6-8-1981


Jon L. Kyl

Follow this and additional works at: http://scholar.law.colorado.edu/water-resources-allocation-laws-and-emerging-issues

Part of the Agriculture Law Commons, Animal Law Commons, Contracts Commons, Dispute Resolution and Arbitration Commons, Energy Law Commons, Environmental Law Commons, Indian and Aboriginal Law Commons, Legislation Commons, Litigation Commons, Natural Resources and Conservation Commons, Natural Resources Law Commons, Natural Resources Management and Policy Commons, Oil, Gas, and Mineral Law Commons, Property Law and Real Estate Commons, Recreation, Parks and Tourism Administration Commons, State and Local Government Law Commons, Urban Studies Commons, Water Law Commons, and the Water Resource Management Commons

Citation Information

http://scholar.law.colorado.edu/water-resources-allocation-laws-and-emerging-issues/11

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.

Reproduced with permission of the Getches-Wilkinson Center for Natural Resources, Energy, and the Environment (formerly the Natural Resources Law Center) at the University of Colorado Law School.
OUTLINE

ARIZONA'S NEW GROUNDWATER STATUTE

1980 GROUNDWATER MANAGEMENT ACT

BY

JON L. KYL

ATTORNEY

JENNINGS, STROUSS & SALMON

WATER RESOURCES ALLOCATION:

LAWS AND EMERGING ISSUES

THE UNIVERSITY OF COLORADO SCHOOL OF LAW
I. History of Development of Groundwater Act

A. Arizona Groundwater Law: Commonlaw Doctrine of Reasonable and Beneficial Use


4. Neal v. Hunt, 112 Ariz. 307, 541 P.2d 559 (1975) (enjoining transfer of water away from land from which water was withdrawn because of resulting damage to water supply of adjacent landowner).

B. Three circumstances combined to generate the political climate for a change in the commonlaw:

1. Farmers Investment Company v. State Land Department, 113 Ariz. 520, 558 P.2d 14 (1976) (F.I.C.O.): After the Arizona Supreme Court enjoined transportation of groundwater by mining companies which damaged the water supply for the farming operation of F.I.C.O., the mines sought a political solution to their transportation problem. They were joined by Arizona cities, one of which had also been enjoined from transportation of water away from a farming area to the city. Jarvis v. State Land Department,

2. Arizona's groundwater overdraft of 2.2 million acre feet annually (almost 1/2 of consumption) began attracting political attention. Arizona agriculture's political influence had declined as the State urbanized. The Governor was a strong advocate of management of groundwater. These factors added political pressure to the legal pressure.

3. Secretary of Interior, Cecil Andrus, threatened to reduce non-Indian Central Arizona Project (C.A.P.) allocations unless Arizona adopted a program of groundwater management. C.A.P. funding also appeared to be in jeopardy.

C. Groundwater Management Study Commission


2. The Commission appointed pursuant to the 1977 law included mining, municipal and agricultural representatives, along with public and legislative members. It worked throughout 1978 and 1979.

3. The Commission concluded its work in February of 1980 when it ratified a legislative proposal written by representatives of the three major interest groups under the direction of the Governor, the Majority Leader of House of Representatives, and an influential Senator.
D. The Arizona Legislature adopted the Commission's recommendations, and the law became effective immediately, June 12, 1980.


2. Two court challenges to the Act have been filed.
   a. Town of Chino Valley v. City of Prescott, No. C-28568 (Ariz. Superior Court, Yavapi County, filed September 5, 1972) (on appeal after dismissal of complaint, Arizona Court of Appeals, Division 1).

II. Summary Overview: Title 45, Chapter 2, 1980 Groundwater Act.

A. A Department of Water Resources (DWR) with vast authority was created to administer the Act from the state, not local level. Title 45, Chapter 1, Article 1 §45-105 et seq.

B. Active Management Areas (AMAs), in which groundwater uses are strictly limited and managed, and rights to use curtailed, were delineated. Chapter 2, Article 2 §45-411 et seq.
   1. In AMAs, existing uses are generally recognized as "grandfathered rights." Chapter 2, Article 5 §45-461 et seq.
   2. New uses in AMAs require a permit, but generally are not allowed to develop or use their own water supply within service areas of cities and towns. Chapter 2, Article 7 §45-513 et seq.

