charges to be paid by timeshare
31 purchasers for the use of any amenities related to the timeshare plan.

32 12. The extent to which financial arrangements have been provided
33 for completion of all promised improvements.

34 13. If the timeshare plan provides purchasers with the opportunity
35 to participate in any exchange programs, a description of the name and
36 address of the exchange companies and the method by which a purchaser
37 accesses the exchange programs.

38 14. Any other information that the developer, with the approval of
39 the commissioner, desires to include in the public report.

40 15. If the developer is offering a multisite timeshare plan, the
41 following information, which may be disclosed in a written, graphic or
42 tabular form:

43 (a) A description of each component site, including the name and
44 address of each component site.

1 (b) The number of accommodations and timeshare periods, expressed
2 in periods of use availability, committed to the multisite timeshare plan
3 and available for use by purchasers.

4 (c) Each type of accommodation in terms of the number of bedrooms,
5 bathrooms and sleeping capacity and a statement of whether or not the
6 accommodation contains a full kitchen. For the purposes of this
7 subdivision, "full kitchen" means a kitchen having a minimum of a
8 dishwasher, range, oven, sink and refrigerator.

9 (d) A description of amenities available for use by the purchaser
10 at each component site.

11 (e) A description of the reservation system, including the
12 following:

13 (i) The entity responsible for operating the reservation system.

14 (ii) A summary of the rules governing access to and use of the
15 reservation system.

16 (iii) The existence of and an explanation regarding any priority
17 reservation features that affect a purchaser's ability to make
18 reservations for the use of a given accommodation on a first-reserved,
19 first-served basis.

20 (f) A description of any right to make any additions, substitutions
21 or deletions of accommodations or amenities and a description of the basis
22 on which accommodations and amenities may be added to, substituted in or
23 deleted from the multisite timeshare plan.

24 (g) A description of the purchaser's liability for any fees
25 associated with the multisite timeshare plan.

26 (h) The location and the anticipated relative use demand of each
27 component site in a multisite timeshare plan as well as any periodic
28 adjustment or amendment to the reservation system that may be needed in
29 order to respond to actual purchaser use patterns and changes in purchaser
30 use demand for the accommodations existing at the time within the
31 multisite timeshare plan.

32 (i) Any other information reasonably required by the commissioner
33 or established by rule that is necessary for the protection of purchasers
34 of timeshare interests in timeshare plans.

35 (j) Any other information that the developer, with the approval of
36 the commissioner, desires to include in the public report.

37 16. If a developer offers a nonspecific timeshare interest in a
38 multisite timeshare plan, the information set forth in paragraphs 1
39 through 14 of this subsection as to each component site.

40 17. Any other information that the commissioner determines or
41 establishes by rule is necessary to implement the purpose of this article.

42 B. Except as otherwise provided in this subsection, the
43 requirements prescribed by subsection A of this section apply to a
44 developer's application for approval to use an amended public report for
45 the sale of timeshare interests in a timeshare plan, including an amended

1 public report to disclose and address a material change under section
2 32-2197.04. A developer may elect to prepare an amended public report for
3 use in the sale of timeshare interests as follows:

4 1. The developer shall prepare the amended public report and
5 provide a copy of the report to the commissioner with the submission of
6 the application for an amended public report, including any notification
7 required by section 32-2197.04, and shall comply with all other
8 requirements of this article.

9 2. An amendment filing fee established pursuant to section
10 32-2197.07 shall accompany the application prescribed by paragraph 1 of
11 this subsection.

12 3. On receipt of the application and amended public report, the
13 department shall review and, within fifteen business days if the amendment
14 adds less than six new component sites to the timeshare plan or within
15 thirty calendar days if the amendment adds six or more new component sites
16 to the timeshare plan, issue either a certification that the application
17 and amended public report are administratively complete or a denial letter
18 if it appears that the application, amended public report or timeshare
19 plan is not in compliance with all legal requirements, that the applicant
20 has a background of violations of state or federal law or that the
21 applicant or timeshare plan presents an unnecessary risk of harm to the
22 public. If the commissioner has received the application and amended
23 public report but has not issued a certification or a denial letter within
24 the required time period, the application and amended public report are
25 deemed administratively complete.

26 4. The developer may commence sales or leasing activities as
27 allowed under this article using an amended public report when the
28 commissioner issues a certification of administrative completeness or as
29 of the date the application and amended public report are deemed
30 administratively complete pursuant to paragraph 3 of this subsection. The
31 certification may be issued on paper or electronically.

32 5. Before or after the commissioner issues a certification of
33 administrative completeness or, if applicable, after the application and
34 amended public report are deemed to be administratively complete pursuant
35 to paragraph 3 of this subsection, the department may examine any public
36 report, timeshare plan or applicant that has applied for or received the
37 certification. If the commissioner determines that the public report,
38 timeshare plan or applicant is not in compliance with any requirement of
39 state law or that grounds exist under this chapter to suspend, deny or
40 revoke a public report, the commissioner may commence an administrative
41 action under section 32-2154, 32-2157 or 32-2197.14. If the developer
42 immediately corrects the deficiency and fully complies with state law, the
43 commissioner shall promptly vacate any action that the commissioner may
44 have commenced pursuant to section 32-2154, 32-2157 or 32-2197.14.

1 6. The department shall provide forms and guidelines for the
2 submission of the application and amended public report pursuant to this
3 subsection.

4 C. In the event of denial, suspension or revocation, grounds shall
5 be set forth in writing at the time of denial, suspension or revocation.
6 The commissioner may deny, suspend or revoke the public report on any of
7 the following grounds:

8 1. Failure to comply with this article or the rules of the
9 commissioner pertaining to this article.

10 2. The sale or lease would constitute misrepresentation to or
11 deceit or fraud of the purchasers or lessees.

12 3. Inability to demonstrate that adequate financial or other
13 arrangements acceptable to the commissioner have been made for completion
14 of the timeshare property, installation of all streets, sewers, electric,
15 gas and water utilities, drainage, flood control and other similar
16 improvements included in the offering.

17 4. The developer, including if an entity, an officer, director,
18 member, manager, partner, owner, trust beneficiary holding ten percent or
19 more beneficial interest, stockholder owning ten percent or more of the
20 stock or other person exercising control of the entity, has:

21 (a) Been convicted of a felony or misdemeanor involving theft,
22 fraud or dishonesty or involving the conduct of any business or a
23 transaction in real estate, cemetery property, timeshare interests or
24 membership camping campgrounds or contracts.

25 (b) Been permanently or temporarily enjoined by order, judgment or
26 decree from engaging in or continuing any conduct or practice in
27 connection with the sale or purchase of real estate, cemetery property,
28 timeshare interests, membership camping campgrounds or contracts, or
29 securities or involving consumer fraud or the ~~Arizona~~ racketeering laws ~~OF~~
30 ~~THIS STATE~~.

31 (c) Had an administrative order entered against him by a real
32 estate regulatory agency or securities regulatory agency.

33 (d) Had an adverse decision or judgment entered against him
34 involving fraud or dishonesty or involving the conduct of any business in
35 or a transaction in real estate, cemetery property, timeshare interests or
36 membership camping campgrounds or contracts.

37 (e) Disregarded or violated this chapter or the rules of the
38 commissioner pertaining to this chapter.

39 (f) Participated in, operated or held an interest in any entity to
40 which subdivision (b), (c), (d), or (e) of this paragraph applies.

41 5. If within this state, the timeshare property is incompatible
42 with the existing neighborhood and would introduce into a neighborhood a
43 character of property or use that would clearly be detrimental to property
44 values in that neighborhood.

1 D. If the timeshare property is within an active management area,
2 as defined in section 45-402, the commissioner shall deny issuance of a
3 public report unless the developer has been issued a certificate of
4 assured water supply by the director of water resources and has paid all
5 applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the
6 developer has obtained a written commitment of water service for the
7 timeshare property from a city, town or private water company designated
8 as having an assured water supply by the director of water resources
9 pursuant to section 45-576.

10 E. In areas outside of active management areas, if the timeshare
11 property is located in a county that has adopted the provision authorized
12 by section 11-823, subsection A, IN A RURAL GROUNDWATER MANAGEMENT AREA IN
13 WHICH A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY
14 ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13 or in a city or town
15 that has enacted an ordinance pursuant to section 9-463.01, subsection 0,
16 the commissioner shall deny issuance of a public report unless one of the
17 following applies:

18 1. The director of water resources has reported pursuant to section
19 45-108 that the timeshare property has an adequate water supply.

20 2. The developer has obtained a written commitment of water service
21 for the timeshare property from a city, town or private water company
22 designated as having an adequate water supply by the director of water
23 resources pursuant to section 45-108.

24 3. The timeshare property was approved pursuant to an exemption
25 authorized by section 9-463.01, subsection K, pursuant to an exemption
26 authorized by section 11-823, subsection ~~B~~ C, paragraph 1, pursuant to an
27 exemption granted by the director of water resources under section
28 45-108.02 and the exemption has not expired or pursuant to an exemption
29 granted by the director of water resources under section 45-108.03.

30 4. The subdivision received final plat approval from the city, town
31 or county before the requirement for an adequate water supply became
32 effective in the city, town or county, and there have been no material
33 changes to the plat since the final plat approval. If changes were made
34 to the plat after the final plat approval, the director of water resources
35 shall determine whether the changes are material pursuant to the rules
36 adopted by the director to implement section 45-108.

37 F. In addition to providing to each prospective customer a copy of
38 the public report as required in subsection A of this section, the
39 developer shall also provide to each customer before the close of any
40 transaction information and materials that identify any timeshare exchange
41 companies currently under contract and disclosure statements regarding the
42 use of the timeshare exchange companies, as well as any additional
43 information the commissioner deems appropriate.

44 G. The commissioner may authorize for use in this state by a
45 developer of a timeshare plan in which all accommodations are located

outside of this state a current public report that is issued by another jurisdiction or an equivalent registration and disclosure document that is required before offering a timeshare plan for sale, lease or use and that is issued by another jurisdiction. This authorization does not constitute an exemption from other applicable requirements of this article.

Sec. 5. Section 33-406, Arizona Revised Statutes, is amended to read:

33-406. Disclosure of transportation of water to property by motor vehicle or train; definition

A. Notwithstanding section 33-411, subsection D, a subdivider who sells a lot that was included in a plat approved by the legislative body of a city or town pursuant to an exemption authorized by section 9-463.01, subsection K or by the board of supervisors of a county pursuant to an exemption authorized by section 11-823, subsection ~~B~~ C, paragraph 1 shall record with the plat a document that contains a legal description of the land that is subject to the subdivision plat and that contains a statement that the lots are served by a water supply that has been determined as inadequate and that the water must be hauled to the lot.

B. For the purposes of this section, "subdivider" has the same meaning as prescribed in section 32-2101.

Sec. 6. Section 41-1005, Arizona Revised Statutes, is amended to read:

41-1005. Exemptions

A. This chapter does not apply to any:

1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.

2. Order or rule of the Arizona game and fish commission that does the following:

(a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.

(b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

(c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.

(d) Limits the number or use of licenses or permits that are issued to nonresidents pursuant to section 17-332.

3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.

4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.

5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.

1 6. Rule concerning only the physical servicing, maintenance or care
2 of agency owned or operated facilities or property.

3 7. Rule or substantive policy statement concerning inmates or
4 committed youths of a correctional or detention facility in secure custody
5 or patients admitted to a hospital if made by the state department of
6 corrections, the department of juvenile corrections, the board of
7 executive clemency or the department of health services or a facility or
8 hospital under the jurisdiction of the state department of corrections,
9 the department of juvenile corrections or the department of health
10 services.

11 8. Form whose contents or substantive requirements are prescribed
12 by rule or statute and instructions for the execution or use of the form.

13 9. Capped fee-for-service schedule adopted by the Arizona health
14 care cost containment system administration pursuant to title 36,
15 chapter 29.

16 10. Fees prescribed by section 6-125.

17 11. Order of the director of water resources adopting or modifying
18 a management plan pursuant to title 45, chapter 2, article 3.1 OR 9.

19 12. Fees established under section 3-1086.

20 13. Fees established under sections 41-4010 and 41-4042.

21 14. Rule or other matter relating to agency contracts.

22 15. Fees established under section 32-2067 or 32-2132.

23 16. Rules made pursuant to section 5-111, subsection A.

24 17. Rules made by the Arizona state parks board concerning the
25 operation of the Tonto natural bridge state park, the facilities located
26 in the Tonto natural bridge state park and the entrance fees to the Tonto
27 natural bridge state park.

28 18. Fees or charges established under section 41-511.05.

29 19. Emergency medical services protocols except as provided in
30 section 36-2205, subsection B.

31 20. Fee schedules established pursuant to section 36-3409.

32 21. Procedures of the state transportation board as prescribed in
33 section 28-7048.

34 22. Rules made by the state department of corrections.

35 23. Fees prescribed pursuant to section 32-1527.

36 24. Rules made by the department of economic security pursuant to
37 section 46-805.

38 25. Schedule of fees prescribed by section 23-908.

39 26. Procedure that is established pursuant to title 23, chapter 6,
40 article 6.

41 27. Rules, administrative policies, procedures and guidelines
42 adopted for any purpose by the Arizona commerce authority pursuant to
43 chapter 10 of this title if the authority provides, as appropriate under
44 the circumstances, for notice of an opportunity for comment on the
45 proposed rules, administrative policies, procedures and guidelines.

1 28. Rules made by a marketing commission or marketing committee
2 pursuant to section 3-414.

3 29. Administration of public assistance program monies authorized
4 for liabilities that are incurred for disasters declared pursuant to
5 sections 26-303 and 35-192.

6 30. User charges, tolls, fares, rents, advertising and sponsorship
7 charges, services charges or similar charges established pursuant to
8 section 28-7705.

9 31. Administration and implementation of the hospital assessment
10 pursuant to section 36-2901.08, except that the Arizona health care cost
11 containment system administration must provide notice and an opportunity
12 for public comment at least thirty days before establishing or
13 implementing the administration of the assessment.

14 32. Rules made by the Arizona department of agriculture to adopt
15 and implement the provisions of the federal milk ordinance as prescribed
16 by section 3-605.

17 33. Rules made by the Arizona department of agriculture to adopt,
18 implement and administer the United States food and drug administration
19 produce safety rule (21 Code of Federal Regulations part 112) and any
20 other federal produce safety regulation, order or guideline or other
21 requirement adopted pursuant to the FDA food safety modernization act
22 (P.L. 111-353; 21 United States Code sections 2201 through 2252) as
23 provided by title 3, chapter 3, article 4.1.

24 34. Calculations that are performed by the department of economic
25 security and that are associated with the adjustment of the sliding fee
26 scale and formula for determining child care assistance pursuant to
27 section 46-805.

28 35. Rules made by the Arizona department of agriculture to
29 implement and administer the livestock operator fire and flood assistance
30 grant program established by section 3-109.03.

31 B. Notwithstanding subsection A, paragraph 21 of this section, if
32 the federal highway administration authorizes the privatization of rest
33 areas, the state transportation board shall make rules governing the lease
34 or license by the department of transportation to a private entity for the
35 purposes of privatization of a rest area.

36 C. Coincident with the making of a final rule pursuant to an
37 exemption from the applicability of this chapter under this section,
38 another statute or session law, the agency shall:

39 1. Prepare a notice and follow formatting guidelines prescribed by
40 the secretary of state.

41 2. Prepare the rulemaking exemption notices pursuant to chapter 6.2
42 of this title.

43 3. File a copy of the rule with the secretary of state for
44 publication pursuant to section 41-1012 and provide a copy to the council.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment. The state board of education shall consider the fiscal impact of any proposed rule pursuant to this subsection.

G. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board for charter schools, except that the board shall adopt policies or rules for the board and the charter schools sponsored by the board that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any policy or rule, the board shall provide at least two opportunities for public comment. The state board for charter schools shall consider the fiscal impact of any proposed rule pursuant to this subsection.

Sec. 7. Section 45-108, Arizona Revised Statutes, is amended to read:

45-108. Evaluation of subdivision water supply; definitions

A. In areas outside of active management areas established pursuant to chapter 2, article 2 of this title, the developer of a proposed subdivision including dry lot subdivisions, regardless of subdivided lot size, ~~prior to recordation of~~ BEFORE RECORDING the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy of the water supply to meet the needs projected by the developer to the director. The director shall evaluate the plans and issue a report on the plans.

B. The director shall evaluate the proposed source of water for the subdivision to determine whether there is an adequate water supply for the

1 subdivision, and shall forward a copy of the director's report to the
2 state real estate commissioner and the city, town or county responsible
3 for platting the subdivision.

4 C. The director may designate cities, towns and private water
5 companies as having an adequate water supply by reporting that designation
6 to the water department of the city or town or private water company and
7 the state real estate commissioner.

8 D. As an alternative to designation under subsection C of this
9 section, the director may designate a city or town that has entered into a
10 contract with the United States secretary of the interior or a county
11 water authority established pursuant to chapter 13 of this title for
12 permanent supplies of Colorado river water for municipal and industrial
13 use as having an adequate water supply if all of the following apply:

14 1. The city or town has entered into a contract with each private
15 water company that serves water within the city or town to provide
16 Colorado river water to those private water companies.

17 2. The Colorado river water for which the city or town has
18 contracted is sufficient together with other water supplies available to
19 the city or town and the private water companies that serve water within
20 that city or town to provide an adequate supply of water for the city or
21 town.

22 3. The director finds that new subdivisions within the city or town
23 will be served primarily with Colorado river water by the city or town or
24 one of the private water companies that serve water within that city or
25 town.

26 E. The director shall not require a developer to submit plans for
27 the water supply pursuant to subsection A of this section if either:

28 1. Both of the following apply:

29 (a) The developer has obtained a written commitment of water
30 service from cities, towns or private water companies that have been
31 designated as having an adequate water supply.

32 (b) That city, town or private water company has been designated as
33 having an adequate water supply pursuant to subsection C of this section.

34 2. All of the following apply:

35 (a) The city or town has been designated as having an adequate
36 water supply pursuant to subsection D of this section.

37 (b) The developer has obtained a written commitment of water
38 service from the city or town or a private water company that serves water
39 within that city or town.

40 (c) The developer has obtained the written concurrence of the city
41 or town that has been designated.

42 F. The director may revoke a designation made pursuant to this
43 section when the director finds that the water supply may become
44 inadequate.

G. ~~The~~ THIS state ~~of Arizona~~ and the director or department shall not be liable for any report, designation or evaluation prepared in good faith pursuant to this section.

H. If the director receives written notice from the board of supervisors of a county that it has adopted the provision authorized by section 11-823, subsection A, the director shall give written notice of the provision to the mayors of all cities and towns in the county. A city or town that receives the notice shall comply with section 9-463.01, subsections J, K, L, M and N. IF A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL ADOPTS A MANDATORY ADEQUACY REQUIREMENT PURSUANT TO SECTION 45-441.13, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF THE PROVISION TO ALL OF THE FOLLOWING:

1. THE MAYORS OF ALL CITIES AND TOWNS WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. A CITY OR TOWN THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 9-463.01, SUBSECTIONS J AND M.

2. THE BOARDS OF SUPERVISORS OF ALL COUNTIES WITH LANDS WITHIN THE BOUNDARIES OF THE RURAL GROUNDWATER MANAGEMENT AREA. A COUNTY THAT RECEIVES THE NOTICE SHALL COMPLY WITH SECTION 11-823.

3. THE REAL ESTATE COMMISSIONER.

4. THE DIRECTOR OF ENVIRONMENTAL QUALITY.

I. For the purposes of this section: ~~;~~

1. "Adequate water supply" means both of the following:

~~1-~~ (a) Sufficient groundwater, surface water or effluent of adequate quality will be continuously, legally and physically available to satisfy the water needs of the proposed use for at least one hundred years.

~~2-~~ (b) The financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The director may accept evidence of the construction assurances required by section 9-463.01, ~~11-823~~ 11-822 or 32-2181 to satisfy this requirement.

2. "RURAL GROUNDWATER MANAGEMENT AREA" HAS THE SAME MEANING PRESCRIBED IN SECTION 45-402.

3. "RURAL GROUNDWATER MANAGEMENT AREA COUNCIL" MEANS A COUNCIL THAT IS FORMED TO MANAGE A RURAL GROUNDWATER AREA PURSUANT TO CHAPTER 2, ARTICLE 3.1 OF THIS TITLE.

Sec. 8. Section 45-108.01, Arizona Revised Statutes, is amended to read:

45-108.01. Application for water report or designation of adequate water supply; notice; objections; hearing; appeals

A. On receipt of an application for a water report or an application by a city, town or private water company to be designated as having an adequate water supply under section 45-108, if the proposed use

1 is in a county that has adopted the provision authorized by section
2 11-823, subsection A, **IN A RURAL GROUNDWATER MANAGEMENT AREA IN WHICH A**
3 **RURAL GROUNDWATER MANAGEMENT AREA COUNCIL HAS ADOPTED A MANDATORY ADEQUACY**
4 **REQUIREMENT PURSUANT TO SECTION 45-441.13** or in a city or town that has
5 enacted an ordinance pursuant to section 9-463.01, subsection 0, the
6 director shall publish notice of the application once each week for two
7 consecutive weeks in a newspaper of general circulation in the groundwater
8 basin in which the applicant proposes to use water. The first publication
9 shall occur within fifteen days after the application is determined or
10 deemed to be administratively complete. If the application is
11 substantially modified after notice of the application is given pursuant
12 to this subsection, the director shall give notice of the application as
13 modified in the manner prescribed by this subsection. The first
14 publication of any subsequent notice shall occur within fifteen days after
15 the modified application is determined or deemed to be administratively
16 complete.

17 B. Notice pursuant to subsection A of this section shall state that
18 written objections to the application may be filed with the director by
19 residents and landowners within the groundwater basin within fifteen days
20 after the last publication of notice. An objection shall state the name
21 and mailing address of the objector and be signed by the objector, the
22 objector's agent or the objector's attorney. The grounds for objection
23 are limited to whether the application meets the criteria for determining
24 an adequate water supply set forth in section 45-108, subsection I. The
25 objection shall clearly set forth reasons why the application does not
26 meet the criteria.

27 C. In appropriate cases, including cases in which a proper written
28 objection to the application has been filed, an administrative hearing may
29 be held before the director's decision on the application if the director
30 deems a hearing necessary. Thirty days before the date of the hearing,
31 the director shall give notice of the hearing to the applicant and to any
32 person who filed a proper written objection to the application. The
33 hearing shall be scheduled for at least sixty days but not more than
34 ninety days after the expiration of the time in which to file objections.

35 D. If the application is for a water report:

36 1. If the director determines that an adequate water supply exists
37 for the proposed use, the director shall issue a water report stating that
38 the water supply for the subdivision is adequate.

39 2. If the director determines that an adequate water supply does
40 not exist, the director shall issue a water report stating that the water
41 supply for the subdivision is inadequate.

42 E. If the application is for a designation of adequate water
43 supply:

44 1. If the director determines that an adequate water supply exists
45 for the proposed use, the director shall approve the application.

2. If the director determines that an adequate water supply does not exist, the director shall deny the application.

F. The applicant or a person who contested the application by filing a proper objection pursuant to subsection B of this section may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in the superior court.

G. Section 45-114, subsections A and B govern administrative proceedings, rehearings or reviews and judicial reviews of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the groundwater basin in which the use is located.

Sec. 9. Section 45-402, Arizona Revised Statutes, is amended to read:

45-402. Definitions

In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

1 8. "Exempt well" means a well that has a pump with a maximum
2 capacity of not more than thirty-five gallons per minute and that is used
3 to withdraw groundwater pursuant to section 45-454.

4 9. "Expanded animal industry use" means increased water use by an
5 animal industrial enterprise on the land in use by the enterprise on June
6 12, 1980 or on immediately adjoining land, excluding irrigation uses.

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

11 11. "Farm unit" means:

12 (a) With respect to areas outside an active management area and
13 with respect to an active management area other than the Santa Cruz active
14 management area, one or more farms that are irrigated with groundwater and
15 that are contiguous or in proximity to each other with similar soil
16 conditions, crops and cropping patterns.

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

21 12. "Grandfathered right" means a right to withdraw and use
22 groundwater pursuant to article 5 of this chapter based on the fact of
23 lawful withdrawals and use of groundwater before the date of the
24 designation of an active management area.

25 13. "Groundwater basin" means an area that, as nearly as known
26 facts allow as determined by the director pursuant to this chapter, may be
27 designated so as to enclose a relatively hydrologically distinct body or
28 related bodies of groundwater, which shall be described horizontally by
29 surface description.

30 14. "Groundwater replenishment district" or "replenishment
31 district" means a district that is established pursuant to title 48,
32 chapter 27.

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

35 16. "Initial active management area" means the Phoenix, Prescott or
36 Pinal active management area established by section 45-411, the Tucson
37 active management area established by section 45-411 and modified by
38 section 45-411.02 and the Santa Cruz active management area established by
39 section 45-411.03.

40 17. "Integrated farming operation" means:

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

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

5 18. "Irrigate" means to apply water to two or more acres of land to
6 produce plants or parts of plants for sale or human consumption, or for
7 use as feed for livestock, range livestock or poultry, as ~~such~~ THOSE terms
8 are defined in section 3-1201.

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

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

14 21. "Irrigation grandfathered right" means a grandfathered right
15 determined pursuant to section 45-465.

16 22. "Irrigation non-expansion area" means a geographical area that
17 has been designated pursuant to article 3 of this chapter as having
18 insufficient groundwater to provide a reasonably safe supply for the
19 irrigation of the cultivated lands at the current rate of withdrawal.

20 23. "Irrigation use" means:

21 (a) With respect to areas outside an active management area and
22 with respect to an active management area other than the Santa Cruz active
23 management area, the use of groundwater on two or more acres of land to
24 produce plants or parts of plants for sale or human consumption, or for
25 use as feed for livestock, range livestock or poultry, as ~~such~~ THOSE terms
26 are defined in section 3-1201.

27 (b) With respect to the Santa Cruz active management area, the use
28 of water, other than stored water, withdrawn from a well on two or more
29 acres of land to produce plants or parts of plants for sale or human
30 consumption, or for use as feed for livestock, range livestock or poultry,
31 as ~~such~~ THOSE terms are defined in section 3-1201.

32 24. "Irrigation water duty" or "water duty" means the amount of
33 water in acre-feet per acre that is reasonable to apply to irrigated land
34 in a farm unit during the accounting period, as determined by the director
35 pursuant to sections 45-564 through 45-568 or as prescribed in section
36 45-483.

37 25. "Member land" means real property that qualifies as a member
38 land of a conservation district as provided by title 48, chapter 22.

39 26. "Member service area" means the service area of a city, town or
40 private water company that qualifies as a member service area of a
41 conservation district as provided by title 48, chapter 22.

42 27. "Non-irrigation grandfathered right" means a grandfathered
43 right determined pursuant to section 45-463, 45-464, 45-469 or 45-472.

1 28. "Non-irrigation use" means:

2 (a) With respect to areas outside an active management area and
3 with respect to an active management area other than the Santa Cruz active
4 management area, a use of groundwater other than an irrigation use.

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

8 29. "Person" means an individual, public or private corporation,
9 company, partnership, firm, association, society, estate or trust, any
10 other private organization or enterprise, the United States, any state,
11 territory or country or a governmental entity, political subdivision or
12 municipal corporation organized under or subject to the constitution and
13 laws of this state.

14 30. "Private water company" means:

15 (a) With respect to areas outside an active management area and
16 with respect to an active management area other than the Santa Cruz active
17 management area, any entity that distributes or sells groundwater, except
18 a political subdivision or an entity that is established pursuant to title
19 48 and that is not regulated as a public service corporation by the
20 Arizona corporation commission under a certificate of public convenience
21 and necessity. A city or town is not a private water company.

22 (b) With respect to the Santa Cruz active management area, any
23 entity that distributes or sells water, other than stored water, withdrawn
24 from a well, except a political subdivision or an entity that is
25 established pursuant to title 48 and that is not regulated as a public
26 service corporation by the Arizona corporation commission under a
27 certificate of public convenience and necessity. A city or town is not a
28 private water company.

29 31. "RURAL GROUNDWATER MANAGEMENT AREA" MEANS A GEOGRAPHIC AREA
30 THAT IS DESIGNATED PURSUANT TO THIS ARTICLE AS REQUIRING MANAGEMENT OF
31 GROUNDWATER.

32 ~~31.~~ 32. "Service area" means:

33 (a) With respect to a city or town, the area of land actually being
34 served water, for a non-irrigation use, by the city or town plus:

35 (i) Additions to such area that contain an operating distribution
36 system owned by the city or town primarily for the delivery of water for a
37 non-irrigation use.

38 (ii) The service area of a city, town or private water company that
39 obtains its water from the city pursuant to a contract entered into before
40 the date of the designation of the active management area.

41 (b) With respect to a private water company, the area of land of
42 the private water company actually being served water, for a
43 non-irrigation use, by the private water company plus additions to such
44 area that contain an operating distribution system owned by the private

1 water company primarily for the delivery of water for a non-irrigation
2 use.

3 ~~32.~~ 33. "Service area of an irrigation district" means:

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

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

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

23 (ii) Any areas of land that contain an operating system of canals,
24 flumes, ditches and other works owned or operated by the irrigation
25 district for the withdrawal, delivery and distribution of water, except
26 that additional areas containing an operating system of canals, flumes,
27 ditches and other works owned or operated by the irrigation district may
28 not be added after December 31, 2027.

29 ~~33.~~ 34. "Stored water" means water that is stored underground for
30 the purpose of recovery pursuant to a permit issued under chapter 3.1 of
31 this title.

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

37 ~~35.~~ 36. "Subsequent active management area" means an active
38 management area established after June 12, 1980 pursuant to article 2 of
39 this chapter.

40 ~~36.~~ 37. "Subsidence" means the settling or lowering of the surface
41 of land that results from the withdrawal of groundwater.

42 ~~37.~~ 38. "Transportation" means the movement of groundwater from
43 the point of withdrawal to the point of use.

~~38.~~ 39. "Type 1 non-irrigation grandfathered right" means a non-irrigation grandfathered right associated with retired irrigated land and determined pursuant to section 45-463, 45-469 or 45-472.

~~39.~~ 40. "Type 2 non-irrigation grandfathered right" means a non-irrigation grandfathered right not associated with retired irrigated land and determined pursuant to section 45-464.

~~40.~~ 41. "Water district" means an active management area water district that is established under title 48, chapter 28 and that has adopted an ordinance or resolution to undertake water district groundwater replenishment obligations as defined and used in title 48, chapter 28, article 7.

~~41.~~ 42. "Water district member land" means real property that qualifies as water district member land of a water district as provided by title 48, chapter 28.

~~42.~~ 43. "Water district member service area" means the service area of the city, town or private water company that qualifies as a water district member service area of a water district as provided by title 48, chapter 28.

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

Sec. 10. Title 45, chapter 2, Arizona Revised Statutes, is amended by adding article 3.1, to read:

ARTICLE 3.1. RURAL GROUNDWATER MANAGEMENT AREAS

45-441. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "CERTIFICATED VOLUME" MEANS THE ANNUAL VOLUME OF GROUNDWATER THAT IS IDENTIFIED BY THE DIRECTOR ON A CERTIFICATE OF GROUNDWATER USE ISSUED PURSUANT TO SECTION 45-441.10.

2. "COUNCIL" MEANS THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL FOR A RURAL GROUNDWATER MANAGEMENT AREA.

3. "DATE OF DESIGNATION" MEANS THE DATE THAT THE DIRECTOR'S ORDER DESIGNATING AN AREA AS A RURAL GROUNDWATER MANAGEMENT AREA BECOMES EFFECTIVE PURSUANT TO SECTION 45-441.06 SUBSECTION B.

4. "DATE OF INITIATION" MEANS THE DATE OF THE FIRST PUBLICATION OF NOTICE OF THE INITIATION OF PROCEEDINGS TO DESIGNATE A RURAL GROUNDWATER MANAGEMENT AREA.

5. "GROUNDWATER ALLOCATION" MEANS THE ANNUAL CERTIFICATED VOLUME OR THE PERMITTED VOLUME MINUS ANY ANNUAL CONSERVATION VOLUME FOR THAT YEAR.

6. "MANAGEMENT PERIOD" MEANS THE TEN-YEAR PERIOD DURING WHICH EACH MANAGEMENT PLAN IS IN EFFECT.

7. "MUNICIPAL PROVIDER" MEANS A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT THAT SUPPLIES WATER FOR NON-IRRIGATION USE.

8. "MUNICIPAL USE" MEANS ALL NON-IRRIGATION USES OF WATER SUPPLIED BY A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT, EXCEPT FOR

1 USES OF WATER, OTHER THAN COLORADO RIVER WATER, THAT IS RELEASED FOR
2 BENEFICIAL USE FROM STORAGE, DIVERSION OR DISTRIBUTION FACILITIES TO AVOID
3 SPILLING THAT WOULD OTHERWISE OCCUR DUE TO UNCONTROLLED SURFACE WATER
4 INFLOWS THAT EXCEED FACILITY CAPACITY.

5 9. "PERMITTED VOLUME" MEANS THE ANNUAL VOLUME OF GROUNDWATER THAT
6 IS IDENTIFIED BY THE DIRECTOR IN A PERMIT FOR GROUNDWATER USE ISSUED
7 PURSUANT TO SECTION 45-441.10.

8 10. "SAFE-YIELD" MEANS A GROUNDWATER MANAGEMENT GOAL THAT ATTEMPTS
9 TO ACHIEVE AND THEREAFTER MAINTAIN A LONG-TERM BALANCE BETWEEN THE ANNUAL
10 AMOUNT OF GROUNDWATER WITHDRAWN IN A RURAL GROUNDWATER MANAGEMENT AREA AND
11 THE ANNUAL AMOUNT OF NATURAL AND ARTIFICIAL RECHARGE IN A RURAL
12 GROUNDWATER MANAGEMENT AREA.

13 45-441.01. Initial rural groundwater management areas; maps

14 A. FIVE INITIAL RURAL GROUNDWATER MANAGEMENT AREAS ARE ESTABLISHED
15 ON THE EFFECTIVE DATE OF THIS SECTION. THE FIVE INITIAL RURAL GROUNDWATER
16 MANAGEMENT AREAS ARE:

17 1. THE GILA BEND RURAL GROUNDWATER MANAGEMENT AREA THAT INCLUDES
18 THE GILA BEND GROUNDWATER BASIN.

19 2. THE HUALAPAI VALLEY RURAL GROUNDWATER MANAGEMENT AREA THAT
20 INCLUDES THE HUALAPAI VALLEY GROUNDWATER BASIN.

21 3. THE RANEGRAS PLAIN RURAL GROUNDWATER MANAGEMENT AREA THAT
22 INCLUDES THE RANEGRAS PLAIN GROUNDWATER BASIN.

23 4. THE SAN SIMON VALLEY RURAL GROUNDWATER MANAGEMENT AREA THAT
24 INCLUDES THE SAN SIMON VALLEY SUBBASIN.

25 5. THE WILLCOX RURAL GROUNDWATER MANAGEMENT AREA THAT INCLUDES THE
26 WILLCOX GROUNDWATER BASIN.

27 B. THE BOUNDARIES OF EACH INITIAL RURAL GROUNDWATER MANAGEMENT AREA
28 SHALL BE THE SAME AS THE BOUNDARIES OF THE BASIN OR SUBBASIN THE RURAL
29 GROUNDWATER MANAGEMENT AREA INCLUDES AND THAT ARE SHOWN ON THE MAPS THAT
30 ARE MADE AND FILED IN THE DIRECTOR'S OFFICE PURSUANT TO SECTION 45-404.

31 45-441.02. Rural groundwater management areas; groundwater
32 use

33 A. NOTWITHSTANDING ANY OTHER LAW, IN A RURAL GROUNDWATER MANAGEMENT
34 AREA, A PERSON MAY:

35 1. WITHDRAW AND USE GROUNDWATER ONLY IN ACCORDANCE WITH THIS
36 ARTICLE OR SECTION 45-454 RELATING TO EXEMPT WELLS.

37 2. STORE WATER IN A STORAGE FACILITY AS DEFINED IN SECTION
38 45-802.01 ONLY IN ACCORDANCE WITH CHAPTER 3.1 OF THIS TITLE.

39 B. ALL USES OF GROUNDWATER IN A RURAL GROUNDWATER MANAGEMENT AREA
40 ARE SUBJECT TO CONSERVATION REQUIREMENTS AS AUTHORIZED BY THIS ARTICLE AND
41 DETERMINED BY A COUNCIL.

42 45-441.03. Initiation for rural groundwater management area;
43 procedures

44 A. THE DESIGNATION OF A BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN
45 THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER

1 MANAGEMENT AREA MAY BE INITIATED BY THE DIRECTOR ON THE DIRECTOR'S WRITTEN
2 FINDING THAT ONE OR MORE OF THE CRITERIA PRESCRIBED IN SECTION 45-441.04
3 ARE MET OR BY PETITION TO THE DIRECTOR THAT IS SIGNED BY EITHER OF THE
4 FOLLOWING:

5 1. THE MAJORITY OF A BOARD OF SUPERVISORS FOR A COUNTY WITH LANDS
6 IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN,
7 SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF
8 NORTHERN ARIZONA SPECIFIED IN THE PETITION RESIDES. A BOARD THAT
9 PETITIONS TO DESIGNATE A RURAL GROUNDWATER MANAGEMENT AREA SHALL INCLUDE
10 WITH THE PETITION FOR DESIGNATION A RESOLUTION PASSED BY THE BOARD,
11 INCLUDING A STATEMENT THAT THE DESIGNATION OF A RURAL GROUNDWATER
12 MANAGEMENT AREA WILL SERVE THE PUBLIC INTEREST.

13 2. TEN PERCENT OF THE REGISTERED VOTERS RESIDING WITHIN THE
14 GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER
15 SYSTEMS OF NORTHERN ARIZONA SPECIFIED IN THE PETITION AS OF THE MOST
16 RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION
17 16-168, SUBSECTION H. THE FORM OF THE PETITION SHALL BE THE SAME AS FOR
18 AN INITIATIVE PETITION AND THE APPLICANT FOR SUCH PETITION SHALL COMPLY
19 WITH SECTION 19-111. IF THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA IS
20 LOCATED IN TWO OR MORE COUNTIES, THE NUMBER OF REGISTERED VOTERS REQUIRED
21 TO SIGN THE PETITION SHALL BE TEN PERCENT OF THE REGISTERED VOTERS
22 RESIDING WITHIN THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER
23 MANAGEMENT AREA, AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY
24 RECORDER IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H, WITHIN THE
25 COUNTY IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER
26 BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF
27 NORTHERN ARIZONA RESIDES.

28 B. AFTER RECEIVING A PETITION SIGNED BY REGISTERED VOTERS PURSUANT
29 TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR SHALL TRANSMIT
30 THE PETITION TO THE COUNTY RECORDER OF EACH COUNTY IN WHICH THE PROPOSED
31 RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED FOR VERIFICATION OF
32 SIGNATURES. ADDITIONALLY, THE DIRECTOR SHALL TRANSMIT A MAP OF THE
33 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA TO THE COUNTY RECORDER OF EACH
34 COUNTY INCLUDED. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW WITH
35 SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE PROPOSED RURAL
36 GROUNDWATER MANAGEMENT AREA CROSS THE BOUNDARIES OF COUNTY VOTING
37 PRECINCTS. THE DIRECTOR SHALL TRANSMIT TO THE COUNTY RECORDER ALL OTHER
38 FACTUAL DATA CONCERNING THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER
39 MANAGEMENT AREA THAT MAY AID THE COUNTY RECORDER IN DETERMINING WHICH
40 REGISTERED VOTERS OF THE COUNTY ARE RESIDENTS OF THE PROPOSED RURAL
41 GROUNDWATER MANAGEMENT AREA.

42 45-441.04. Rural groundwater management area; criteria

43 A. THE DIRECTOR MAY DESIGNATE A GROUNDWATER BASIN, SUBBASIN OR
44 GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA
45 THAT IS NOT INCLUDED WITHIN AN ACTIVE MANAGEMENT AREA AS A RURAL

1 GROUNDWATER MANAGEMENT AREA IF THE DIRECTOR DETERMINES THAT ONE OR MORE OF
2 THE FOLLOWING CRITERIA APPLY:

3 1. MANAGEMENT PRACTICES ARE NECESSARY TO PRESERVE THE EXISTING
4 SUPPLY OF GROUNDWATER FOR FUTURE NEEDS.

5 2. LAND SUBSIDENCE OR FISSURING IS ENDANGERING PROPERTY OR
6 POTENTIAL GROUNDWATER STORAGE CAPACITY.

7 3. THE USE OF GROUNDWATER IS RESULTING IN ACTUAL OR THREATENED
8 WATER QUALITY DEGRADATION.

9 B. A RURAL GROUNDWATER MANAGEMENT AREA MAY INCLUDE MORE THAN ONE
10 GROUNDWATER BASIN. A RURAL GROUNDWATER MANAGEMENT AREA MAY NOT BE SMALLER
11 THAN A GROUNDWATER SUBBASIN OR INCLUDE ONLY A PORTION OF A GROUNDWATER
12 SUBBASIN, EXCEPT IN THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA.

13 C. BEGINNING IN 2030 AND EVERY TEN YEARS THEREAFTER, THE DIRECTOR
14 SHALL REVIEW ALL GROUNDWATER BASINS THAT ARE NOT INCLUDED WITHIN AN ACTIVE
15 MANAGEMENT AREA OR A RURAL GROUNDWATER MANAGEMENT AREA TO DETERMINE
16 WHETHER SUCH GROUNDWATER BASINS MEET ANY OF THE CRITERIA FOR RURAL
17 GROUNDWATER MANAGEMENT AREAS AS PRESCRIBED IN THIS SECTION.

18 45-441.05. Proceedings for designation; limit on expansion of
19 groundwater use; notice

20 A. IF THE DIRECTOR INITIATES PROCEEDINGS TO DESIGNATE A RURAL
21 GROUNDWATER MANAGEMENT AREA PURSUANT TO SECTION 45-441.03:

22 1. THE FOLLOWING APPLY:

23 (a) AN IRRIGATION GROUNDWATER USER MAY IRRIGATE WITHIN THE PROPOSED
24 RURAL GROUNDWATER MANAGEMENT AREA ONLY THOSE ACRES OF LAND THAT WERE
25 LEGALLY IRRIGATED AT ANY TIME DURING THE FIVE YEARS PRECEDING THE DATE OF
26 INITIATION.