C. Irrigation Non-Expansion Areas, in which no new agriculture is allowed, were delineated. Chapter 2, Article 3 §45-431 et seq.

D. Transportation of groundwater is liberalized for all users. Chapter 2, Article 8 §45-541 et seq. See also Article 6 (Service Areas) §45-462 et seq.
E. Management goals and five year conservation plans are provided for. Chapter 2, Article 9 §45-561 et seq.

1. Plans require increasingly stringent conservation measures and imposition of a pump tax.

2. Additional subdivision development requires a 100 year assured water supply. §45-576

F. Regulation of wells is increased. Chapter 2, Article 10 §45-593 et seq.

G. Administration and enforcement are provided for. Chapter 2, Article 1 §45-401 et seq.; Chapter 2, Article 11 §45-611 et seq.; and Article 12, §45-632 et seq.

H. A non-severability clause provides that the entire Act shall be null and void if any portion is adjudicated invalid. Sec. 167

III. Active Management Areas. §45-411 et seq.

A. Four initial AMAs were statutorily designated in Central Arizona (covering 80% of the State's population and 69% of the overdraft area). §45-411

1. Subsequent AMAs can be created by the Director of DWR or by initiation and approval of the voters in the area. §45-412-417

2. Each AMA will be managed by its own Area Director (but under the jurisdiction of the DWR) and receive advice from a User's Advisory Council.

B. Groundwater Rights and Uses in AMAs. §45-471 et seq.

1. The Act essentially replaces the doctrine of reasonable and beneficial use in AMAs.

   a. Irrigation Use: Only land irrigated sometime between June 1, 1975 and January 1, 1980 and which has not been retired may be irrigated. §45-452

   b. Other uses: Existing uses, like irrigation, are grandfathered; but new uses require permit. §45-511
c. Exempt Wells: Domestic wells with a maximum 35 g/p/m capacity are exempt from all requirements except registration, and can be used to irrigate up to one acre for noncommercial purposes. §45-454

2. The Act specifically does not affect decreed and appropriative water rights. §45-451

C. Outside AMAs, the doctrine of reasonable and beneficial use basically still applies, though transportation of groundwater is no longer subject to injunction by a damaged adjacent landowner.

1. Transportation rules are essentially the same as within AMAs. §45-453

2. Irrigation non-expansion areas can be created outside AMAs. §45-432-436 [Previously created Critical Groundwater areas were either included in AMAs or designated as irrigation non-expansion areas.]

IV. Grandfathered Rights. §45-461 et seq.

A. Only uses existing when an AMA is created (on the effective date of Act for the initial AMAs) are recognized in AMAs. These uses are classified into three types of "grandfathered rights." §45-462

1. Irrigation Grandfathered Rights. §45-465

   a. Apply to land irrigated at any time between January 1, 1976 to January 1, 1980, and not retired.

   b. The total acres of a farm irrigated in this period are called "irrigation acres." §45-465 B.4, §45-402.13

   c. The highest number of acres irrigated in any one year are called "water duty acres." §45-465 B.2, §45-461.5

   d. The amount of grandfathered right is not the amount previously used, but, rather, is set by the Director as a water duty. §45-465
(1) The water duty is the quantity of water (in acre-feet per acre) reasonably required for irrigation of the crops historically grown, assuming the conservation requirements of the management plan. §45-402.18

(2) The water duty may be exceeded where flood waters can be utilized and otherwise would be spilled. §45-476.E

e. The full irrigation grandfathered right may be sold for farming (§45-472); a sale for non-farm use can only be 3 a/f (i.e., 3 a/f multiplied by water duty acres divided by irrigation acres).

f. If sold for non-irrigation use, the right becomes a Type 1 Non-Irrigation Grandfathered Right.

g. The right can only be sold or leased with the land. §45-472

h. The water duty may not be exceeded even where surface and groundwater are used conjunctively. §45-467.D

i. 1981 amendments define terms so that uses on less than two acres may continue without obtaining a certificate of grandfathered right. Irrigation of more than two acres requires a certificate. See Act of April 22, 1981, Ch. 192, to be codified in Ariz. Rev. Stat. §45-40214, 19, 11.