27 (b) A NONIRRIGATION GROUNDWATER USER MAY USE GROUNDWATER WITHIN THE
28 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA FOR USES THAT WERE LEGALLY
29 CONDUCTED AT ANY TIME DURING THE FIVE YEARS PRECEDING THE DATE OF
30 INITIATION. THIS PARAGRAPH DOES NOT PROHIBIT A MUNICIPAL PROVIDER FROM
31 WITHDRAWING OR DELIVERING GROUNDWATER NECESSARY TO PROTECT PUBLIC HEALTH
32 AND SAFETY.

33 (c) THE LIMITATION ON THE ACRES THAT MAY BE IRRIGATED AND THE
34 LIMITATION ON NON-IRRIGATION USES PRESCRIBED IN SUBDIVISIONS (a) AND (b)
35 OF THIS PARAGRAPH SHALL CONTINUE IN EFFECT UNTIL THE DIRECTOR MAKES A
36 FINAL DETERMINATION PURSUANT TO THIS SECTION, EXCEPT THAT IF THE DIRECTOR
37 DESIGNATES THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA, THE LIMITATIONS
38 SHALL CONTINUE FOR EACH USER UNTIL THAT USER'S APPLICATION FOR A
39 CERTIFICATE OF GROUNDWATER USE IS APPROVED OR DENIED PURSUANT TO SECTION
40 45-441.08.

41 2. THE DIRECTOR SHALL:

42 (a) GIVE NOTICE OF THE INITIATION OF PROCEEDINGS TO DESIGNATE THE
43 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA, AS PRESCRIBED IN SUBSECTION B
44 OF THIS SECTION.

1 (b) CONDUCT AT LEAST ONE PUBLIC MEETING TO PROVIDE INFORMATION
2 WITHIN THE DIRECTOR'S POSSESSION REGARDING THE DESIGNATION OF THE
3 GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER
4 SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA.

5 (c) HOLD A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE
6 FOLLOWING:

7 (i) WHETHER TO ISSUE AN ORDER DESIGNATING THE GROUNDWATER BASIN,
8 SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER SYSTEMS OF
9 NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA.

10 (ii) THE BOUNDARIES AND ANY BASINS AND SUBBASINS OF THE PROPOSED
11 RURAL GROUNDWATER MANAGEMENT AREA.

12 B. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE INITIATION OF
13 PROCEEDINGS TO DESIGNATE THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA,
14 WHICH SHALL INCLUDE PUBLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
15 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
16 RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED. ANY NOTICE SHALL CONTAIN
17 THE FOLLOWING:

18 1. THE LEGAL DESCRIPTION AND A MAP CLEARLY IDENTIFYING THE LANDS TO
19 BE INCLUDED IN THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA AND ANY
20 BASINS AND SUBBASINS.

21 2. THE TIME AND PLACE OF THE PUBLIC MEETING, WHICH SHALL BE HELD
22 NOT LESS THAN FOURTEEN DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE AND
23 NOT LESS THAN FOURTEEN DAYS BEFORE THE PUBLIC HEARING. THE MEETING SHALL
24 BE HELD AT A LOCATION WITHIN THE PROPOSED RURAL GROUNDWATER MANAGEMENT
25 AREA OR WITHIN A COUNTY WITH LANDS IN WHICH THE PLURALITY OF THE
26 REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES.

27 3. THE TIME AND PLACE OF THE PUBLIC HEARING, WHICH SHALL BE HELD
28 NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER THE FIRST
29 PUBLICATION OF THE NOTICE. THE PUBLIC HEARING SHALL BE HELD AT A LOCATION
30 WITHIN THE PROPOSED RURAL GROUNDWATER MANAGEMENT AREA OR WITHIN A COUNTY
31 WITH LANDS IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE
32 GROUNDWATER BASIN RESIDES.

33 4. ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

34 C. AT THE PUBLIC HEARING, THE DIRECTOR SHALL PROVIDE INFORMATION
35 WITHIN THE DIRECTOR'S POSSESSION REGARDING THE DESIGNATION OF THE
36 GROUNDWATER BASIN, SUBBASIN OR GEOGRAPHIC AREA WITHIN THE REGIONAL AQUIFER
37 SYSTEMS OF NORTHERN ARIZONA AS A RURAL GROUNDWATER MANAGEMENT AREA. ANY
38 PERSON MAY APPEAR AT THE HEARING, EITHER IN PERSON OR BY REPRESENTATIVE,
39 AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE FOR OR AGAINST THE PROPOSED
40 ACTION. IN MAKING A DETERMINATION, THE DIRECTOR SHALL GIVE FULL
41 CONSIDERATION TO PUBLIC COMMENT.

42 45-441.06. Order for designation; public record; publication;
43 judicial review

44 A. WITHIN FORTY-FIVE DAYS AFTER A HEARING TO DESIGNATE AN AREA AS A
45 RURAL GROUNDWATER MANAGEMENT AREA, THE DIRECTOR SHALL MAKE AND FILE WITH

1 THE DEPARTMENT WRITTEN FINDINGS WITH RESPECT TO THE PROPOSED ACTION. IF
2 THE DIRECTOR DECIDES TO DECLARE THE AREA A RURAL GROUNDWATER MANAGEMENT
3 AREA, THE DIRECTOR SHALL MAKE AND FILE AN ORDER DESIGNATING THE RURAL
4 GROUNDWATER MANAGEMENT AREA.

5 B. THE FINDINGS AND ORDER SHALL BE PUBLISHED IN THE SAME MANNER AS
6 THE NOTICE OF INITIATION PROCEEDINGS PRESCRIBED IN SECTION 45-441.05 AND
7 THE ORDER IS EFFECTIVE WHEN PUBLISHED FOR THE FINAL TIME. ALL FACTUAL
8 DATA, THE MAP OF THE RURAL GROUNDWATER MANAGEMENT AREA, HEARING RECORDS
9 AND PUBLIC COMMENTS ARE A PUBLIC RECORD AND SHALL BE MADE AVAILABLE FOR
10 PUBLIC EXAMINATION DURING REGULAR BUSINESS HOURS. THE FINDINGS AND ORDER
11 ARE SUBJECT TO JUDICIAL REVIEW AS PROVIDED IN SECTION 45-114,
12 SUBSECTION C.

13 C. THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP IN THE OFFICE OF
14 THE COUNTY RECORDER OF THE COUNTY OR COUNTIES WHERE THE RURAL GROUNDWATER
15 MANAGEMENT AREA IS LOCATED.

16 45-441.07. Application for certificate of groundwater use;
17 notice

18 A. WITHIN NINETY DAYS AFTER THE DATE OF DESIGNATION, THE DIRECTOR
19 SHALL PROVIDE NOTICE THAT A PERSON MUST APPLY FOR A CERTIFICATE OF
20 GROUNDWATER USE TO USE, RECEIVE OR WITHDRAW GROUNDWATER FROM A NONEXEMPT
21 WELL IN THE RURAL GROUNDWATER MANAGEMENT AREA TO ALL OF THE FOLLOWING IN
22 THE AREA WHERE THE RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED:

- 23 1. THE CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OR COUNTIES.
- 24 2. THE MAYOR OF EACH CITY OR TOWN.
- 25 3. EACH PRIVATE WATER COMPANY.
- 26 4. THE PRESIDING OFFICER OF EACH POLITICAL SUBDIVISION OF THIS
27 STATE ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 17, 18, 19 OR 20.

28 5. EACH OWNER OF REAL PROPERTY WITHIN THE RURAL GROUNDWATER
29 MANAGEMENT AREA THAT IS LISTED ON THE TAX ROLLS OF THE COUNTY AND THAT IS
30 NOT LOCATED IN A VACANT SUBDIVISION OR WITHIN THE SERVICE AREA OF A CITY,
31 TOWN OR PRIVATE WATER COMPANY IN THE RURAL GROUNDWATER MANAGEMENT AREA.

32 B. THE DIRECTOR SHALL INCLUDE WITH THE WRITTEN NOTICE A DECLARATION
33 THAT IT IS THE DUTY OF THE RECIPIENT TO FORWARD THE NOTICE TO THE
34 BENEFICIAL OWNER OF THE PROPERTY AND A STATEMENT THAT A PERSON WHO FAILS
35 TO APPLY FOR A CERTIFICATE OF GROUNDWATER USE WITHIN A RURAL GROUNDWATER
36 MANAGEMENT AREA WAIVES AND RELINQUISHES ANY ELIGIBILITY TO WITHDRAW,
37 RECEIVE OR USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER USE.

38 C. FOR THE PURPOSES OF THIS SECTION, THE DIRECTOR MAY PROVIDE
39 WRITTEN NOTICE IN ANY MANNER THE DIRECTOR DETERMINES IS CONSISTENT WITH
40 THE PURPOSES OF THIS SECTION.

41 45-441.08. Application for certificate of groundwater use;
42 criteria; substantial capital investment in
43 future groundwater use

44 A. EXCEPT FOR THE WITHDRAWAL OF GROUNDWATER THAT IS CONSISTENT WITH
45 SECTION 45-454, A PERSON MAY WITHDRAW AN ANNUAL VOLUME OF GROUNDWATER FOR

1 USE WITHIN A RURAL GROUNDWATER MANAGEMENT AREA ONLY PURSUANT TO A
2 CERTIFICATE OF GROUNDWATER USE OR A PERMIT FOR GROUNDWATER USE IF THE
3 DIRECTOR DETERMINES THAT ONE OF THE FOLLOWING APPLIES:

4 1. THE PERSON OWNS LAND THAT WAS IRRIGATED WITH GROUNDWATER THAT
5 WAS LEGALLY WITHDRAWN FROM A NONEXEMPT WELL AT ANY TIME DURING THE FIVE
6 YEARS PRECEDING THE DATE OF INITIATION.

7 2. THE PERSON WAS LEGALLY WITHDRAWING GROUNDWATER FROM A NONEXEMPT
8 WELL FOR NON-IRRIGATION USE AT ANY TIME DURING THE FIVE YEARS PRECEDING
9 THE DATE OF INITIATION.

10 3. THE PERSON HAS MADE A SUBSTANTIAL CAPITAL INVESTMENT IN A
11 PROJECT IN RELIANCE ON THE ABILITY TO WITHDRAW GROUNDWATER BEFORE THE DATE
12 OF INITIATION.

13 B. WITHIN FIFTEEN MONTHS AFTER THE DATE OF DESIGNATION, A PERSON
14 WHO IS ELIGIBLE FOR A CERTIFICATE OF GROUNDWATER USE SHALL APPLY TO THE
15 DIRECTOR ON A FORM PROVIDED BY THE DEPARTMENT AND PROVIDE VERIFICATION OF
16 THE HISTORY OF LEGAL WITHDRAWAL AND USE OF GROUNDWATER. THE DIRECTOR
17 SHALL ACCEPT ANY OF THE FOLLOWING METHODS AS PROPER VERIFICATION:

18 1. FOR IRRIGATION USES, EVIDENCE OF THE AVERAGE AMOUNT OF
19 GROUNDWATER WITHDRAWN OR USED ANNUALLY OVER THE TEN YEARS BEFORE THE DATE
20 OF INITIATION. FOR THE PURPOSES OF CALCULATING THE AVERAGE PURSUANT TO
21 THIS PARAGRAPH, THE DIRECTOR SHALL USE ONLY THOSE YEARS IN WHICH
22 GROUNDWATER FOR IRRIGATION WAS ACTUALLY WITHDRAWN. THE AVERAGE AMOUNT OF
23 GROUNDWATER USED MAY BE DEMONSTRATED BY USING ANY OF THE FOLLOWING:

24 (a) DATA FROM A WATER MEASURING DEVICE THAT IS APPROVED BY THE
25 DIRECTOR PURSUANT TO SECTION 45-604.

26 (b) A CALCULATION OF THE AVERAGE AMOUNT OF WATER THAT IS REQUIRED
27 TO IRRIGATE THE CROPS HISTORICALLY GROWN IN THE FARM UNIT BASED ON THE
28 TOTAL IRRIGATION REQUIREMENT PER ACRE OF THE HISTORICALLY GROWN CROPS AND
29 A REASONABLE IRRIGATION EFFICIENCY FOR THE FARM UNIT AFTER FACTORING IN
30 THE HISTORIC CONDITIONS AND INFRASTRUCTURE.

31 (c) ANY OTHER METHOD THE DIRECTOR DETERMINES TO BE REASONABLE.

32 2. FOR NON-IRRIGATION USES, EVIDENCE OF THE HIGHEST AMOUNT OF
33 GROUNDWATER WITHDRAWN OR USED IN ANY YEAR IN THE FIVE YEARS BEFORE THE
34 DATE OF INITIATION. THE AVERAGE AMOUNT OF GROUNDWATER USED MAY BE
35 DEMONSTRATED BY USING DATA FROM A WATER MEASURING DEVICE APPROVED BY THE
36 DIRECTOR PURSUANT TO SECTION 45-604 OR ANY OTHER METHOD THE DIRECTOR
37 DETERMINES TO BE REASONABLE.

38 3. FOR MUNICIPAL USES, THE GROUNDWATER DEMAND ASSOCIATED WITH PLATS
39 RECORDED BEFORE THE DATE OF INITIATION AND DETERMINATIONS OF AN ADEQUATE
40 WATER SUPPLY ISSUED PURSUANT TO SECTION 45-108 BEFORE THE DATE OF
41 INITIATION THAT IS NOT INCLUDED AS NON-IRRIGATION USE.

42 4. EVIDENCE OF A SUBSTANTIAL CAPITAL INVESTMENT IN FUTURE
43 GROUNDWATER USE AS PRESCRIBED BY THIS SECTION AND EVIDENCE OF A REASONABLE
44 VOLUME OF GROUNDWATER LIKELY TO BE USED FOR THAT PURPOSE.

1 5. FOR ANY GROUNDWATER USE INITIATED LESS THAN TWELVE MONTHS BEFORE
2 THE DATE OF INITIATION, A REASONABLE ESTIMATE OF THE AMOUNT OF GROUNDWATER
3 THAT IS EXPECTED TO BE USED IN A TWELVE-MONTH PERIOD BASED ON THE PERSON'S
4 GROUNDWATER USE AS OF THE DATE OF INITIATION.

5 6. EVIDENCE OF A VARIANCE FROM THE TEN-YEAR HISTORICAL AVERAGE USE
6 DUE TO TEMPORARY CONSERVATION EFFORTS DURING THE TEN-YEAR PERIOD.

7 C. FOR THE PURPOSES OF THIS SECTION, SUBSTANTIAL CAPITAL INVESTMENT
8 IN FUTURE GROUNDWATER USE:

9 1. DOES NOT INCLUDE:

10 (a) COSTS THAT ARE ASSOCIATED WITH THE PURCHASE OF LAND ON WHICH
11 GROUNDWATER IS TO BE WITHDRAWN OR USED.

12 (b) COSTS THAT ARE ASSOCIATED WITH THE APPLICATION FOR A
13 CERTIFICATE OF GROUNDWATER USE.

14 2. MAY INCLUDE ONE OR MORE OF THE FOLLOWING:

15 (a) FOR IRRIGATION USE, COSTS THAT ARE RELATED TO THE SUBJUGATION
16 OF LAND FOR IRRIGATION USE, INCLUDING ON-SITE IRRIGATION DISTRIBUTION
17 FACILITIES AND A WELL OR WELLS, IF THE DRILLING AND CONSTRUCTION WERE
18 SUBSTANTIALLY COMMENCED BEFORE THE DATE OF INITIATION. THE DIRECTOR MAY
19 CONSIDER REASONABLE ESTIMATES OF THE LIKELY COST OF THE APPLICANT'S OWN
20 LABOR HAD THE APPLICANT CONTRACTED FOR THOSE SERVICES.

21 (b) FOR NON-IRRIGATION USES, COSTS THAT ARE RELATED TO ONE OR MORE
22 OF THE FOLLOWING:

23 (i) THE ACQUISITION OF PERMITS AND APPROVALS, INCLUDING LEGAL,
24 TECHNICAL AND ENVIRONMENTAL SERVICES THAT ARE REQUIRED TO OBTAIN THE
25 AUTHORIZATION TO PROCEED WITH THE PROJECT.

26 (ii) THE ACQUISITION OR LEASE OF LAND FOR PURPOSES OF
27 RIGHTS-OF-WAY.

28 (iii) THE IMPROVEMENT OF LAND FOR THE INTENDED USE, INCLUDING
29 CONSTRUCTION OF ANY PROJECT-RELATED INFRASTRUCTURE.

30 (iv) THE CONSTRUCTION OF GROUNDWATER-RELATED INFRASTRUCTURE,
31 INCLUDING WATER DISTRIBUTION FACILITIES, THE DRILLING OF WELLS,
32 GROUNDWATER TREATMENT FACILITIES, WATER AND POWER TRANSMISSION AND OTHER
33 PROJECT-ASSOCIATED FACILITIES.

34 (v) THE CONSTRUCTION AND MAINTENANCE OF ANCILLARY STRUCTURES THAT
35 ARE CRITICAL TO THE PROJECT.

36 D. THE DIRECTOR SHALL REVIEW AND EVALUATE APPLICATIONS. THE
37 DIRECTOR MAY REQUEST ADDITIONAL INFORMATION FROM AN APPLICANT AND CONDUCT
38 INDEPENDENT INVESTIGATIONS AS NECESSARY TO DETERMINE WHETHER AN
39 APPLICATION SATISFIES THE CRITERIA PRESCRIBED IN THIS SECTION.

40 E. A PERSON WHO DOES NOT FILE AN APPLICATION FOR A CERTIFICATE OF
41 GROUNDWATER USE OR A PERMIT FOR GROUNDWATER USE WITH THE DEPARTMENT WITHIN
42 FIFTEEN MONTHS AFTER THE DESIGNATION OF THE RURAL GROUNDWATER MANAGEMENT
43 AREA WAIVES AND RELINQUISHES ANY ELIGIBILITY TO WITHDRAW, RECEIVE OR USE
44 GROUNDWATER PURSUANT TO THIS ARTICLE.

45-441.09. Rural groundwater management areas; withdrawal of groundwater; compliance account; conveyances; retirement

A. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE OR A PERMIT OF GROUNDWATER USE MAY ANNUALLY WITHDRAW, RECEIVE OR USE GROUNDWATER IN THE RURAL GROUNDWATER MANAGEMENT AREA SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

B. EACH COUNCIL MAY ESTABLISH ONE OR MORE POLICIES FOR THE MAINTENANCE OF A COMPLIANCE ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER USE IN A RURAL GROUNDWATER MANAGEMENT AREA IN THE COUNCIL'S MANAGEMENT PLAN.

C. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER USE MAY:

1. USE UP TO ONE HUNDRED TWENTY-FIVE PERCENT OF THE GROUNDWATER ALLOCATION. IF THE PERSON WITHDRAWS MORE THAN THE GROUNDWATER ALLOCATION, THE DIRECTOR SHALL REGISTER A DEBIT TO THE COMPLIANCE ACCOUNT. THE OWNER OF A CERTIFICATE OF GROUNDWATER USE AND THE PERSON USING GROUNDWATER PURSUANT TO THE CERTIFICATE VIOLATE THIS SECTION IF THE COMPLIANCE ACCOUNT FOR THE CERTIFICATE OF GROUNDWATER USE IS IN ARREARS AT ANY TIME IN EXCESS OF TWENTY-FIVE PERCENT OF THE CERTIFICATED VOLUME. THE OWNER OR PERSON MAY REMEDY THE VIOLATION BY PURCHASING COMPLIANCE ACCOUNT CREDITS PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION IN AN AMOUNT SUFFICIENT TO ELIMINATE ANY NEGATIVE BALANCE.

2. USE LESS THAN THE GROUNDWATER ALLOCATION IN ONE ACCOUNTING PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE CERTIFICATE IN ONE OR MORE OF THE TEN SUCCEEDING CALENDAR YEARS. IF THE PERSON WITHDRAWS LESS THAN THE GROUNDWATER ALLOCATION FOR THAT YEAR, THE DIRECTOR SHALL REGISTER A CREDIT TO THE COMPLIANCE ACCOUNT. COMPLIANCE ACCOUNTS CANNOT ROLL OVER MORE THAN TWENTY-FIVE PERCENT OF THE CERTIFICATED VOLUME IN ONE YEAR.

3. A PERSON THAT HAS COMPLIANCE ACCOUNT CREDITS AND THAT DOES NOT HAVE A DEBIT REGISTERED AGAINST THE PERSON'S COMPLIANCE ACCOUNT OR HAS SETTLED ALL DEBITS MAY SELL OR ASSIGN THE ENTIRETY OR ANY PORTION OF THE PERSON'S COMPLIANCE ACCOUNT CREDITS TO ANOTHER PERSON WITHIN THE SAME SUBBASIN OF THE RURAL GROUNDWATER MANAGEMENT AREA FOR ANY EXISTING USE, SUBJECT TO ANY CONSERVATION OR OTHER REQUIREMENTS ADOPTED PURSUANT TO A RURAL GROUNDWATER MANAGEMENT AREA PLAN. ANY COMPLIANCE ACCOUNT CREDITS THAT A PERSON CONVEYS TO ANOTHER PERSON SHALL BE REDUCED BY TWENTY PERCENT ON EACH CONVEYANCE.

D. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE MAY SELL, ASSIGN OR LEASE ALL OR PART OF THE PERSON'S CERTIFICATED VOLUME GRANTED UNDER THE CERTIFICATE TO ANOTHER PERSON WITHIN THE SAME RURAL GROUNDWATER MANAGEMENT AREA FOR ANY NEW OR EXISTING USE, SUBJECT TO ANY CONSERVATION OR OTHER REQUIREMENTS ADOPTED PURSUANT TO A RURAL GROUNDWATER MANAGEMENT AREA PLAN. ANY PORTION OF A CERTIFICATE OF GROUNDWATER USE THAT A PERSON CONVEYS TO

1 ANOTHER PERSON SHALL BE REDUCED BY FIFTEEN PERCENT ON EACH CONVEYANCE
2 EXCEPT:

3 1. A CONVEYANCE CONSISTING OF A CHANGE IN OWNERSHIP WHERE THE
4 CERTIFICATE OF GROUNDWATER USE IS USED IN THE SAME LOCATION FOR THE SAME
5 TYPE OF USE.

6 2. A CONVEYANCE CONSISTING OF A CHANGE IN LOCATION TO ONE OR MORE
7 FARMS UNDER COMMON OWNERSHIP THAT ARE IRRIGATED WITH GROUNDWATER AND THAT
8 ARE CONTIGUOUS TO EACH OTHER AND WITHIN THE SAME SUBBASIN.

9 3. FOR A LEASE OR ANY OTHER TEMPORARY CONVEYANCE, THE CONVEYANCE
10 REDUCTION IS ONLY APPLICABLE DURING THE TERM OF THE CONVEYANCE.

11 E. A PERSON MAY CONVEY ALL OR PART OF A CERTIFICATE OF GROUNDWATER
12 USE BY FILING AN APPLICATION ON A FORM PRESCRIBED BY THE DIRECTOR. ON A
13 DETERMINATION THAT THE INFORMATION IN THE APPLICATION IS ADMINISTRATIVELY
14 COMPLETE AND ACCURATE, THE DIRECTOR SHALL ISSUE A CERTIFICATE OF
15 GROUNDWATER USE TO THE RECIPIENT AND, IF APPLICABLE, A REVISED CERTIFICATE
16 OF GROUNDWATER USE FOR ANY RETAINED CERTIFICATED VOLUME TO THE TRANSFEROR.
17 THE CONVEYANCE BECOMES EFFECTIVE IN THE YEAR THE CERTIFICATE AND ANY
18 REVISED CERTIFICATE ARE ISSUED, UNLESS A LATER YEAR IS REQUESTED IN THE
19 NOTICE.

20 F. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE MAY RETIRE ALL OR
21 PART OF THE CERTIFICATE OF GROUNDWATER USE. A PERSON WHO PROPOSES TO
22 RETIRE ALL OR PART OF A CERTIFICATE OF GROUNDWATER USE SHALL NOTIFY THE
23 DIRECTOR OF THE RETIREMENT ON A FORM PRESCRIBED BY THE DIRECTOR. AFTER
24 RECEIVING NOTICE OF RETIREMENT OF ALL OR PART OF A CERTIFICATE OF
25 GROUNDWATER USE, THE DIRECTOR SHALL ISSUE TO THE PERSON WHO RETIRED THE
26 CERTIFICATE OF GROUNDWATER USE A REVISED CERTIFICATE OF GROUNDWATER USE
27 FOR THE PORTION OF THE CERTIFICATE NOT RETIRED, IF ANY.

28 45-441.10. Application registry; objections; hearing; permit
29 for groundwater use; perfection of certificate;
30 issuance of certificate of groundwater use

31 A. THE DIRECTOR SHALL MAINTAIN A REGISTRY OF APPLICATIONS FOR
32 CERTIFICATES OF GROUNDWATER USE AND MAKE THE REGISTRY AVAILABLE FOR
33 INSPECTION DURING REGULAR BUSINESS HOURS. WITHIN FIFTEEN DAYS AFTER A
34 DETERMINATION THAT AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER USE IS
35 ADMINISTRATIVELY COMPLETE, THE DIRECTOR SHALL INCLUDE THE APPLICATION IN
36 THE REGISTRY FOR NOT LESS THAN FORTY-FIVE DAYS.

37 B. THE DIRECTOR SHALL INCLUDE WITH THE REGISTRY A STATEMENT THAT
38 RESIDENTS OF THE RURAL GROUNDWATER MANAGEMENT AREA MAY OBJECT IN WRITING
39 TO THE DIRECTOR OFFICE'S TO THE ISSUANCE OF ANY CERTIFICATE ON THE
40 REGISTRY WITHIN FIFTEEN DAYS AFTER THE LAST DATE THE APPLICATION IS LISTED
41 ON THE REGISTRY. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS OF
42 THE OBJECTOR, BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S AGENT OR THE
43 OBJECTOR'S ATTORNEY AND CLEARLY SET FORTH REASONS WHY THE CERTIFICATE
44 SHOULD NOT BE ISSUED. A PERSON MAY OBJECT ONLY ON THE GROUNDS THAT THE

1 CERTIFICATE APPLICATION DOES NOT MEET THE CRITERIA PRESCRIBED IN SECTION
2 45-441.08.

3 C. IN APPROPRIATE CASES, INCLUDING CASES WHERE A PERSON HAS FILED
4 PROPER WRITTEN OBJECTION TO THE CERTIFICATE OR PERMIT APPLICATION, THE
5 DIRECTOR MAY HOLD AN ADMINISTRATIVE HEARING CHALLENGING THE DIRECTOR'S
6 DECISION ON AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER USE. NOT
7 LATER THAN THIRTY DAYS BEFORE THE HEARING, THE DIRECTOR SHALL PROVIDE
8 NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON WHO FILED A
9 PROPER WRITTEN OBJECTION TO THE ISSUANCE OF THE CERTIFICATE OR PERMIT.
10 THE HEARING SHALL BE SCHEDULED FOR NOT LESS THAN SIXTY DAYS NOR MORE THAN
11 NINETY DAYS AFTER THE EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

12 D. IF THE DIRECTOR FINDS THAT THE APPLICANT SATISFIES THE CRITERIA
13 PRESCRIBED IN SECTION 45-441.08, SUBSECTION A, PARAGRAPH 1 OR 2, THE
14 DIRECTOR SHALL ISSUE A CERTIFICATE OF GROUNDWATER USE TO THE APPLICANT
15 STATING THE CERTIFICATED VOLUME.

16 E. IF THE DIRECTOR FINDS THAT THE APPLICANT SATISFIES THE CRITERIA
17 PRESCRIBED IN SECTION 45-441.08, SUBSECTION A, PARAGRAPH 3, THE DIRECTOR
18 SHALL ISSUE A PERMIT FOR GROUNDWATER USE TO THE APPLICANT STATING THE
19 PERMITTED VOLUME. THE PERMIT SHALL SPECIFY THE TERMS AND CONDITIONS FOR
20 PERFECTION OF THE PERMITTED USE, INCLUDING ANY ACCEPTABLE METHOD FOR
21 DEMONSTRATING THAT THE GROUNDWATER HAS BEEN PUT TO USE FOR THE PURPOSE
22 DESCRIBED IN THE APPLICATION AND A REASONABLE TIME WITHIN WHICH THE
23 PERMITTED USE MUST BE PERFECTED. THE PERMIT MAY INCLUDE PROVISIONS FOR
24 INCREMENTAL PERFECTION OF THE GROUNDWATER USE. A PERMIT MAY BE CONVEYED
25 TO ANOTHER PERSON BUT MAY NOT BE PERFECTED FOR A USE OTHER THAN THE USE
26 DESCRIBED IN THE APPLICATION.

27 F. EVIDENCE OF USE OF GROUNDWATER PURSUANT TO THE TERMS AND
28 CONDITIONS OF A PERMIT FOR GROUNDWATER USE SHALL DEMONSTRATE THAT THE
29 ASSOCIATED VOLUME OF GROUNDWATER USE HAS BEEN PERFECTED. ON SATISFACTORY
30 DEMONSTRATION OF PERFECTION OF A GROUNDWATER USE PURSUANT TO A PERMIT
31 ISSUED UNDER THIS SECTION, OR ANY VOLUME THEREOF, THE DIRECTOR SHALL ISSUE
32 A CERTIFICATE OF GROUNDWATER USE OR MODIFY A PREVIOUSLY ISSUED CERTIFICATE
33 OF GROUNDWATER USE TO INCLUDE THE PERFECTED VOLUME. IF LESS THAN THE FULL
34 PERMITTED VOLUME IS PERFECTED, THE DIRECTOR SHALL ALSO ISSUE A REVISED
35 PERMIT FOR GROUNDWATER USE FOR THE REMAINDER.

36 G. AN AGGRIEVED PARTY OR A PERSON WHO CONTESTED A CERTIFICATE OR
37 PERMIT BY FILING A PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS
38 SECTION MAY SEEK JUDICIAL REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS
39 PROVIDED IN SECTION 45-114, SUBSECTION B IN THE SUPERIOR COURT.

40 H. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE
41 PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF
42 THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD,
43 THE DIRECTOR SHALL CONDUCT THE HEARING IN THE RURAL GROUNDWATER MANAGEMENT
44 AREA IN WHICH THE USE IS LOCATED, OR WITHIN A COUNTY WITH LANDS IN WHICH
45 THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES.

45-441.11. Rural groundwater management area council;
membership

A. A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL BE ESTABLISHED IN EACH RURAL GROUNDWATER MANAGEMENT AREA. THE COUNCIL SHALL BE COMPOSED OF FIVE MEMBERS WHO ARE KNOWLEDGEABLE OF THE CONDITION, DEVELOPMENT AND USE OF GROUNDWATER WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. FOUR OF THE FIVE MEMBERS SHALL RESIDE WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. COUNCIL MEMBERS CONSIST OF:

1. ONE MEMBER WHO IS OR WHO REPRESENTS AN INDUSTRIAL USER WITH A CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

2. ONE MEMBER WHO IS OR WHO REPRESENTS AN IRRIGATION USER WITH A CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

3. ONE MEMBER WHO IS OR WHO REPRESENTS A MUNICIPAL PROVIDER WITH A CERTIFICATE OF GROUNDWATER USE IN THE RURAL GROUNDWATER MANAGEMENT AREA.

4. TWO AT-LARGE MEMBERS WHO RESIDE IN THE RURAL GROUNDWATER MANAGEMENT AREA AND WHO DO NOT QUALIFY FOR APPOINTMENT PURSUANT TO PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION.

B. A COUNCIL MEMBER MAY ONLY SERVE ON ONE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL.

C. MEMBERS OF A COUNCIL SHALL BE APPOINTED WITHIN NINETY DAYS AFTER THE DATE OF DESIGNATION BY THE FOLLOWING ENTITIES:

1. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR.

2. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NAMES THE SPEAKER OF THE HOUSE OF REPRESENTATIVES PROVIDES TO THE GOVERNOR.

3. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NAMES THE PRESIDENT OF THE SENATE PROVIDES TO THE GOVERNOR.

4. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NAMES THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES PROVIDES TO THE GOVERNOR.

5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE NAMES THE MINORITY LEADER OF THE SENATE PROVIDES TO THE GOVERNOR.

D. THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO STAGGERED TERMS OF NOT MORE THAN SIX YEARS IN OFFICE, WITH EACH STAGGERED TERM TO END FROM AND AFTER DECEMBER 31 OF AN EVEN-NUMBERED YEAR. ALL SUBSEQUENT MEMBERS SERVE SIX-YEAR TERMS. THE CHAIRPERSON SHALL NOTIFY ALL APPOINTING AUTHORITIES OF THESE TERMS. ALL COUNCIL MEMBERS SHALL SERVE OR CONTINUE IN OFFICE FOR THE RESPECTIVE TERMS AND UNTIL THEIR SUCCESSORS ARE APPOINTED OR A COUNCIL MEMBER IS REMOVED FOR CAUSE BY THE GOVERNOR.

E. IF A VACANCY OCCURS, THE GOVERNOR SHALL APPOINT A REPLACEMENT PURSUANT TO SUBSECTION A OF THIS SECTION.

45-441.12. Rural groundwater management area council; powers
and duties

A. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL:

1 1. ADOPT ONE OF THE FOLLOWING MANAGEMENT GOALS FOR THE RURAL
2 GROUNDWATER MANAGEMENT AREA:

3 (a) TO REDUCE OVERDRAFT BY A PERCENTAGE TO BE SET BY THE COUNCIL
4 BUT NOT LESS THAN FIFTY PERCENT FROM THE OVERDRAFT AT THE DATE OF
5 INITIATION.

6 (b) TO REDUCE GROUNDWATER PUMPING TO STABILIZE THE AQUIFER FOR THE
7 BENEFIT OF CURRENT AND FUTURE GENERATIONS.

8 (c) SAFE-YIELD.

9 2. DEVELOP A MANAGEMENT PLAN FOR EACH MANAGEMENT PERIOD THAT
10 INCLUDES WATER MANAGEMENT PRACTICES AND OTHER POSSIBLE ACTIONS THAT
11 ADDRESS THE GROUNDWATER CONDITIONS IDENTIFIED AS THE REASON FOR THE
12 DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA AND THAT WILL ACHIEVE
13 THE MANAGEMENT GOAL ADOPTED FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

14 3. COOPERATE WITH FEDERALLY RECOGNIZED INDIAN TRIBES, CITIES,
15 TOWNS, COUNTIES OR PUBLIC OR PRIVATE AGENCIES OR ORGANIZATIONS TO ENGAGE
16 IN COORDINATED REGIONAL WATER RESOURCES PLANNING.

17 4. KEEP MINUTES OF ALL MEETINGS AND PRESERVE ALL RECORDS, REPORTS
18 AND INFORMATION RELATIVE TO THE WORK AND PROGRAMS OF THE COUNCIL IN A
19 PERMANENT, INDEXED AND SYSTEMATICALLY FILED FORM THAT IS AVAILABLE TO
20 PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS IN THE OFFICE OF THE
21 DEPARTMENT.

22 5. ELECT A CHAIRPERSON AND A VICE CHAIRPERSON FROM THE COUNCIL
23 MEMBERSHIP WHO SERVE TWO-YEAR TERMS THAT EXPIRE ON THE THIRD MONDAY OF
24 EACH EVEN-NUMBERED YEAR.

25 6. DESIGNATE A PERSON OR PERSONS TO EXECUTE ALL DOCUMENTS AND
26 INSTRUMENTS ON BEHALF OF THE COUNCIL.

27 7. FORM A TECHNICAL COMMITTEE TO PROVIDE TECHNICAL SUPPORT TO THE
28 COUNCIL. THE TECHNICAL COMMITTEE SHALL INCLUDE AT LEAST ONE
29 REPRESENTATIVE FROM THE DEPARTMENT AND MAY INCLUDE MEMBERS OF THE COUNCIL
30 OR MEMBERS OF THE PUBLIC AS SELECTED BY THE COUNCIL.

31 B. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL MAY:

32 1. REQUEST TECHNICAL ASSISTANCE FROM THE DEPARTMENT TO DEVELOP A
33 MANAGEMENT PLAN FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

34 2. GATHER INFORMATION AND DATA.

35 3. ESTABLISH A STEERING COMMITTEE THAT CONSISTS OF MEMBERS OF THE
36 PUBLIC AND MEMBERS OF THE COUNCIL TO SOLICIT AND RECEIVE PUBLIC
37 PARTICIPATION, COMMENT AND ADVICE FROM RESIDENTS OF THE RURAL GROUNDWATER
38 MANAGEMENT AREA AND OTHER INTERESTED PARTIES ON THE DEVELOPMENT AND
39 OPERATION OF THE RURAL GROUNDWATER MANAGEMENT AREA AND MANAGEMENT PLAN.

40 C. THE COUNCIL AND ANY STEERING COMMITTEE ESTABLISHED BY THE
41 COUNCIL ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1.

45-441.13. Rural groundwater management area council:
management plan; notice

A. NOT LESS THAN ONE HUNDRED EIGHTY DAYS AFTER THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA, THE COUNCIL SHALL ADOPT A MANAGEMENT GOAL FOR THE RURAL GROUNDWATER MANAGEMENT AREA. IF THE COUNCIL DOES NOT ADOPT A MANAGEMENT GOAL WITHIN THAT TIME, THE MANAGEMENT GOAL SHALL BE TO REDUCE OVERDRAFT BY A PERCENTAGE TO BE SET BY THE COUNCIL BUT NOT LESS THAN FIFTY PERCENT FROM THE OVERDRAFT AT THE DATE OF INITIATION.

B. NOT LESS THAN TWO YEARS AFTER THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA, THE COUNCIL SHALL DEVELOP AND SUBMIT A MANAGEMENT PLAN TO THE DIRECTOR FOR ADOPTION. THE COUNCIL SHALL SUBMIT THE MANAGEMENT PLANS FOR THE SUBSEQUENT MANAGEMENT PERIODS TO THE DIRECTOR NOT LESS THAN FIFTEEN MONTHS BEFORE THE EXPIRATION OF THE PREVIOUS MANAGEMENT PLAN.

C. THE MANAGEMENT PLAN SHALL INCLUDE ALL OF THE FOLLOWING:

1. A DESCRIPTION OF THE APPROPRIATE PHYSICAL, GEOGRAPHIC, HYDROLOGIC AND ECONOMIC CONDITIONS OF THE AREA AND HOW THE MANAGEMENT GOAL RELATES TO THOSE CONDITIONS.

2. A SUMMARY OF CURRENT GROUNDWATER CONDITIONS AND CURRENT GROUNDWATER MANAGEMENT IN THE AREA, INCLUDING GROUNDWATER CONSERVATION PROGRAMS ADOPTED BY FEDERALLY RECOGNIZED INDIAN TRIBES, FEDERAL AND STATE AGENCIES AND LOCAL GOVERNMENTS.

3. METHODS TO MONITOR AND REPORT ON THE PROGRESS OF ACHIEVING THE MANAGEMENT GOALS.

4. REQUIREMENTS FOR THE LOCATION OF NEW AND REPLACEMENT WELLS WITHIN A RURAL GROUNDWATER MANAGEMENT AREA.

5. LIMITATIONS ON LOST AND UNACCOUNTED FOR WATER APPLICABLE TO ANY MUNICIPAL PROVIDER.

6. A CONSERVATION PROGRAM APPLICABLE TO ALL MUNICIPAL USES PURSUANT TO CERTIFICATES OF GROUNDWATER USE. THE PROGRAM SHALL:

(a) IDENTIFY A SUITE OF BEST MANAGEMENT PRACTICES FROM WHICH EACH MUNICIPAL PROVIDER MAY SELECT A NUMBER OF MANAGEMENT PRACTICES TO IMPLEMENT. THE PROGRAM MAY ASSIGN POINTS TO EACH MANAGEMENT PRACTICE AND REQUIRE IMPLEMENTATION OF A CUMULATIVE NUMBER OF POINTS ACCORDING TO THE NUMBER OF SERVICE CONNECTIONS.

(b) INCLUDE REQUIREMENTS FOR REDUCING LOST AND UNACCOUNTED FOR WATER.

(c) INCLUDE A REQUIREMENT TO IMPLEMENT A MINIMUM NUMBER OF BEST MANAGEMENT PRACTICES PROGRAM THAT REQUIRES THE MUNICIPAL PROVIDER TO IMPLEMENT THE MUNICIPAL PROVIDER'S CHOICE OF CONSERVATION PROGRAMS APPROVED BY THE DEPARTMENT. REQUIREMENTS FOR EACH MUNICIPAL CERTIFICATE OF GROUNDWATER USE SHALL INCLUDE REQUIREMENTS FOR LOST AND UNACCOUNTED FOR WATER.

7. A SCHEDULE FOR ANNUAL CONSERVATION REDUCTIONS IN GROUNDWATER USE FOR ALL USES OF GROUNDWATER PURSUANT TO CERTIFICATES OF GROUNDWATER USE,

OTHER THAN MUNICIPAL USES. EACH ANNUAL CONSERVATION REDUCTION SHALL BE A PERCENTAGE OF THE CERTIFICATED VOLUME FOR EACH YEAR AND MAY NOT CHANGE BY MORE THAN TWO PERCENTAGE POINTS IN ANY SINGLE YEAR. THE SCHEDULE FOR ANNUAL CONSERVATION REDUCTIONS SHALL BE CONSISTENT WITH SUBSECTIONS F AND G OF THIS SECTION.

D. A RURAL GROUNDWATER MANAGEMENT AREA MANAGEMENT PLAN MAY INCLUDE:

1. A PROGRAM TO APPROVE AND FUND INCENTIVES AND VOLUNTARY COMPENSATED WATER CONSERVATION PLANS WITH ACTIONS THAT LANDOWNERS AND WATER USERS IN THE RURAL GROUNDWATER MANAGEMENT AREA MAY PARTICIPATE IN TO CONSERVE OR AUGMENT GROUNDWATER SUPPLIES WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA.

2. GROUNDWATER WITHDRAWAL FEES TO BE SET, LEVIED AND COLLECTED BY THE DIRECTOR FROM EACH PERSON WITHDRAWING GROUNDWATER IN A RURAL GROUNDWATER MANAGEMENT AREA PURSUANT TO A CERTIFICATE OF GROUNDWATER USE. THE DIRECTOR SHALL USE THE MONIES COLLECTED PURSUANT TO A GROUNDWATER WITHDRAWAL FEE FOR CONSERVATION PROGRAMS THAT SUPPORT THE CONSERVATION, REUSE AND RECHARGE OF WATER SUPPLIES PURSUANT TO THE RURAL GROUNDWATER MANAGEMENT AREA MANAGEMENT PLAN. CONSERVATION PROGRAMS THAT ARE ADOPTED PURSUANT TO THIS PARAGRAPH MAY INCLUDE:

(a) VOLUNTARY LAND OR WATER USE AGREEMENTS WITH LANDOWNERS OR WATER USERS.