2. Type 1 Non-Irrigation Grandfathered Rights. §45-463

a. The right is derived from irrigated land since retired.

b. The amount is usually 3 a/f per acre, but can be less -- see §45-472 D.1(b).

c. The right is for any use except irrigation, and can never be returned to irrigation. §45-473.A
d. A Type 1 right may be sold or leased only with the land to which it is appurtenant. §45-463.E

e. But, it may be used on or off the retired land unless it is located within service area of city, town or water company. §45-470.A.1

(1) Inside a service area it must be used on the land unless it is pursuant to a development plan commenced or filed before inclusion within the service area. §45-470.A.1

(2) If any portion of the right is used off the retired land, none can be used on the land. §45-472.D.2

f. The water must be withdrawn from the land unless it is delivered by an irrigation district. §45-473.C

g. Land can be retired and held for development under a Type 1 right if a development plan is filed and approved by the Director. §45-469

h. Land already retired before inclusion into an AMA may have a Type 1 right if it was retired for a bona fide water conservation purpose. §45-463.C

i. However, no Type 1 right can be created if retirement of land occurs at a time the land is already within the service area of a city or town or water company (unless the entity will not serve it at its usual rates). §45-472.C

3. Type 2 Non-Irrigation Grandfathered Rights. §45-464

a. The right is based on a non-irrigation use existing before inclusion into an AMA.

b. The amount is the maximum amount legally withdrawn in any one of the five years preceding inclusion into an AMA. §45-464
c. The right belongs to the owner of the land from which the water is withdrawn. §45-464.F

d. Type 2 rights may be used at any location. §45-471.A

e. The right cannot be conveyed in part. §45-474.C

f. Mines and electric utilities may only use or convey a Type 2 right for mining or electrical generation -- others can use or convey it for any use other than irrigation. §45-471, 474

B. Failure to apply for a grandfathered right results in forfeiture. §45-477. Applications are due September 14, 1981. §45-476

V. Groundwater Withdrawal Permits. §45-511 et seq.

A. Except for grandfathered rights and certain withdrawals by cities, towns, water companies and irrigation districts within their service areas, groundwater may only be withdrawn by one of seven kinds of permits. §45-512

1. Mine dewatering. §45-513

2. Mineral extraction and processing. §45-514

3. General industrial use. §45-515. For all uses except irrigation, mining or electrical generation, requirements:

   a. A permit may only be issued for uses outside a city, town or water company service area.

   b. If a use is within three miles of the service area of a city, town or water company, no permit will be issued unless service is refused by the entity.

   c. A permit will not be issued if CAP water is available to the applicant.

   d. A permit will not be issued if effluent or other surface water is available to the applicant at no more than 125% of the cost of groundwater.
e. A permit will not be issued if irrigation land can be purchased at a reasonable cost and retired for the applicant's use.

4. Poor quality water withdrawal. §45-516

5. Temporary permit for generation of electricity. §45-517

6. Temporary dewatering (primarily for construction). §45-518

7. Drainage. §45-519

B. Assured Water Supply. §45-576

1. Subdivision development in AMAs requires a certificate of assured water supply.

2. An assured water supply is a 100 year supply (current application by DWR adds a factor of depth not to exceed 1200') with the financial ability to develop delivery and treatment works, and for a use consistent with the management plan.

3. A presumption of assured water supply exists for a water company if it has made an unconditional offer to purchase CAP water and is proceeding to develop the necessary delivery system and treatment works. 1981 amendments liberalize this provision somewhat. See Act of April 22, 1981, Ch. 192 §17 (to be codified in Ariz. Rev. Stat. §45-576E); see also Act of April 22, 1981, Ch. 203, exempting users who had made substantial investment in subdivisions before June 12, 1980.

4. Cities and towns are deemed to have an assured supply if they have filed letters of intent to purchase CAP water. (It is believed all cities and towns will have assured water supplies under this provision, though this "presumption" can be revoked if a city fails to contract for CAP water when it becomes available.)