(b) STORMWATER RETENTION AND RECHARGE INCENTIVES.

(c) LOW WATER USE DEVELOPMENT INCENTIVES.

(d) INCENTIVES FOR LOW WATER USE PRACTICES, FIXTURES OR LANDSCAPING.

(e) IRRIGATION EFFICIENCY, CONSERVATION AND LOW WATER USE AGRICULTURAL INCENTIVES.

3. NOTWITHSTANDING ANY OTHER LAW, A REQUIREMENT THAT THE COUNTY BOARD OF SUPERVISORS OR THE COUNCIL OF A CITY OR TOWN NOT APPROVE A FINAL PLAT FOR A SUBDIVISION COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101 THAT ARE LOCATED WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA UNLESS ONE OF THE FOLLOWING APPLIES:

(a) THE DIRECTOR HAS DETERMINED THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION 45-108 AND THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

(b) THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR PURSUANT TO SECTION 45-108.

E. NOT LATER THAN THREE YEARS BEFORE THE END OF EACH MANAGEMENT PERIOD, THE DIRECTOR SHALL ISSUE A REPORT ON THE RURAL GROUNDWATER MANAGEMENT AREA. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

1. A DESCRIPTION OF GROUNDWATER MANAGEMENT ACTIVITIES IN THE RURAL GROUNDWATER MANAGEMENT AREA.

1 2. INFORMATION ABOUT THE HYDROLOGIC CONDITIONS IN THE RURAL
2 GROUNDWATER MANAGEMENT AREA.

3 3. A DETERMINATION OF WHETHER THE MANAGEMENT GOAL HAS BEEN ACHIEVED
4 OR MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD.

5 F. FOR THE FIRST MANAGEMENT PERIOD, THE ANNUAL CONSERVATION
6 REDUCTIONS SHALL BE TEN PERCENT OF THE CERTIFICATED VOLUME BY THE TENTH
7 YEAR.

8 G. FOR THE SECOND GROUNDWATER MANAGEMENT PERIOD, THE SCHEDULE FOR
9 ANNUAL CONSERVATION REDUCTIONS SHALL BE ADJUSTED ACCORDING TO THE
10 FOLLOWING:

11 1. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
12 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS NOT BEEN ACHIEVED OR
13 MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD, THE SCHEDULE FOR THE NEXT
14 MANAGEMENT PERIOD SHALL INCREASE THE ANNUAL CONSERVATION REDUCTIONS BY A
15 MINIMUM OF AN ADDITIONAL FIVE PERCENTAGE POINTS UP TO AN ADDITIONAL TEN
16 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

17 2. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
18 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS BEEN ACHIEVED OR
19 MAINTAINED, THE SCHEDULE FOR THE NEXT MANAGEMENT PERIOD MAY MAINTAIN THE
20 ANNUAL CONSERVATION REDUCTIONS FOR THE LAST YEAR OF THE CURRENT MANAGEMENT
21 PERIOD.

22 H. FOR THE THIRD AND FOURTH GROUNDWATER MANAGEMENT PERIODS, THE
23 SCHEDULE FOR ANNUAL CONSERVATION REDUCTIONS SHALL BE ADJUSTED ACCORDING TO
24 THE FOLLOWING:

25 1. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
26 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS NOT BEEN ACHIEVED OR
27 MAINTAINED DURING THE CURRENT MANAGEMENT PERIOD, THE SCHEDULE FOR THE NEXT
28 MANAGEMENT PERIOD SHALL INCREASE THE ANNUAL CONSERVATION REDUCTIONS BY A
29 MINIMUM OF AN ADDITIONAL FIVE PERCENTAGE POINTS UP TO AN ADDITIONAL TEN
30 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

31 2. IF THE DIRECTOR'S REPORT PURSUANT TO SUBSECTION E OF THIS
32 SECTION DETERMINES THAT THE MANAGEMENT GOAL HAS BEEN ACHIEVED OR
33 MAINTAINED, THE SCHEDULE FOR THE NEXT MANAGEMENT PERIOD MAY MAINTAIN THE
34 ANNUAL CONSERVATION REDUCTIONS FOR THE LAST YEAR OF THE CURRENT MANAGEMENT
35 PERIOD OR DECREASE THE ANNUAL CONSERVATION REDUCTIONS BY UP TO TEN
36 PERCENTAGE POINTS OVER THE MANAGEMENT PERIOD.

37 3. THE CONSERVATION REDUCTIONS IN EFFECT IN THE FOURTH MANAGEMENT
38 PERIOD DO NOT EXPIRE AFTER THE END OF THE FOURTH MANAGEMENT PERIOD.

39 45-441.14. Submission of a management plan; director's
40 review; notice; hearing; final plan approval

41 A. WITHIN NINETY DAYS AFTER A COUNCIL'S SUBMITTAL OF A MANAGEMENT
42 PLAN TO THE DIRECTOR, THE DIRECTOR SHALL REVIEW THE MANAGEMENT PLAN TO
43 MAKE PRELIMINARY DETERMINATIONS WHETHER IT SATISFIES ALL OF THE
44 REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C AND WHETHER ITS
45 IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING THE

1 MANAGEMENT GOAL OF THE RURAL GROUNDWATER MANAGEMENT AREA. IF THE DIRECTOR
2 MAKES A PRELIMINARY DETERMINATION THAT THE MANAGEMENT PLAN DOES NOT
3 SATISFY THE REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C OR
4 THAT ITS IMPLEMENTATION IS NOT LEGAL, FEASIBLE OR CONSISTENT WITH
5 ACHIEVING THE MANAGEMENT GOAL, THE DIRECTOR SHALL RETURN THE MANAGEMENT
6 PLAN TO THE COUNCIL WITH A WRITTEN EXPLANATION OF ALL DEFICIENCIES. IF
7 THE DIRECTOR MAKES A PRELIMINARY DETERMINATION THAT THE MANAGEMENT PLAN
8 SATISFIES THE REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C
9 AND THAT IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING
10 THE MANAGEMENT GOAL, THE DIRECTOR SHALL NOTIFY THE COUNCIL IN WRITING THAT
11 THE MANAGEMENT PLAN IS COMPLETE.

12 B. IF THE DIRECTOR NOTIFIES THE COUNCIL OF ANY DEFICIENCIES IN THE
13 MANAGEMENT PLAN, THE COUNCIL SHALL ADDRESS THE DEFICIENCIES AND SUBMIT A
14 REVISED MANAGEMENT PLAN NOT LATER THAN SIXTY DAYS AFTER RECEIVING THE
15 NOTICE OF DEFICIENCY. THE DIRECTOR SHALL REVIEW THE REVISED MANAGEMENT
16 PLAN AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

17 C. BEFORE FINAL ADOPTION OF A MANAGEMENT PLAN, THE DIRECTOR SHALL
18 HOLD A PUBLIC HEARING ON THE MANAGEMENT PLAN.

19 D. THE DIRECTOR SHALL PROVIDE NOTICE OF THE HEARING NOT LESS THAN
20 THIRTY DAYS AFTER NOTIFYING THE COUNCIL THAT THE MANAGEMENT PLAN IS
21 COMPLETE. THE NOTICE SHALL INCLUDE A SUMMARY OF THE MANAGEMENT PLAN, A
22 MAP OR A DESCRIPTION OF THE BOUNDARIES OF THE RURAL GROUNDWATER MANAGEMENT
23 AREA AND THE TIME AND PLACE OF THE HEARING. THE NOTICE SHALL BE PUBLISHED
24 ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL
25 CIRCULATION IN EACH COUNTY IN WHICH THE RURAL GROUNDWATER MANAGEMENT AREA
26 IS LOCATED.

27 E. THE HEARING SHALL BE HELD AT A LOCATION WITHIN THE RURAL
28 GROUNDWATER MANAGEMENT AREA OR WITHIN A COUNTY WITH LANDS IN WHICH THE
29 PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDES. THE
30 HEARING SHALL BE HELD NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY
31 DAYS AFTER THE INITIAL NOTICE IS PUBLISHED.

32 F. AT THE PUBLIC HEARING TO APPROVE THE MANAGEMENT PLAN, ONE OR
33 MORE MEMBERS OF THE COUNCIL SHALL PRESENT DATA AND INFORMATION IN SUPPORT
34 OF THE MANAGEMENT PLAN AND A SUMMARY OF ALL PUBLIC COMMENT CONSIDERED WHEN
35 CONSIDERING THE MANAGEMENT PLAN.

36 G. ANY PERSON MAY APPEAR AT THE HEARING, EITHER IN PERSON OR BY
37 REPRESENTATIVE, AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE FOR OR AGAINST THE
38 ADOPTION OF THE MANAGEMENT PLAN.

39 H. WITHIN THIRTY DAYS AFTER THE HEARING, THE COUNCIL SHALL SUBMIT
40 TO THE DIRECTOR ANY WRITTEN RESPONSE TO PUBLIC COMMENTS GIVEN ORALLY OR IN
41 WRITING AT THE HEARING.

42 I. WITHIN SIXTY DAYS AFTER THE HEARING, THE DIRECTOR SHALL MAKE AND
43 FILE WITH THE DEPARTMENT A WRITTEN SUMMARY AND FINDINGS OF ALL MATTERS
44 CONSIDERED DURING THE HEARING AND ANY WRITTEN COMMENTS RECEIVED.

1 J. IF IN THE FINDINGS UNDER SUBSECTION I OF THIS SECTION THE
2 DIRECTOR DETERMINES THAT THE MANAGEMENT PLAN SATISFIES ALL OF THE
3 REQUIREMENTS PRESCRIBED IN SECTION 45-441.13, SUBSECTION C AND THAT PLAN
4 IMPLEMENTATION IS LEGAL, FEASIBLE AND CONSISTENT WITH ACHIEVING THE
5 MANAGEMENT GOAL OF THE RURAL GROUNDWATER MANAGEMENT AREA, THE DIRECTOR
6 SHALL ISSUE AN ORDER ADOPTING THE MANAGEMENT PLAN. IF THE DIRECTOR
7 DETERMINES THAT MODIFICATIONS TO THE MANAGEMENT PLAN ARE NECESSARY IN
8 ORDER TO MAKE SUCH DETERMINATIONS, THE DIRECTOR SHALL MAKE THE
9 MODIFICATIONS, SHALL ISSUE AN ORDER ADOPTING THE MODIFIED PLAN AND SHALL
10 INCLUDE THE DIRECTOR'S REASONS FOR THE MODIFICATIONS.

11 K. THE DIRECTOR SHALL PUBLISH NOTICE OF THE ADOPTED MANAGEMENT
12 PLAN. THE NOTICE SHALL INCLUDE A SUMMARY OF THE MANAGEMENT PLAN, FINDINGS
13 AND ORDER. THE NOTICE SHALL BE PUBLISHED ONCE EACH WEEK FOR TWO
14 CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN
15 WHICH THE RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED. THE ORDER IS
16 FINAL WHEN THE NOTICE IS PUBLISHED FOR THE LAST TIME. THE ADOPTED
17 MANAGEMENT PLAN SHALL TAKE EFFECT FROM AND AFTER DECEMBER 31 OF THE
18 CALENDAR YEAR IN WHICH THE MANAGEMENT PLAN IS ADOPTED.

19 L. ALL INFORMATION THAT IS COMPILED BY THE DIRECTOR PURSUANT TO THE
20 DEVELOPMENT AND APPROVAL OF THE MANAGEMENT PLAN, INCLUDING ALL RECORDS OF
21 THE HEARINGS AND PUBLIC COMMENTS, COPIES OF THE FINDINGS, THE MANAGEMENT
22 GOALS AND THE MANAGEMENT PLAN, ARE PUBLIC RECORDS. THE DIRECTOR SHALL
23 MAKE THESE RECORDS AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS
24 HOURS.

25 M. THE DIRECTOR'S FINAL DECISION IS SUBJECT TO REHEARING OR REVIEW
26 AND JUDICIAL REVIEW AS PROVIDED IN SECTION 45-114, SUBSECTION C.

27 N. IF THE COUNCIL DOES NOT SUBMIT A MANAGEMENT PLAN WITHIN THE TIME
28 PRESCRIBED IN SECTION 45-441.13, SUBSECTION B, THE DIRECTOR SHALL DO ALL
29 OF THE FOLLOWING:

30 1. ISSUE AN ORDER EXTENDING THE EFFECTIVE DATE OF THE CURRENT
31 MANAGEMENT PLAN AND MANAGEMENT PERIOD BY ONE YEAR.

32 2. PREPARE A MANAGEMENT PLAN.

33 3. OTHERWISE IMPLEMENT THE PROCEDURES PRESCRIBED IN THIS SECTION.

34 O. IF THE COUNCIL DOES NOT SUBMIT A REVISED MANAGEMENT PLAN WITHIN
35 THE TIME PRESCRIBED IN SUBSECTION B OF THIS SECTION, THE DIRECTOR SHALL
36 MAKE THE NECESSARY REVISIONS AND OTHERWISE IMPLEMENT THE PROCEDURES
37 PRESCRIBED IN THIS SECTION.

38 45-441.15. Rural groundwater management area fund; report

39 A. THE RURAL GROUNDWATER MANAGEMENT AREA FUND IS ESTABLISHED
40 CONSISTING OF LEGISLATIVE APPROPRIATIONS. THE DEPARTMENT SHALL ADMINISTER
41 THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT
42 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
43 APPROPRIATIONS.

B. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. SEPARATE ACCOUNTS SHALL BE ESTABLISHED WITHIN THE FUND FOR EACH RURAL GROUNDWATER MANAGEMENT AREA FROM WHICH THE MONIES ARE COLLECTED. THE MONIES IN EACH ACCOUNT SHALL BE USED FOR THE BENEFIT OF THE RURAL GROUNDWATER MANAGEMENT AREA WITH WHICH THE ACCOUNT IS ASSOCIATED.

C. THE DEPARTMENT SHALL SPEND MONIES IN THE FUND TO IMPLEMENT AND SUPPORT RURAL GROUNDWATER MANAGEMENT AREAS THAT ARE ESTABLISHED PURSUANT TO THIS ARTICLE, INCLUDING ADMINISTERING THE PLAN IMPLEMENTED BY THE DEPARTMENT, AND MAY GRANT MONIES TO PROVIDE CONSERVATION ASSISTANCE TO ANY PERSON WITH A CERTIFICATE OF GROUNDWATER USE WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA AND TO IMPLEMENT PROGRAMS TO APPROVE INCENTIVIZE AND FUND VOLUNTARY, COMPENSATED CONSERVATION PLANS TO CONSERVE, REUSE AND RECHARGE WATER SUPPLIES AS APPROVED BY THE DIRECTOR.

D. THE DEPARTMENT MAY NOT EXERCISE ANY POWER OF EMINENT DOMAIN TO ACQUIRE PROPERTY USING MONIES FROM THE FUND.

E. ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT AN ANNUAL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE AND HOUSE OF REPRESENTATIVES COMMITTEES ON NATURAL RESOURCES, ENERGY AND WATER, OR THEIR SUCCESSOR COMMITTEES, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL INCLUDE INFORMATION ON 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 IMPLEMENTING AND SUPPORTING RURAL GROUNDWATER MANAGEMENT AREAS AND VOLUNTARY COMPENSATED LAND AND WATER CONSERVATION PLANS AND INCENTIVES. THE DIRECTOR SHALL PROVIDE COPIES OF THE REPORT TO ALL MEMBERS OF ALL COUNCILS.

Sec. 11. Section 45-453, Arizona Revised Statutes, is amended to read:

45-453. Groundwater rights and uses in areas outside active management areas; amounts; transportation; irrigation non-expansion areas

In areas outside of active management areas, a person may:

1. Withdraw and use groundwater for reasonable and beneficial use, except as provided in article 8.1 of this chapter.

2. Transport groundwater pursuant to articles 8 and 8.1 of this chapter.

3. Use groundwater for irrigation purposes within the exterior boundaries of an irrigation non-expansion area only pursuant to article 3 of this chapter.

4. WITHDRAW AND USE GROUNDWATER IN A RURAL GROUNDWATER MANAGEMENT AREA AS PRESCRIBED IN ARTICLE 3.1 OF THIS CHAPTER.

1 Sec. 12. Section 45-454, Arizona Revised Statutes, is amended to
2 read:

3 45-454. Exemption of small non-irrigation wells; definitions

4 A. Withdrawals of groundwater for non-irrigation uses from wells
5 having a pump with a maximum capacity of not more than thirty-five gallons
6 per minute ~~which~~ THAT were drilled before April 28, 1983 or ~~which~~ THAT
7 were drilled after April 28, 1983 pursuant to a notice of intention to
8 drill ~~which~~ THAT was on file with the department on such date are exempt
9 from this chapter, except that:

10 1. Wells drilled before June 12, 1980 ~~which~~ THAT are not abandoned
11 or capped or wells ~~which~~ THAT were not completed on June 12, 1980 but for
12 which a notice of intention to drill was on file with the Arizona water
13 commission on such date are subject to subsections J, K and L of this
14 section and must be registered pursuant to section 45-593. If two or more
15 wells in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA
16 are exempt under this paragraph and are used to serve the same
17 non-irrigation use at the same location, the aggregate quantity of
18 groundwater withdrawn from the wells shall not exceed fifty-six acre-feet
19 per year.

20 2. Wells drilled between June 12, 1980 and April 28, 1983, except
21 as provided in paragraph 1 of this subsection, and wells drilled after
22 April 28, 1983 pursuant to a notice of intention to drill ~~which~~ THAT was
23 on file with the department on April 28, 1983, are subject to subsections
24 G, I, J and K of this section.

25 B. Withdrawals of groundwater for non-irrigation uses from wells
26 having a pump with a maximum capacity of not more than thirty-five gallons
27 per minute drilled on or after April 28, 1983, except wells drilled after
28 April 28, 1983 pursuant to a notice of intention to drill which was on
29 file with the department on such date, are exempt from this chapter,
30 except that:

31 1. Such wells are subject to subsections G through K of this
32 section.

33 2. In an active management area OR RURAL GROUNDWATER MANAGEMENT
34 AREA, other than a subsequent active management area OR RURAL GROUNDWATER
35 MANAGEMENT AREA designated for a portion of a groundwater basin in the
36 regional aquifer systems of northern Arizona, withdrawals of groundwater
37 from such wells for non-irrigation uses other than domestic purposes and
38 stock watering shall not exceed ten acre-feet per year.

39 3. In a subsequent active management area that is designated for a
40 portion of a groundwater basin in the regional aquifer systems of northern
41 Arizona, groundwater withdrawn from such wells may be used only for
42 domestic purposes and stock watering.

43 C. On or after January 1, 2006, an exempt well otherwise allowed by
44 this section may not be drilled on land if any part of the land is within
45 one hundred feet of the operating water distribution system of a municipal

1 provider with an assured water supply designation within the boundaries of
 2 an active management area established on or before July 1, 1994, as shown
 3 on a digitized service area map provided to the director by the municipal
 4 provider and updated by the municipal provider as specified by the
 5 director.

6 D. On request from the owner of the land on which an exempt well is
 7 prohibited pursuant to subsection C of this section on a form prescribed
 8 by the director, the director shall issue an exemption from subsection C
 9 of this section if the landowner demonstrates to the satisfaction of the
 10 director that any of the following applies:

11 1. The landowner submitted a written request for service to the
 12 municipal provider that operates the distribution system and the municipal
 13 provider did not provide written verification to the landowner within
 14 thirty calendar days after ~~receipt of~~ RECEIVING the request that water
 15 service is available to the landowner after payment of any applicable fee
 16 to the municipal provider.

17 2. The total capital cost and fees for connecting to the operating
 18 water distribution system exceed the total capital cost and fees for
 19 drilling and fully equipping an exempt well.

20 3. If the applicant must obtain an easement across other land to
 21 connect to the water distribution system of the municipal provider, the
 22 applicant sent the owner of the land a request for the easement by
 23 certified mail, return receipt requested, and either the applicant did not
 24 receive a response to the request within thirty calendar days of mailing
 25 the request or the request was denied.

26 4. The landowner does not qualify for an exemption pursuant to
 27 paragraph 1, 2 or 3 of this subsection and the landowner provides written
 28 verification from the municipal provider that the landowner shall not
 29 receive or request water service from the municipal provider while the
 30 exempt well is operational. The exemption for that well is revoked if the
 31 landowner or any subsequent landowner receives water service from the
 32 municipal provider. In determining whether to approve or reject a permit
 33 application filed under section 45-599, the director shall not consider
 34 any impacts the proposed well may have on an exempt well drilled pursuant
 35 to this paragraph.

36 E. This section does not prohibit a property owner, after January
 37 1, 2006, from drilling a replacement exempt well for a lawful exempt well
 38 if the replacement well does not increase the total number of operable
 39 exempt wells on the applicant's land.

40 F. A remediation well drilled for the purpose of remediating
 41 groundwater is exempt from this section if it meets one of the following:

42 1. The remediation well is for an approved department of
 43 environmental quality or United States environmental protection agency
 44 remediation program.

2. A registered geologist certifies that the remediation well is for the purpose of remediation.

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

H. The registered well owner shall file a completion report pursuant to section 45-600, subsection B.

I. In an active management area **AND RURAL GROUNDWATER MANAGEMENT AREA** only one exempt well may be drilled or used to serve the same non-irrigation use at the same location, except that a person may drill or use a second exempt well to serve the same non-irrigation use at the same location if the director determines that all of the following apply:

1. Because of its location, the first exempt well is not capable of consistently producing more than three gallons per minute of groundwater when equipped with a pump with a maximum capacity of thirty-five gallons per minute.