VI. Transportation of Groundwater. §45-541 et seq.

A. Transportation within a subdivision (or within a basin having no subbasins) is not subject to damages, either within or without an AMA. §45-544
B. Transportation away from a subbasin (or a basin without subdivisions) is not subject to damage if:

1. it is based on an irrigation grandfathered right or Type 1 non-irrigation grandfathered right, and;

2. the amount does not exceed 3 a/f per year. §45-542

C. Certain other transportations of groundwater away from a subbasin (or a basin having no subdivisions) are permitted (i.e., inferentially not enjoinable) but are subject to damages:

1. Transportation by irrigation districts, cities, towns and water companies within their service areas.

2. Transportation of Type 2 non-irrigation grandfathered rights.

3. Transportation of water subject to a withdrawal permit.

VII. Service Areas. §45-591 et seq.

A. Cities, towns, water companies (§45-492) and existing irrigation districts (§45-494) may withdraw and transport groundwater within their service areas for the benefit of landowners within their service areas and the landowners are entitled to use it, though irrigation users over two acres and others using groundwater pursuant to grandfathered rights still must obtain a certificate for their rights.

1. City, town and water company service areas may not be extended primarily:

   a. To encompass a well field.

   b. To furnish disproportionately large amounts of water to a large user.

   c. To include irrigation acres within a service area to extinguish the right to convey irrigation grandfathered rights. §45-593

2. Cities and towns may not extend service areas to furnish irrigation water. §45-493.B
3. Cities, towns and water companies may not increase pumping from outside their service areas without obtaining additional grandfathered rights. §45-491

4. Water companies may not be created in AMAs to furnish irrigation water. §45-493.C

5. Irrigation districts generally cannot enlarge service of water for non-irrigation purposes. §45-497

B. Irrigation districts formed after January 1, 1977 may only deliver:

1. CAP water.
2. Effluent.
3. The amount of groundwater represented by the current water duty of land.
4. Other existing non-irrigation use within its service area.

VIII. Management. §45-561 et seq.

A. Management Goals:

1. Safe yield (i.e., a balanced basin by 2025) for three AMAs: Phoenix, Tucson and Prescott.

2. For the Pinal AMA, preservation of agriculture for as long as feasible, consistent with the necessity to preserve water for future non-irrigation uses. §45-562

B. Management Plans: to be developed by Director of DWR. §45-563

1. First management period, 1980-1990:
   a. water duty for irrigation;
   b. conservation methods for industrial users, including the latest commercially available technology consistent with economic return;
   c. per capita conservation for residential and municipal uses. §45-564
2. Second management period, 1990-2000: lower water duties for irrigation; and, additional conservation and augmentation of water supplies for other users. §45-565

3. Third management period, 2000-2010: additional conservation for all users, and, if necessary, purchase (by the DWR) and retirement of grandfathered rights after 2006. §45-566

4. Fourth and fifth management periods, 2010-2025: additional conservation. §45-567, 568

C. A pump tax (withdrawal fee) not to exceed $5.00 per acre foot is authorized:

1. 50¢ to $1.00 immediately;

2. $2.00 for augmentation of water supplies beginning in 1990;

3. $2.00 for purchase and retirement of grandfathered rights when allowed under management periods 2 and 3. §45-611 et seq.

IX. Wells. §45-591 et seq.

A. All wells in the state must be registered by June 12, 1982. §45-593

1. New requirements for well drillers are imposed. §45-594, 595, 600

2. Outside AMAs, only a notice of intent to drill is required. §45-576

B. Inside AMAs, exempt wells and replacement wells may be deepened or replaced with only a notice of intent to drill. §45-596, 597

1. New wells may be drilled and old wells replaced only with a permit. §45-598, 599

2. Such permits shall be subject to regulations protecting against unreasonable damage to surrounding land.
X. **Enforcement.** §45-634 et seq.