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

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

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

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

J. An exempt well is subject to sections 45-594 and 45-595.

K. Groundwater withdrawn from an exempt well may be transported only pursuant to articles 8 and 8.1 of this chapter.

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

M. A PERSON WHO OWNS LAND FROM WHICH EXEMPT WITHDRAWALS WERE BEING MADE AS OF THE DATE OF THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA IS NOT ELIGIBLE FOR A CERTIFICATE OF GROUNDWATER USE FOR SUCH WITHDRAWALS.

~~M.~~ N. For the purposes of this section:

1. "Domestic purposes" means uses related to the supply, service and activities of households and private residences and includes the application of water to less than two acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for

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

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

5 3. "Stock watering" means the watering of livestock, range
6 livestock or poultry, as such terms are defined in section 3-1201.

7 Sec. 13. Section 45-596, Arizona Revised Statutes, is amended to
8 read:

9 45-596. Notice of intention to drill; fee

10 A. In an area not subject to active management OR THE JURISDICTION
11 OF A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL ESTABLISHED PURSUANT TO
12 ARTICLE 3.1 OF THIS CHAPTER, a person may not drill or cause to be drilled
13 any well or deepen an existing well without first filing notice of
14 intention to drill pursuant to subsection C of this section or obtaining a
15 permit pursuant to section 45-834.01. Only one notice of intention to
16 drill is required for all wells that are drilled by or for the same person
17 to obtain geophysical, mineralogical or geotechnical data within a single
18 section of land.

19 B. In an active management area OR RURAL GROUNDWATER MANAGEMENT
20 AREA, a person may not drill or cause to be drilled an exempt well, a
21 replacement well in approximately the same location or any other well for
22 which a permit is not required under this article, article 7 of this
23 chapter or section 45-834.01 or deepen an existing well without first
24 filing a notice of intention to drill pursuant to subsection C of this
25 section. Only one notice of intention to drill is required for all wells
26 that are drilled by or for the same person to obtain geophysical,
27 mineralogical or geotechnical data within a single section of land.

28 C. A notice of intention to drill shall be filed with the director
29 on a form that is prescribed and furnished by the director and that shall
30 include:

- 31 1. The name and mailing address of the person filing the notice.
- 32 2. The legal description of the land on which the well is proposed
33 to be drilled and the name and mailing address of the owner of the land.
- 34 3. The legal description of the location of the well on the land.
- 35 4. The depth, diameter and type of casing of the proposed well.
- 36 5. Such legal description of the land on which the groundwater is
37 proposed to be used as may be required by the director to administer this
38 chapter.
- 39 6. When construction is to begin.
- 40 7. The proposed uses to which the groundwater will be applied.
- 41 8. The name and well driller's license number of the well driller
42 who is to construct the well.
- 43 9. The design pumping capacity of the well.
- 44 10. If for a replacement well, the maximum capacity of the original
45 well and the distance of the replacement well from the original well.

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

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

13. If for a second exempt well at the same location for the same use pursuant to section 45-454, subsection I, proof that the requirements of that subsection are met.

14. If for a well to obtain geophysical, mineralogical or geotechnical data within a single section of land, the information prescribed by this subsection for each well that will be included in that section of land before each well is drilled.

15. Such other information as the director may require.

D. On receiving a notice of intention to drill and the fee required by subsection L of this section, the director shall endorse on the notice the date of its receipt. The director shall then determine whether all information that is required has been submitted and whether the requirements of subsection C, paragraphs 11 and 12 and subsection I of this section have been met. If so, within fifteen days ~~of~~ AFTER receipt of the notice, or such longer time as provided in subsection J of this section, the director shall record the notice, mail a drilling card that authorizes the drilling of the well to the well driller identified in the notice and mail written notice of the issuance of the drilling card to the person filing the notice of intention to drill at the address stated in the notice. On receipt of the drilling card, the well driller may proceed to drill or deepen the well as described in the notice of intention to drill. If the director determines that the required information has not been submitted or that the requirements of subsection C, paragraphs 11 and 12 or subsection I of this section have not been met, the director shall mail a statement of the determination to the person giving the notice to the address stated in the notice, and the person giving the notice may not proceed to drill or deepen the well.

E. The well shall be completed within one year after the date of the notice unless the director approves a longer period of time pursuant to this subsection. If the well is not completed within one year or within the time approved by the director pursuant to this subsection, the person shall file a new notice before proceeding with further construction. At the time the drilling card for the well is issued, the director may provide for and approve a completion period that is greater

1 than one year but not to exceed five years from the date of the notice if
2 both of the following apply:

3 1. The proposed well is a nonexempt well within an active
4 management area OR RURAL GROUNDWATER MANAGEMENT AREA and qualifies as a
5 replacement well in approximately the same location as prescribed in rules
6 adopted by the director pursuant to section 45-597.

7 2. The applicant has submitted evidence that demonstrates one of
8 the following:

9 (a) This state or a political subdivision of this state has
10 acquired or has begun a condemnation action to acquire the land on which
11 the original well is located.

12 (b) The original well has been rendered inoperable due to flooding,
13 subsidence or other extraordinary physical circumstances that are beyond
14 the control of the well owner.

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

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

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

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

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

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

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

28 I. Except as prescribed in subsection K of this section, the
29 director shall not approve the drilling of the well if the director
30 determines that the well will likely cause the migration of contaminated
31 groundwater from a remedial action site to another well, resulting in
32 unreasonably increasing damage to the owner of the well or persons using
33 water from the well. In making this determination, the director of water
34 resources shall follow the applicable criteria in the rules adopted by the
35 director of water resources pursuant to section 45-598, subsection A and
36 shall consult with the director of environmental quality. For the
37 purposes of this subsection:

38 1. "Contaminated groundwater" means groundwater that has been
39 contaminated by a release of a hazardous substance, as defined in section
40 49-201, or a pollutant, as defined in section 49-201.

41 2. "Remedial action site" means any of the following:

42 (a) The site of a remedial action undertaken pursuant to the
43 comprehensive environmental response, compensation, and liability act of
44 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code
45 sections 9601 through 9657), commonly known as "superfund".

1 (b) The site of a corrective action undertaken pursuant to title
2 49, chapter 6.

3 (c) The site of a voluntary remediation action undertaken pursuant
4 to title 49, chapter 1, article 5.

5 (d) The site of a remedial action undertaken pursuant to title 49,
6 chapter 2, article 5, including mitigation of a nonhazardous release
7 undertaken pursuant to an order issued by the department of environmental
8 quality pursuant to section 49-286.

9 (e) The site of a remedial action undertaken pursuant to the
10 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat.
11 2795; 42 United States Code sections 6901 through 6992).

12 (f) The site of remedial action undertaken pursuant to the
13 department of defense environmental restoration program (P.L. 99-499; 100
14 Stat. 1719; 10 United States Code section 2701).

15 J. Except as prescribed in subsection K of this section, the
16 director shall approve or deny the drilling of a well within forty-five
17 days after receipt of the notice of intention to drill if one of the
18 following applies:

19 1. The proposed well is located within a remedial action site.

20 2. The proposed well is located within one mile of any of the
21 following remedial action sites:

22 (a) A remedial action undertaken pursuant to title 49, chapter 2,
23 article 5, including mitigation of a nonhazardous release undertaken
24 pursuant to an order issued by the department of environmental quality
25 pursuant to section 49-286.

26 (b) A remedial action undertaken pursuant to the comprehensive
27 environmental response, compensation, and liability act of 1980, as
28 amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601
29 through 9657), commonly known as "superfund".

30 (c) A remedial action undertaken pursuant to the department of
31 defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10
32 United States Code section 2701).

33 3. The proposed well is located within one-half mile of either of
34 the following remedial action sites:

35 (a) A remedial action undertaken pursuant to title 49, chapter 1,
36 article 5.

37 (b) A remedial action undertaken pursuant to the resource
38 conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42
39 United States Code sections 6901 through 6992).

40 4. The proposed well is located within five hundred feet of the
41 site of a corrective action undertaken pursuant to title 49, chapter 6.

42 K. Subsections I and J of this section do not apply to the
43 deepening of a well or to the drilling of a replacement well in
44 approximately the same location.

1 L. A notice of intention to drill filed under this section shall be
 2 accompanied by a filing fee of ~~one hundred fifty dollars~~ \$150, except that
 3 a notice filed for a proposed well that will not be located within an
 4 active management area, ~~or~~ an irrigation nonexpansion area, ~~OR A RURAL~~
 5 ~~GROUNDWATER MANAGEMENT AREA~~ that will be used solely for domestic purposes
 6 as defined in section 45-454 and that will have a pump with a maximum
 7 capacity of not more than thirty-five gallons per minute shall be
 8 accompanied by a filing fee of ~~one hundred dollars~~ \$100. The director
 9 shall deposit, pursuant to sections 35-146 and 35-147, all fees collected
 10 pursuant to this subsection in the well administration and enforcement
 11 fund established by section 45-606.

12 Sec. 14. Section 45-597, Arizona Revised Statutes, is amended to
 13 read:

14 45-597. Deepening and replacement of wells in active
 15 management areas or rural groundwater management
 16 areas; filing of notice

17 A. A person WHO IS entitled to withdraw groundwater in an active
 18 management area OR A RURAL GROUNDWATER MANAGEMENT AREA or a person WHO IS
 19 entitled to recover stored water pursuant to section 45-834.01 may deepen
 20 an existing well or construct a replacement well at approximately the same
 21 location. The director shall by rule define what constitutes a
 22 replacement well, including the distance from the original well site that
 23 is deemed to be the same location for a replacement well.

24 B. ~~Prior to~~ BEFORE deepening an existing well or constructing a
 25 replacement well at approximately the same location, the person shall file
 26 a notice of intention to drill pursuant to section 45-596 and provide the
 27 director with any other information as the director may by ~~rules~~ RULE
 28 require.

29 Sec. 15. Section 45-598, Arizona Revised Statutes, is amended to
 30 read:

31 45-598. New wells and replacement wells in new locations in
 32 active management areas or rural groundwater
 33 management areas; rules; permit required

34 A. The director shall adopt rules governing the location of new
 35 wells and replacement wells in new locations in active management areas
 36 AND RURAL GROUNDWATER MANAGEMENT AREAS to prevent unreasonably increasing
 37 damage to surrounding land or other water users from the concentration of
 38 wells.

39 B. A person WHO IS entitled to withdraw groundwater in an active
 40 management area pursuant to article 5 or 6 of this chapter OR A RURAL
 41 GROUNDWATER MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER may
 42 construct a new well or a replacement well in a new location if the
 43 location of the new well or the replacement well complies with the rules
 44 adopted by the director pursuant to subsection A of this section and if

the person has applied for and received a permit from the director pursuant to section 45-599.

C. An applicant for a general industrial use permit pursuant to sections 45-515 and 45-521 who proposes to construct a new well or a replacement well in a new location shall also apply for a permit pursuant to section 45-599.

D. A person who is entitled to withdraw groundwater in an active management area under article 5 or 6 of this chapter ~~OR A RURAL GROUNDWATER MANAGEMENT AREA PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER~~ may withdraw groundwater under article 3.1, 5 or 6 of this chapter from a well drilled to withdraw groundwater pursuant to a groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599. A person ~~WHO IS~~ entitled to withdraw groundwater in an active management area under a general industrial use permit issued under section 45-515 may withdraw groundwater under section 45-515 from a well used to withdraw groundwater pursuant to another category of groundwater withdrawal permit issued under article 7 of this chapter if the location of the well complies with the rules adopted by the director under subsection A of this section and if the person has applied for and received a permit from the director pursuant to section 45-599.

Sec. 16. Section 45-599, Arizona Revised Statutes, is amended to read:

45-599. Permit application; contents; correction of defective application; issuance of permit; fee

A. An application for a permit to construct a new well or replacement well in a new location shall be made on a form that is prescribed and furnished by the director and that includes:

1. The name and mailing address of the applicant.
2. The legal description of the land ~~upon~~ ON which the new well is proposed to be constructed and the name and mailing address of the owner of the land.
3. The legal description of the proposed location of the new well on the land.
4. If for a replacement well, the legal description of the land ~~upon~~ ON which the original well is located, the name and mailing address of the owner of the land, the legal description of the location of the original well on the land, the depth and diameter of the original well and evidence of proper abandonment.
5. The depth, diameter and type of casing of the new well.
6. Such legal description of the land ~~upon~~ ON which the groundwater is proposed to be used as may be required by the director to administer this chapter.
7. When construction is to begin.

1 8. The proposed use of the groundwater to be withdrawn.
2 9. The design pumping capacity of the new well.
3 10. The name and well driller's license number of the well driller
4 who is to construct the well.
5 11. The estimated time required to complete the well, if more than
6 one year from the date of receipt of the permit.
7 12. Such other information including any maps, drawings and data as
8 the director may require.
9 B. ~~Upon~~ ON receipt of a permit application and the fee required by
10 subsection J of this section, the director shall endorse on the
11 application the date of its receipt. If the application is incorrect or
12 incomplete, the director may request additional information from the
13 applicant. The director may conduct independent investigations as may be
14 necessary to determine whether the application should be approved or
15 rejected.
16 C. The director shall approve an application for a permit for a new
17 well or a replacement well in a new location if the proposed well complies
18 with the rules adopted pursuant to section 45-598, subsection A and, if
19 the proposed well is in the Santa Cruz active management area, if the
20 location of the proposed well is consistent with the management plan for
21 the active management area.
22 D. Except as provided in subsection E of this section, within sixty
23 days ~~of~~ AFTER receipt of a complete and correct application and the fee
24 required by subsection J of this section, the director shall approve or
25 reject the application and mail notice of the action to the applicant.
26 E. If the director determines that an administrative hearing should
27 be held before approving or rejecting an application, the director shall
28 notify the applicant of the date of the hearing within sixty days ~~of~~ AFTER
29 receipt of the complete and correct application and the fee required by
30 subsection J of this section.
31 F. If at the request of the applicant the director determines that
32 an emergency exists, the director shall expedite all decisions under this
33 section.
34 G. If the application is approved, the director shall issue a
35 permit and the applicant may proceed to construct the well. If the
36 application is rejected, the applicant shall not proceed with construction
37 of the well. The well shall be completed within one year of receipt of
38 the permit, unless the director in granting the permit approves a longer
39 period to complete the well. If the well is not completed within one year
40 or the longer period approved by the director, the applicant shall file a
41 new application before proceeding with construction.
42 H. The permit shall state the following:
43 1. The legal description of the land ~~upon~~ ON which the well may be
44 constructed.

2. The legal description of the location of the new well on the land.
3. The depth and diameter of the well and type of casing.
4. The maximum pumping capacity of the well.
5. The legal description of the land ~~upon~~ ON which the groundwater will be used.
6. The use of the groundwater to be withdrawn.
7. The latest date for completing the well.

I. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area OR RURAL GROUNDWATER MANAGEMENT AREA in which the use is located OR WITHIN A COUNTY WITH LANDS IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN RESIDE.

J. An application for a permit filed under this section shall be accompanied by a filing fee of one hundred fifty dollars. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant to this subsection in the well administration and enforcement fund established by section 45-606.

Sec. 17. Section 45-601, Arizona Revised Statutes, is amended to read:

45-601. Operating rules for multiple wells

The director may adopt rules governing pumping patterns of persons who withdraw groundwater or recover stored water, as defined in section 45-802.01, from multiple wells in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA to minimize damage to adjacent groundwater users. The director may not require a person who withdraws groundwater or recovers stored water from multiple wells to change the person's pumping patterns if the person or user cannot reasonably accommodate such changes.

Sec. 18. Section 45-604, Arizona Revised Statutes, is amended to read:

45-604. Water measuring devices

A. Except as provided in subsections B, C and D of this section, a person who withdraws groundwater from a nonexempt well in an active management area, ~~or an~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA, a person who withdraws water from a ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area or a person who withdraws groundwater for transportation to an initial active management area pursuant to article 8.1 of this chapter shall use a water measuring device approved by the director.

B. A person with a type 2 non-irrigation grandfathered right or a groundwater withdrawal permit in the amount of ten or fewer acre-feet per year is not required to use a water measuring device to measure withdrawals pursuant to that grandfathered right or groundwater withdrawal

1 permit unless the person holds more than one such right or permit in the
2 aggregate amount of more than ten acre-feet per year and withdraws more
3 than ten acre-feet of groundwater per year pursuant to those rights or
4 permits from one well.

5 C. In an irrigation non-expansion area:

6 1. A person who withdraws ten or fewer acre-feet of groundwater per
7 year from a ~~non-exempt~~ NONEXEMPT well for a non-irrigation use is not
8 required to use a water measuring device to measure withdrawals from that
9 well.

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

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

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

19 D. In an active management area, a person, other than an irrigation
20 district, who withdraws groundwater from a ~~non-exempt~~ NONEXEMPT well for
21 use pursuant to an irrigation grandfathered right that is appurtenant to
22 ten or fewer irrigation acres is not required to use a water measuring
23 device to measure withdrawals from that well unless groundwater withdrawn
24 from the well is also used pursuant to either a service area right
25 pursuant to article 6 of this chapter or a grandfathered groundwater right
26 other than an irrigation grandfathered right that is appurtenant to
27 irrigation acres that are exempt from irrigation water duties pursuant to
28 section 45-563.02.

29 E. The director shall adopt rules setting forth the requirements
30 and specifications for water measuring devices. IF THE DIRECTOR MODIFIES
31 THE RULES AFTER DECEMBER 31, 2024, THE MODIFIED RULES SHALL PROVIDE THAT
32 ANY WATER MEASURING DEVICE MUST CONTINUE TO BE APPROVED BY THE DIRECTOR
33 FOR USE WITHIN RURAL GROUNDWATER MANAGEMENT AREAS PURSUANT TO ARTICLE 3.1
34 OF THIS CHAPTER.

35 Sec. 19. Section 45-632, Arizona Revised Statutes, is amended to
36 read:

37 45-632. Records and annual report of groundwater pumping,
38 transportation and use; penalty

39 A. Each person who is required to file an annual report under this
40 section or who files an annual report under subsection E of this section
41 shall maintain current accurate records of the person's withdrawals,
42 transportation, deliveries and use of groundwater and, in the Santa Cruz
43 active management area, current accurate records of the person's
44 withdrawals, deliveries and use of all water withdrawn from a well, as
45 prescribed by the director under subsection ~~P~~ Q of this section.

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

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

2. Uses groundwater ~~which~~ THAT is transported from an active management area.

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

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

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

6. WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL IN A RURAL GROUNDWATER MANAGEMENT AREA.

C. Persons who withdraw groundwater from exempt wells and non-irrigation customers of cities, towns, private water companies and irrigation districts, except customers receiving water pursuant to a permit, are exempt from the record keeping and reporting requirements of this section for such water.

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

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

2. Groundwater is withdrawn from the land to which the irrigation grandfathered right is appurtenant and delivered for use pursuant to either a service area right pursuant to article 6 of this chapter or a grandfathered groundwater right other than an irrigation grandfathered right that is appurtenant to irrigation acres that are exempt from irrigation water duties pursuant to section 45-563.02.

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

E. An irrigation district ~~which~~ THAT delivers and distributes groundwater in an active management area may file an annual report with the director for each person with an irrigation grandfathered right

1 appurtenant to irrigation acres within the service area of the irrigation
2 district, if the irrigation district delivers all the water used on the
3 person's irrigation acres. If an irrigation district files an annual
4 report for such a person, the irrigation district shall report the
5 following information for each such person:

6 1. The name of the person and the certificate number of the
7 person's irrigation grandfathered right.

8 2. The quantity of groundwater, if any, delivered during the
9 calendar year.

10 F. Persons who are required to report under subsection B, paragraph
11 1 of this section and who withdraw groundwater during the calendar year in
12 an active management area shall report the following information for each
13 well:

14 1. The registration number and location of the well.

15 2. The quantity of groundwater withdrawn from the well during the
16 calendar year. A person who, under section 45-604, subsection B, is not
17 required to use and does not use a water measuring device to measure
18 withdrawals made pursuant to a type 2 non-irrigation grandfathered right
19 or a groundwater withdrawal permit shall estimate the quantity of
20 groundwater withdrawn pursuant to the grandfathered right or withdrawal
21 permit.

22 3. The quantity of fuel or electricity consumed by the pump during
23 the calendar year.

24 4. The uses to which the groundwater was applied or the persons to
25 whom the groundwater was delivered during the calendar year.

26 G. Persons who are required to report under subsection B, paragraph
27 1 of this section and who use groundwater during the calendar year in an
28 active management area and persons who are required to report under
29 subsection B, paragraph 2 of this section shall report the following
30 information:

31 1. The source of the groundwater, including:

32 (a) The name of the person from whom the groundwater was obtained.

33 (b) The registration number and location of the well, if known.

34 2. The quantity of groundwater used during the calendar year.

35 3. The specific uses to which the groundwater was applied during
36 the calendar year.

37 H. Persons who are required to report under subsection B, paragraph
38 4 of this section and who transport groundwater during the calendar year
39 to an initial active management area under article 8.1 of this chapter
40 shall report the following information:

41 1. The registration number and location of each well.

42 2. The quantity of groundwater withdrawn from each well during the
43 calendar year.

44 3. The quantity of groundwater transported during the calendar year
45 to an initial active management area.

1 4. The quantity of groundwater that was withdrawn during the
2 calendar year and that was not transported to an initial active management
3 area and the uses to which the groundwater was applied.

4 5. The quantity of fuel or electricity consumed by each pump during
5 the calendar year.

6 6. The uses to which the groundwater was applied or the persons to
7 whom the groundwater was delivered during the calendar year.

8 I. Persons who are required to report under subsection B, paragraph
9 1 of this section and who neither withdraw nor use groundwater during the
10 calendar year shall report the following information:

11 1. The fact that no groundwater was withdrawn or used during the
12 calendar year.

13 2. The registration number and location of each well, if any.

14 J. Persons who are required to report under subsection B, paragraph
15 5 of this section and who withdraw water from a ~~non-exempt~~ NONEXEMPT well
16 in the Santa Cruz active management area during the calendar year shall
17 report the following information:

18 1. The registration number and location of the well.

19 2. The quantity of water, by type, withdrawn from the well during
20 the calendar year.

21 3. The quantity of fuel or electricity consumed by the pump during
22 the calendar year.

23 4. The uses to which the water was applied or the persons to whom
24 the water was delivered during the calendar year.

25 K. Persons who are required to report under subsection B, paragraph
26 5 of this section and who use water withdrawn from a ~~non-exempt~~ NONEXEMPT
27 well in the Santa Cruz active management area during the calendar year
28 shall report the following information:

29 1. The source of the water, including:

30 (a) The name of the person from whom the water was obtained.

31 (b) The registration number and location of the well, if known.

32 2. The quantity of the water, by type, used during the calendar
33 year.

34 3. The specific uses to which the water was applied during the
35 calendar year.

36 L. A PERSON WHO IS REQUIRED TO REPORT PURSUANT TO SUBSECTION B,
37 PARAGRAPH 6 OF THIS SECTION AND WHO WITHDRAWS WATER FROM A NONEXEMPT WELL
38 IN A RURAL GROUNDWATER MANAGEMENT AREA DURING THE CALENDAR YEAR SHALL
39 REPORT THE FOLLOWING INFORMATION:

40 1. THE REGISTRATION NUMBER AND LOCATION OF THE WELL.

41 2. THE QUANTITY OF WATER, BY TYPE, BY LEGAL AUTHORITY AND BY USE
42 THAT IS WITHDRAWN FROM THE WELL DURING THE CALENDAR YEAR.

43 3. THE SPECIFIC USES TO WHICH THE WATER WAS APPLIED DURING THE
44 CALENDAR YEAR.

1 4. IF THE PERSON DID NOT WITHDRAW THE WATER FOR THE PERSON'S OWN
2 USE, ANY PERSON TO WHOM THE WATER WAS DELIVERED, OTHER THAN MUNICIPAL USE
3 CUSTOMERS OF A MUNICIPAL PROVIDER.

4 ~~t.~~ M. If a person both withdraws groundwater in an active
5 management area and uses such water, the person may combine the
6 information required by subsections F and G of this section into one
7 report. If a person both withdraws water, other than stored water, from a
8 ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area and
9 uses such water, the person may combine the information required by
10 subsections J and K of this section into one report.

11 ~~M.~~ N. The director may require such other information in the
12 report as may be necessary to accomplish the management goals of the
13 applicable active management area OR RURAL GROUNDWATER MANAGEMENT AREA.

14 ~~N.~~ O. Each report shall contain either a sworn statement or a
15 certification, under penalty of perjury, that the information contained in
16 the report is true and correct according to the best belief and knowledge
17 of the person filing the report.

18 ~~O.~~ P. The annual report shall be maintained on a calendar year
19 basis and shall be filed with the director no later than March 31 of each
20 year for the preceding calendar year. If a person who is required under
21 this section to file an annual report for calendar year 1985 or any
22 subsequent calendar year fails to file a report for the calendar year in
23 question on or before March 31 of the following year, the director may
24 assess and collect a penalty of ~~twenty-five dollars~~ \$25 for each month or
25 portion of a month that the annual report is delinquent. The total
26 penalty assessed under this subsection shall not exceed ~~one hundred fifty~~
27 ~~dollars~~ \$150. The director shall deposit, pursuant to sections 35-146 and
28 35-147, all penalties collected under this subsection in the state general
29 fund.

30 ~~P.~~ Q. The records and reports required to be kept and filed under
31 this section shall be in such form as the director prescribes. The
32 director shall prepare blank forms and distribute them on a timely
33 schedule throughout each active management area AND RURAL GROUNDWATER
34 MANAGEMENT AREA and furnish them ~~upon~~ ON request. Failure to receive or
35 obtain the forms does not relieve any person from keeping the required
36 records or making any required report. The director shall cooperate with
37 cities and towns, private water companies and irrigation districts in
38 establishing the form of the records and reports to be kept and filed by
39 them.

40 Sec. 20. Section 45-635, Arizona Revised Statutes, is amended to
41 read:

42 45-635. Violation; civil penalties

43 A. A person who is determined pursuant to section 45-634 to be in
44 violation of this chapter or a permit, rule, regulation or order issued or

adopted pursuant to this chapter may be assessed a civil penalty in an amount not exceeding:

1. Except as provided in paragraph 3 of this subsection, ~~one hundred dollars~~ \$100 per day of violation not directly related to illegal withdrawal, use or transportation of groundwater.

2. ~~Ten thousand dollars~~ \$10,000 per day of violation directly related to illegal withdrawal, use or transportation of groundwater.

3. In the Santa Cruz active management area, ~~ten thousand dollars~~ \$10,000 per day of violation for a violation of an applicable conservation requirement established by the director pursuant to article 9 of this chapter for the withdrawal of water, other than stored water, from a well or the distribution or use of water, other than stored water, withdrawn from a well.

B. IN ADDITION TO OR IN LIEU OF THE MONETARY PENALTIES UNDER SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR MAY REQUIRE A PERSON WHO IS DETERMINED TO BE IN VIOLATION OF ARTICLE 3.1 OF THIS CHAPTER TO REDUCE THE PERSON'S USE OF GROUNDWATER IN THE FUTURE BY A VOLUME THAT IS EQUIVALENT TO THE VOLUME OF GROUNDWATER UNLAWFULLY WITHDRAWN.

~~B.~~ C. An action to recover penalties under this section shall be brought by the director in the superior court in the county in which the violation occurred.

~~C.~~ D. In determining the amount of the penalty, the court shall consider the degree of harm to the public, whether the violation was knowing or wilful, the past conduct of the defendant, whether the defendant should have been on notice of the violation, whether the defendant has taken steps to cease, remove or mitigate the violation and any other relevant information.

~~D.~~ E. All civil penalties assessed pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

Sec. 21. Section 45-812.01, Arizona Revised Statutes, is amended to read:

45-812.01. Groundwater savings facility permit

A. A person may apply to the director for a groundwater savings facility permit and may operate a groundwater savings facility only pursuant to a permit.

B. The director may issue a permit to operate a groundwater savings facility if the director determines that all of the following apply:

1. Operation of the facility will cause the direct reduction or elimination of groundwater withdrawals in an active management area, ~~or~~ an irrigation non-expansion area OR A RURAL GROUNDWATER MANAGEMENT AREA by means of delivery of water other than groundwater pumped from within that active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA that the recipient will use in lieu of groundwater that the recipient would otherwise have used.

2. The applicant will deliver water other than groundwater pumped from within the active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA in which the groundwater savings facility is located to an identified groundwater user who will use and agrees in writing to use the water delivered to the facility on a gallon-for-gallon substitute basis directly in lieu of groundwater that otherwise would have been pumped from within the active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA.

3. The in lieu water is the only reasonably available source of water for the recipient other than groundwater pumped from within the same active management area, ~~or~~ irrigation non-expansion area OR RURAL GROUNDWATER MANAGEMENT AREA in which the groundwater savings facility is located.

4. The water delivered as in lieu water would not have been a reasonable alternative source of water for the recipient except through the operation of the groundwater savings facility.

5. The water delivered to the recipient as in lieu water was not delivered before October 1, 1990.

6. The applicant has submitted a plan satisfactory to the director that describes how the applicant will prove the quantity of groundwater saved at the facility each year and what evidence will be submitted with the applicant's annual report as required by section 45-875.01 to prove the groundwater savings. The plan may rely on the following factors:

(a) The recipient's cost of pumping groundwater relative to the cost of in lieu water and alternative sources of water available to the recipient.

(b) The historic quantity of groundwater pumped by the recipient at the location of the intended use of the in lieu water.

(c) The recipient's anticipated demand for groundwater and anticipated total demand for water, including groundwater.

(d) The recipient's legal right to withdraw or use groundwater pursuant to chapter 2 of this title.

(e) The amount of central Arizona project water for which the recipient anticipates accepting delivery.

(f) The historic amount of power used to pump groundwater at the groundwater savings facility compared to the power used during a year in which the recipient received in lieu water.

(g) The factors that prevent the recipient from using the water delivered as in lieu water without the operation of the groundwater savings facility.

(h) Any other criteria the director may deem to be relevant.

1 Sec. 22. Section 45-831.01, Arizona Revised Statutes, is amended to
2 read:

3 45-831.01. Water storage permits

4 A. A person may apply to the director for a water storage permit
5 and may store water at a storage facility only pursuant to a water storage
6 permit.

7 B. The director may issue a water storage permit to store water at
8 a storage facility if the director determines that all of the following
9 apply:

10 1. The applicant has a right to use the proposed source of water.
11 Any determination made by the director for purposes of this subsection
12 regarding the validity, nature, extent or relative priority of a water
13 right claimed by the applicant or another person is not binding in any
14 other administration proceeding or in any judicial proceeding.

15 2. The applicant has applied for any water quality permit required
16 by the department of environmental quality under title 49, chapter 2,
17 article 3 and by federal law.

18 3. The water storage will occur at a permitted storage facility.

19 C. In addition to the requirements of subsection B of this section,
20 if the applicant has applied for a water storage permit to store water at
21 a groundwater savings facility, the director shall not issue the water
22 storage permit unless the applicant has agreed in writing to comply with
23 the plan by which the quantity of groundwater saved at the facility will
24 be proved each year.

25 D. If the director issues a water storage permit, the director may
26 make, if possible, the following determinations:

27 1. Whether the water to be stored is water that cannot reasonably
28 be used directly by the applicant and otherwise meets the requirements of
29 section 45-852.01 for long-term storage credits.

30 2. If use of the water to be stored is appurtenant to a particular
31 location, and if so, where the water may be legally used after recovery.
32 Any determination made by the director for purposes of this subsection
33 regarding the validity, nature, extent or relative priority of a water
34 right claimed by the applicant or another person is not binding in any
35 other administrative proceeding or in any judicial proceeding.

36 E. The director may issue a water storage permit for a period of
37 not more than fifty years, except that:

38 1. On request of the holder of the permit, the director may renew
39 the permit if the director determines that the requirements of subsection
40 B of this section apply and, if the requirement of subsection C of this
41 section applied at the time of issuance, that the requirement of
42 subsection C of this section applies at the time of renewal.

43 2. Subject to the provisions of this chapter, the holder of
44 long-term storage credits earned pursuant to the permit may recover the
45 water over a period longer than the duration of the permit.

F. The holder of a water storage permit may apply to the director for approval to convey the permit to another person. The director may approve the conveyance if the director determines that the person to whom the permit is to be conveyed and the water storage will continue to meet the applicable requirements of this section. If long-term storage credits accrued pursuant to the water storage permit are being assigned pursuant to section 45-854.01 with the water storage permit, the director shall be given notice of the impending assignment of long-term storage credits at the time the holder of the water storage permit applies to convey the permit.

G. A person who holds a water storage permit may apply to the director on a form approved by the director for a modification of that water storage permit. The director may modify the permit within twenty days ~~of~~ AFTER receiving the application without complying with section 45-871.01 if all of the following apply:

1. The holder of the storage facility permit with which the water storage permit is affiliated has consented to the modification.

2. The modification to the water storage permit does not require a modification of the affiliated water storage facility permit.

3. The only modification requested is to add an amount of Colorado river water as a type of water to be stored under the water storage permit.

4. Water storage of Colorado river water has previously been permitted at the affiliated storage facility.

5. The person requesting the modification has the right to use the Colorado river water.

H. A water storage permit shall include the following information:

1. The name and mailing address of the person to whom the permit is issued.

2. The storage facility where the water storage will occur and the name of the active management area, RURAL GROUNDWATER MANAGEMENT AREA, irrigation non-expansion area, groundwater basin or groundwater ~~sub-basin~~ SUBBASIN, as applicable, in which that facility is located.

3. The maximum annual amount of water that may be stored.

4. If the applicable finding of subsection D of this section has been made, whether the water to be stored is water that cannot reasonably be used directly by the applicant.

5. If the applicable finding of subsection D of this section has been made, any restrictions on where the water to be stored may legally be used.

6. Other conditions consistent with this chapter.

7. The duration of the permit.

I. If the water storage will occur at a groundwater savings facility, the water storage permit shall include, in addition to the information required by subsection H of this section, the requirements of

1 the plan by which the quantity of groundwater saved at the storage
2 facility will be proved each year.

3 J. If the director of the department of water resources decides to
4 issue a water storage permit and the applicant has not received a water
5 quality permit required by the department of environmental quality under
6 title 49, chapter 2, article 3 and by federal law, the director of the
7 department of water resources shall make receipt of the water quality
8 permit a condition of the water storage permit and the holder of the water
9 storage permit shall not store water until receiving the water quality
10 permit.

11 Sec. 23. Section 45-832.01, Arizona Revised Statutes, is amended to
12 read:

13 45-832.01. Use of stored water

14 A. Water that has been stored pursuant to a water storage permit
15 may be used or exchanged only in the manner in which it was permissible to
16 use or exchange the water before it was stored.

17 B. Water that has been stored pursuant to a water storage permit
18 may be used only in the location in which it was permissible to use the
19 water before it was stored.

20 C. Water that has been stored pursuant to a water storage permit
21 may be used for replenishment purposes only in the active management area
22 OR RURAL GROUNDWATER MANAGEMENT AREA in which the water is stored, unless
23 the water is recovered and transported to another active management area
24 OR RURAL GROUNDWATER MANAGEMENT AREA.

25 D. Stored water may be used only as follows:

26 1. The water may be recovered by the storer and used on an annual
27 basis in accordance with section 45-851.01.

28 2. The water may be credited to the storer's long-term storage
29 account, if the water meets the requirements of section 45-852.01, and the
30 long-term storage credits may be used in accordance with ~~the provisions of~~
31 this chapter.

32 3. A district that is storing water may have the stored water
33 credited to its master replenishment account, if the water would meet the
34 requirements of long-term storage credits as prescribed by section
35 45-852.01.

36 4. A conservation district that is storing water may have the
37 stored water credited to its conservation district account, if the water
38 would meet the requirements of long-term storage credits as prescribed by
39 section 45-852.01.

40 5. A water district that is storing water may have the stored water
41 credited to its water district account, if the water would meet the
42 requirements of long-term storage credits as prescribed by section
43 45-852.01.

1 Sec. 24. Section 45-834.01, Arizona Revised Statutes, is amended to
2 read:

3 45-834.01. Recovery of stored water; recovery well permit;
4 emergency temporary recovery well permit; well
5 construction

6 A. A person who holds long-term storage credits or who may recover
7 water on an annual basis may recover the water stored pursuant to a water
8 storage permit only:

9 1. If the person seeking to recover stored water has applied for
10 and received a recovery well permit under this article.

11 2. For water stored within an active management area **OR RURAL**
12 **GROUNDWATER MANAGEMENT AREA**, if one of the following applies:

13 (a) The proposed recovery well is located within the area of impact
14 of the stored water, as determined by the director, and either the person
15 recovering the water is the storer or the stored water to be recovered is
16 Colorado River water. If the stored water to be recovered is effluent
17 that is stored in a managed underground storage facility and if the
18 proposed recovery well is not an already constructed well owned by the
19 person recovering the water and is located within the exterior boundaries
20 of the service area of a city, town, private water company or irrigation
21 district, that city, town, private water company or irrigation district
22 must be notified by the person recovering the stored water and must have
23 the right to offer to recover the water stored on behalf of that person.
24 If the city, town, private water company or irrigation district offers to
25 recover the water on behalf of the person seeking recovery and the water
26 that is offered for recovery is of comparable quality to the water that
27 the person could recover, the person seeking to recover the water shall
28 consider accepting the best offer from the city, town, private water
29 company or irrigation district overlying the area of impact that has
30 offered to recover the stored water.

31 (b) The proposed recovery well is located outside the area of
32 impact of the stored water, as determined by the director, and all of the
33 following apply:

34 (i) The proposed recovery well is located within the same active
35 management area **OR RURAL GROUNDWATER MANAGEMENT AREA** as storage.

36 (ii) The director determines that recovery at the proposed location
37 is consistent with the management plan and achievement of the management
38 goal for the active management area **OR RURAL GROUNDWATER MANAGEMENT AREA**.

39 (iii) If the proposed recovery well is located within the exterior
40 boundaries of the service area of a city, town, private water company or
41 irrigation district, that city, town, private water company or irrigation
42 district is the person seeking to recover the water or has consented to
43 the location of the recovery well.

44 (iv) If the proposed recovery well is located outside, but within
45 three miles of, the exterior boundaries of the service area of a city,

town, private water company or irrigation district, the closest city, town, private water company or irrigation district has consented to the location of the recovery well.

(c) The proposed recovery well is located within the area of impact of the stored water, as determined by the director, the person recovering the water is not the storer, the stored water to be recovered is not Colorado River water and all of the conditions prescribed by subdivision (b), items (i) through (iv) of this paragraph are met.

3. For water stored outside of an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, if recovery will occur within the same irrigation non-expansion area, groundwater basin or groundwater ~~sub-basin~~ SUBBASIN, as applicable, in which the water was stored.

B. Before recovering from any well water stored pursuant to a water storage permit, a person shall apply for and receive a recovery well permit from the director. The director shall issue the recovery well permit if the director determines that:

1. If the application is for a new well, as defined in section 45-591, or except as provided in paragraphs 2 and 3 of this subsection for an existing well, as defined in section 45-591, the proposed recovery of stored water will not unreasonably increase damage to surrounding land or other water users from the concentration of wells. The director shall make this determination pursuant to rules adopted by the director.

2. If the applicant is a city, town, private water company or irrigation district in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA and the application is for an existing well within the service area of the city, town, private water company or irrigation district, the applicant has a right to use the existing well.

3. If the applicant is a conservation district and the application is for an existing well within the conservation district and within the groundwater basin or ~~sub-basin~~ SUBBASIN in which the stored water is located, the applicant has a right to use the existing well.

C. A city, town, private water company or irrigation district in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA may apply with a single application to the director to have all existing wells, as defined in section 45-591, that the applicant has the right to use within its service area listed as recovery wells on the recovery well permit, if those wells otherwise meet the requirements of this section.

D. If the applicant is a conservation district, the director may issue an emergency temporary recovery well permit without complying with section 45-871.01, subsection F if the director determines that all of the following apply:

1 1. The conservation district cannot reasonably continue to supply
2 central Arizona project water directly to a city, town, private water
3 company or irrigation district due to an unplanned failure of a portion of
4 the central Arizona project delivery system.

5 2. The emergency temporary recovery well permit is necessary to
6 allow the conservation district to provide immediate delivery of
7 replacement water to the city, town, private water company or irrigation
8 district.

9 3. The application is for an existing well as defined in section
10 45-591 that is within the groundwater basin or groundwater ~~sub-basin~~
11 SUBBASIN in which the stored water is located, is within the conservation
12 district and is within the service area of the city, town, private water
13 company or irrigation district.

14 E. An emergency temporary recovery well permit issued pursuant to
15 subsection D of this section may be issued for a period of up to ninety
16 days and may be extended for additional ninety day periods if the director
17 determines that the conditions prescribed in subsection D of this section
18 continue to apply.

19 F. If the application for a recovery well permit is approved, the
20 director shall issue a permit and the applicant may proceed to construct
21 or use the well. If the application is rejected, the applicant shall not
22 proceed to construct or use the well. A new well shall be completed
23 within one year of receipt of the permit, unless the director in granting
24 the permit approves a longer period to complete the well. If the well is
25 not completed within one year or the longer period approved by the
26 director, the applicant shall file a new application before proceeding
27 with construction.

28 G. A recovery well permit shall include the following information:

29 1. The name and mailing address of the person to whom the permit is
30 issued.

31 2. The legal description of the location of the existing well or
32 proposed new well from which stored water may be recovered pursuant to the
33 permit.

34 3. The purpose for which the stored water will be recovered.

35 4. The depth and diameter of the existing well or proposed new well
36 from which stored water may be recovered pursuant to the permit.

37 5. The legal description of the land on which the stored water will
38 be used.

39 6. The maximum pumping capacity of the existing well or proposed
40 new well.

41 7. If the permit is for a proposed new well, the latest date for
42 completing the proposed new well.

43 8. Any other information as the director may determine.

1 Sec. 25. Section 45-841.01, Arizona Revised Statutes, is amended to
2 read:

3 45-841.01. Accrual of long-term storage credits; Indian water
4 rights settlements

5 A. To further the implementation of Indian water rights settlements
6 in this state, an Indian community may accrue long-term storage credits as
7 prescribed by this section.

8 B. This section applies only to the settlement of a water rights
9 claim by a federally recognized Indian community in this state if the
10 settlement provides for off-reservation storage of its central Arizona
11 project water and only after the settlement results in a dismissal with
12 prejudice of a class action claim that has been pending in the United
13 States district court for more than five years.

14 C. Before accruing any long-term storage credits under this
15 section, both of the following conditions apply:

16 1. A party seeking to participate in the accrual of long-term
17 storage credits under this section shall file written notice with the
18 director that the requirements of subsection B of this section have been
19 met.

20 2. The director shall find that the requirements of subsection B of
21 this section have been met.

22 D. Before accruing any long-term storage credits under this
23 section, a party seeking to participate in the accrual of long-term
24 storage credits under this section shall file with the director all of the
25 following information:

26 1. A written notice of the party's intent to begin the delivery of
27 central Arizona project water that is available to the Indian community to
28 the holder of grandfathered groundwater rights in an active management
29 area OR RURAL GROUNDWATER MANAGEMENT AREA.

30 2. A sworn statement by the holder of the grandfathered groundwater
31 rights that the holder will use the water delivered off of Indian
32 community lands on a gallon-for-gallon substitute basis instead of
33 groundwater that otherwise would have been pumped pursuant to the
34 grandfathered groundwater rights OR CERTIFICATE OF GROUNDWATER USE from
35 within an active management area OR RURAL GROUNDWATER MANAGEMENT AREA.

36 3. A listing and description of the grandfathered groundwater
37 rights that will not be exercised by the holder because of the delivery of
38 the water that is delivered by the Indian community.

39 4. A hydrologic report assessing the effect of nonexercise of
40 grandfathered groundwater rights under this section on any underground
41 storage facility that was constructed as a state demonstration project and
42 that is located within ten miles of the point of withdrawal for the
43 grandfathered groundwater rights.

1 E. The director shall review the hydrologic report filed pursuant
2 to subsection D, paragraph 4 of this section and shall make such
3 modifications to the state demonstration project's underground storage
4 facility permit as the director deems appropriate.

5 F. If the director determines that the parties have complied with
6 subsection D of this section, the Indian community may begin accruing
7 long-term storage credits for the delivery of central Arizona project
8 water to the holder of the grandfathered groundwater rights, but only if
9 the following apply:

10 1. By March 31 of each year, the holder of the grandfathered
11 groundwater rights files an annual report with the director for the
12 preceding calendar year. The annual report shall include the following
13 information:

14 (a) The total quantity of water received from the Indian community
15 during the year for use by the holder under this section.

16 (b) A listing of those grandfathered groundwater rights that were
17 not exercised during the year by the holder because of the receipt of
18 central Arizona project water delivered by the Indian community.

19 (c) Such other information as the director may reasonably require.

20 2. The director finds that the water reported as received by the
21 grandfathered groundwater right holder was used on a gallon-for-gallon
22 substitute basis for groundwater.

23 3. The Indian community has offered to sell the Arizona water
24 banking authority ten ~~per cent~~ PERCENT of any long-term storage credits
25 accruable by the Indian community under this section at a price per
26 acre-foot at the time of sale equal to the authority's cost of delivering
27 and storing water at an underground storage facility that was constructed
28 as a state demonstration project and that is located within ten miles of
29 the point of withdrawal of any of the grandfathered groundwater rights
30 identified in the list filed with the director pursuant to subsection D,
31 paragraph 3 of this section, except that any credits purchased pursuant to
32 such offer may not be recovered within five miles of the exterior
33 reservation boundary of the Indian community.

34 G. The water that is received under this section by the holder of
35 the grandfathered groundwater right is deemed to be groundwater for all
36 purposes of chapter 2 of this title as if the holder had withdrawn it from
37 a well. The holder is responsible for all records, reports and fees
38 required by chapter 2 of this title relating to the water received.

39 H. The director shall establish a long-term storage account for the
40 Indian community in accordance with section 45-852.01 and each year shall
41 credit to that long-term storage account ninety-five ~~per cent~~ PERCENT of
42 the water received by the holder of the grandfathered groundwater right
43 during the preceding year that meets the requirements of subsection F of
44 this section.

1 I. Long-term storage credits accrued pursuant to this section may
2 be used or assigned in any manner that is consistent with this chapter.

3 J. The maximum amount of long-term storage credits that may be
4 accrued by an Indian community under this section in any year is ten
5 thousand acre-feet.

6 Sec. 26. Section 45-852.01, Arizona Revised Statutes, is amended to
7 read:

8 45-852.01. Long-term storage accounts

9 A. The director shall establish one long-term storage account for
10 each person holding long-term storage credits. The director shall
11 establish subaccounts within the long-term storage account according to
12 each active management area, RURAL GROUNDWATER MANAGEMENT AREA, irrigation
13 non-expansion area, groundwater basin or groundwater subbasin in which the
14 person's stored water is located. The long-term storage account shall be
15 further subdivided by type of water, if the person holds long-term storage
16 credits for more than one type of water.

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

20 1. Either:

21 (a) The water that was stored was water that cannot reasonably be
22 used directly.

23 (b) The water was stored in a groundwater savings facility located
24 in an active management area OR RURAL GROUNDWATER MANAGEMENT AREA that
25 does not have a management goal of achieving or maintaining a safe yield
26 condition, the water was stored between January 1, 2020 and December 31,
27 2026 and the director determines that the storage assists in implementing
28 within this state a drought contingency plan for the lower basin of the
29 Colorado River. The total maximum amount that may qualify under this
30 subdivision is fifteen thousand acre-feet per year.

31 2. If the stored water was stored at a storage facility within an
32 active management area OR RURAL GROUNDWATER MANAGEMENT AREA, either:

33 (a) The water would not have been naturally recharged within the
34 active management area OR RURAL GROUNDWATER MANAGEMENT AREA.

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

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

43 C. The director shall credit ninety-five percent of the recoverable
44 amount of stored water that meets the requirements of subsection B of this
45 section to the storer's long-term storage account, except that:

1 1. If the water was stored at a managed underground storage
2 facility that does not qualify as an existing effluent managed underground
3 storage facility and that had not been designated at the time of storage
4 as a facility that could add value to a national park, national monument
5 or state park and the water stored is effluent, the director shall credit
6 to the storer's long-term storage account fifty percent of the recoverable
7 amount of water that meets the requirements of subsection B of this
8 section. For storage of effluent in a managed underground storage
9 facility that is located in a recreational corridor channelization
10 district established pursuant to title 48, chapter 35, the director may
11 increase the storage credits earned from fifty percent to ninety-five
12 percent if both of the following apply:

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

16 (b) The director determines that the storage of effluent in the
17 facility will provide a greater benefit to aquifer conditions in the
18 active management area OR RURAL GROUNDWATER MANAGEMENT AREA or, if outside
19 an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, to the
20 groundwater basin than would accrue to the active management area, RURAL
21 GROUNDWATER MANAGEMENT AREA or groundwater basin if the effluent is used
22 or disposed of in another manner.

23 2. If the water was stored at a groundwater savings facility and
24 the storer has not met the burden of proving that one hundred percent of
25 the in lieu water was used on a gallon-for-gallon substitute basis for
26 groundwater, the director shall credit to the storer's long-term storage
27 account only the percentage of the in lieu water that meets the
28 requirements of subsection B of this section and that was proven to the
29 director's satisfaction as being used on a gallon-for-gallon substitute
30 basis for groundwater.

31 3. The director shall credit to the storer's long-term storage
32 account ninety percent of the recoverable amount of the water that meets
33 the requirements of subsection B of this section if all of the following
34 apply:

35 (a) The stored water was central Arizona project water that
36 qualifies as water that cannot reasonably be used directly due solely to
37 the exclusion of groundwater withdrawn by the storer for mineral
38 extraction or metallurgical processing under section 45-802.01, paragraph
39 23, subdivision (c).

40 (b) The storer was engaged in mineral extraction and metallurgical
41 processing within an initial active management area on or before January
42 1, 2011.

43 (c) All exterior boundaries of the storage facility that is used to
44 store the stored water are more than twenty miles from a well owned by the

1 storer on January 1, 2012 and that well is not an exempt well and any one
2 or more of the following apply:

3 (i) The well is an existing well as defined in section 45-591,
4 paragraph 1.

5 (ii) The department has issued a permit for the well under section
6 45-599, subsection C.

7 (iii) The well was drilled pursuant to a mineral extraction and
8 metallurgical processing permit issued by the department under section
9 45-514.

10 4. Except as otherwise provided in paragraph 2 of this subsection,
11 the director shall credit to the storer's long-term storage account or
12 conservation district account one hundred percent of the recoverable
13 amount of water that meets the requirements of subsection B of this
14 section if any of the following applies:

15 (a) The water stored was effluent that was stored at a constructed
16 underground storage facility, a groundwater savings facility or a managed
17 underground storage facility that was designated at the time of storage as
18 a facility that could add value to a national park, national monument or
19 state park.

20 (b) The water was stored in an active management area OR RURAL
21 GROUNDWATER MANAGEMENT AREA and the stored water is water from outside the
22 active management area OR RURAL GROUNDWATER MANAGEMENT AREA that would not
23 have reached the active management area OR RURAL GROUNDWATER MANAGEMENT
24 AREA without the efforts of the holder of the long-term storage credits.

25 (c) The water was stored outside an active management area OR RURAL
26 GROUNDWATER MANAGEMENT AREA and the stored water is water from outside the
27 groundwater basin in which the water was stored that would not have
28 reached the groundwater basin without the efforts of the holder of the
29 long-term storage credits.

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

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

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

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

41 1. One hundred percent of the amount of stored water that the
42 holder of the long-term storage credits has recovered during the calendar
43 year pursuant to the permit.

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

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

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

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

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

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

Sec. 27. Section 45-855.01, Arizona Revised Statutes, is amended to read:

45-855.01. Effect of long-term storage credits on assured water supply and adequate water supply

A. In an active management area OR RURAL GROUNDWATER MANAGEMENT AREA, except as provided in section 45-853.01, subsection C, and on the request of a person who holds long-term storage credits, the director shall include the amount of long-term storage credits requested by the person in determining whether to issue a certificate of assured water supply to the person pursuant to section 45-576, or if the person is a city, town or private water company, whether to designate or redesignate the city, town or private water company as having an assured water supply. This subsection ~~shall~~ DOES not ~~be construed to~~ prohibit or require the director to include projected additions to a long-term storage account in determining whether to issue a certificate of assured water

1 supply to the person, or if the person is a city, town or private water
2 company, whether to designate or redesignate the city, town or private
3 water company as having an assured water supply.

4 B. Outside an active management area **OR RURAL GROUNDWATER**
5 **MANAGEMENT AREA**, except as provided in section 45-853.01, subsection C and
6 on the request of a person who holds long-term storage credits, the
7 director shall include the amount of long-term storage credits requested
8 by the person in determining whether to issue a report of adequate water
9 supply pursuant to section 45-108 for a subdivision to the person, or if
10 the person is a city, town or private water company, whether to designate
11 the city, town or private water company as having an adequate water
12 supply. This subsection ~~shall~~ **DOES** not ~~be construed to~~ prohibit or
13 require the director to include projected additions to a long-term storage
14 account in determining whether to issue a report of adequate water supply
15 for a subdivision to the person, or if the person who holds the long-term
16 storage account is a city, town or private water company, whether to
17 designate the city, town or private water company as having an adequate
18 water supply.

19 C. Long-term storage credits included by the director in making the
20 determinations and designations in subsections A and B of this section are
21 not assignable by the person holding the credits, unless the director has
22 determined that the credits will continue to be used for the subdivision
23 for which the certificate of assured water supply or certificate of
24 adequate water supply has been issued or for the service area that has
25 been designated as having an assured water supply or an adequate water
26 supply.

27 Sec. 28. Section 45-2602, Arizona Revised Statutes, is amended to
28 read:

29 **45-2602. Establishment of southside protection zones;**
30 **reporting requirements**

31 A. The following southside protection zones are established on the
32 effective date of this section:

- 33 1. The eastern protection zone north.
- 34 2. The eastern protection zone south.
- 35 3. The western municipal and industrial protection zone.
- 36 4. The western municipal protection zone.
- 37 5. The central protection zone.

38 B. The boundaries of the southside protection zones established
39 under subsection A are shown on the maps that are dated March 25, 2002 and
40 that are on file in the department. The maps shall be available for
41 examination by the public during regular business hours.

42 C. Each person in the Pinal active management area who withdraws
43 underground water during a calendar year in a southside protection zone
44 established under this section, other than the central protection zone,
45 shall file an annual report with the director no later than March 31 of

1 each year for the preceding calendar year. The report shall contain the
2 following information in addition to any other information required by
3 section 45-632:

4 1. The amount of underground water withdrawn within the southside
5 protection zone and the name of the protection zone.

6 2. If the underground water was used for a nonirrigation use, the
7 purpose for which the underground water was used, the location of the use,
8 the acreage of the parcel or parcels of land on which the underground
9 water was used and the date the use commenced.

10 3. The amount of any water replenished during the year pursuant to
11 section 45-2611, subsection B, paragraph 2, the water use for which the
12 water was replenished and the manner in which the water was replenished.

13 4. The amount of any water replaced during the year pursuant to
14 section 45-2611, subsection B, paragraph 3, the water use for which the
15 water was replaced and the manner in which the water was replaced.

16 D. A person who is required to file an annual report for a year
17 under subsection C of this section:

18 1. Shall use a water measuring device approved by the director
19 unless exempt under section 45-604.

20 2. Shall maintain current accurate records of the person's
21 withdrawals, transportation, deliveries and use of underground water as
22 prescribed by the director.

23 3. May combine the report with an annual report for the same year
24 filed under section 45-632.

25 4. Shall comply with the requirements prescribed in section 45-632,
26 subsections ~~N, O and P~~ O, P AND Q and is subject to the penalties
27 prescribed in section 45-632, subsection ~~O~~ P as if the report was
28 required by section 45-632.

29 E. A person who withdraws underground water from an exempt well is
30 exempt from the record keeping and reporting requirements of subsections C
31 and D of this section. For the purposes of this subsection, "exempt well"
32 means a well that has a pump with a maximum capacity of not more than
33 thirty-five gallons per minute, that is used to withdraw underground water
34 and that would qualify as an exempt well under section 45-454 if used to
35 withdraw groundwater.

36 F. If stored water is withdrawn in the Pinal active management area
37 in a southside protection zone established under this section, other than
38 the central protection zone, the annual report filed under section
39 45-875.01, subsection D shall include:

40 1. The amount of stored water withdrawn within the southside
41 protection zone and the name of the protection zone.

42 2. If the stored water was used for a nonirrigation use, the
43 purpose for which the water was used, the acreage of the parcel or parcels
44 of land on which the water was used, the location of the use and the date
45 the use commenced.

1 3. The identification of the storage facility in which the water
2 was stored.

3 4. The amount of any water replenished during the year pursuant to
4 section 45-2611, subsection B, paragraph 2, the water use for which the
5 water was replenished and the manner in which the water was replenished.

6 5. The amount of any water replaced during the year pursuant to
7 section 45-2611, subsection B, paragraph 3, the water use for which the
8 water was replaced and the manner in which the water was replaced.

9 Sec. 29. Department of water resources; expedited rulemaking

10 The department of water resources may conduct expedited rulemaking
11 to implement this act.

12 Sec. 30. Willcox basin; applicability; delayed repeal

13 A. On the effective date of this act:

14 1. The Willcox active management area established pursuant to
15 section 45-412, Arizona Revised Statutes, is repealed and supplanted by
16 the Willcox rural groundwater management area.

17 2. The director of the department of water resources shall file an
18 order designating the Willcox active management area as repealed and
19 supplanted by the Willcox rural groundwater management area. The order
20 shall be published not less than once each week for two weeks immediately
21 following the effective date of this act in a newspaper of general
22 circulation in each county where the Willcox rural groundwater management
23 area is located.

24 B. This section is repealed from and after December 31, 2025.

25 Sec. 31. Short title

26 This act may be cited as the "Rural Groundwater Management Act".

ARF-9309

2. C.

Work Session

Meeting Date: 02/25/2025

Submitted For: Joseph Dickison, Facilities Management Director

Submitted By: Amber Martinez, Executive Administrative Assistant

Department: Facilities and Land Management

Information

Request/Subject

Discuss the Gila County Courthouse Paving Project, Globe Jail Paving Project, and Gila County Courthouse Roof Replacement Project with the Gila County Board of Supervisors.

Background Information

These capital project initiatives are proposed recommendations that aim to advance the outlined maintenance objectives with the intention of obtaining guidance from the Board of Supervisors to move forward effectively. Each project has been assessed for its potential impact and feasibility, ensuring alignment with our strategic goals and facility needs.

Evaluation

Joseph Dickison, Facilities and Land Management Department Director, will present capital project initiatives for the Gila County Courthouse Paving Project, Globe Jail Paving Project, and Gila County Courthouse Roof Replacement Project.

Conclusion

Joseph Dickison, Facilities and Land Management Director, looks forward to presenting the Gila County capital projects and receiving guidance from the Gila County Board of Supervisors.

Recommendation

It is the recommendation of Mr. Dickison and staff that the Board of Supervisors give guidance to move forward effectively on the 3 projects presented.

Suggested Motion

Information/Discussion regarding the Gila County Courthouse Paving Project, Globe Jail Paving Project, and Gila County Courthouse Roof Replacement Project. **(Joseph Dickison)**

Attachments

Facilities-Project Presentation for 2-25 WS



Facilities & Land Management

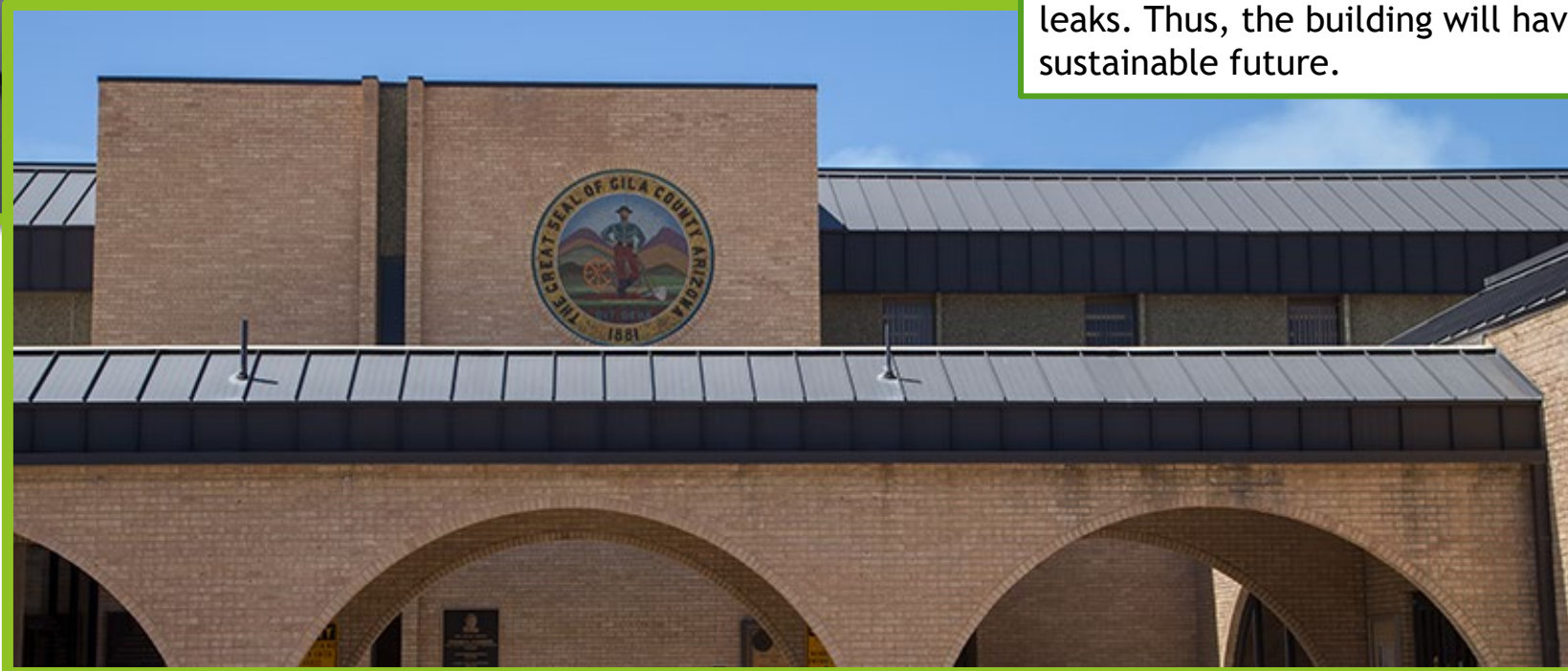
Projects Presentation

Globe Courthouse Roof Replacement



**Estimated Cost: \$ 450,000
(GF)**

It is recommended that the Globe Courthouse receive a new roof to enhance its energy efficiency, reduce maintenance costs, and prevent further damage due to leaks. Thus, the building will have a more sustainable future.



Globe Courthouse Parking Lot Paving

Estimated Cost: \$ 1,000,000
(LATCF)

The pavement improvement project is geared towards creating a better experience for both vehicles and pedestrians by providing a durable and smooth surface that can withstand all weather conditions. This upgrade will make a significant contribution to the community by ensuring that the pavement is free from any defects and that it is slip-resistant.



Globe Detention Center Paving



Estimated Cost: \$ 500,000 (LATCF)

Given the current situation at the Sheriff's Office jail, it would be beneficial to prioritize pavement repairs in a timely manner. This will not only prevent any further issues from arising but also help to avoid potential future costs.