A. Violations of the Act are subject to stringent civil and criminal penalties. §45-634, 636

1. Hearings are established for most significant departmental actions.

2. Appeals are allowed under the Administrative Review Act (§45-405), with special water judges presiding. §45-406

B. The Director of DWR may issue cease and desist orders and seek injunctions. §45-634
Bibliography


Legislative Developments, 13 ABA Natural Resources Law Newsletter 11 (1981)

ISSUED BY
ROSE MOFFORD
SECRETARY OF STATE

State of Arizona
Senate
Thirty-fifth Legislature
First Regular Session
1981

CHAPTER 192
SENATE BILL 1409

AN ACT
RELATING TO WATERS; PRESCRIBING DEFINITIONS; PROVIDING FOR EXCEPTIONS TO
APPLICATION OF GROUNDWATER CODE FOR AGRICULTURAL EXPERIMENTATION IN ACTIVE
MANAGEMENT AREAS; PRESCRIBING CERTAIN AREAS DEEMED TO HAVE BEEN IN
IRRIGATION BEFORE DESIGNATION AS ACTIVE MANAGEMENT AREA; PROVIDING FOR
CONVEYANCE OF CERTAIN IRRIGATION GRANDFATHERED RIGHTS; PRESCRIBING TIME
LIMIT FOR REVIEW OF CERTAIN DECISIONS OF HEARING OFFICERS; PROVIDING FOR
CHANGES IN BOUNDARIES OF CERTAIN IRRIGATION DISTRICTS IN INITIAL ACTIVE
MANAGEMENT AREAS; PROVIDING FOR CERTAIN EXEMPTION FROM A CONDITION FOR
ISSUANCE OF A GENERAL INDUSTRIAL USE GROUNDWATER PERMIT; PRESCRIBING
CONDITIONS FOR DETERMINATION OF AN ASSURED WATER SUPPLY; PROVIDING FOR
SINGLE WELL LICENSES TO DRILL CERTAIN EXEMPT WELLS; MAKING CONFORMING
CHANGES; AMENDING SECTIONS 9-463.01, 11-806.01, 32-2181, 32-2183,
32-2195.01, 32-2195.03, 45-402, 45-452, 45-472, 45-480, 45-511, 45-512,
45-515, 45-521, 45-561, 45-576, 45-578 AND 45-595, ARIZONA REVISED
STATUTES, AND AMENDING TITLE 45, CHAPTER 2, ARTICLE 6, ARIZONA REVISED
STATUTES, BY ADDING SECTION 45-494.01.

Be it enacted by the Legislature of the State of Arizona:
Section 1. Section 9-463.01, Arizona Revised Statutes, is amended
to read:
9-463.01. Authority
A. Pursuant to the provisions of this article, the legislative body
of every municipality shall regulate the subdivision of all lands within
its corporate limits.
B. The legislative body of a municipality shall exercise the
authority granted in subsection A by ordinance prescribing:
1. Procedures to be followed in the preparation, submission, review
and approval or rejection of all final plats.
2. Standards governing the design of subdivision plats.
3. Minimum requirements and standards for the installation of subdivision streets, sewer and water utilities and improvements as a condition of final plat approval.

C. By ordinance, the legislative body of any municipality shall:
1. Require the preparation, submission and approval of a preliminary plat as a condition precedent to submission of a final plat.
2. Establish the procedures to be followed in the preparation, submission, review and approval of preliminary plats.
3. Make requirements as to the form and content of preliminary plats.
4. Determine that certain lands may either not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or man-made hazard to life or property, or control the lot size, establish special grading and drainage requirements, and impose other regulations deemed reasonable and necessary for the public health, safety or general welfare on any lands to be subdivided affected by such characteristics.
5. Require payment of a proper and reasonable fee by the subdivider based upon the number of lots or parcels on the surface of the land to defray municipal costs of plat review and site inspection.
6. Require the dedication of public streets, sewer and water utility easements or rights-of-way, within the proposed subdivision.
7. Require the preparation and submission of acceptable engineering plans and specifications for the installation of required street, sewer, electric and water utilities, drainage, flood control, adequacy of water and improvements as a condition precedent to recordation of an approved final plat.
8. Require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

D. The legislative body of any municipality may require by ordinance that land areas within a subdivision be reserved for parks, recreational facilities, school sites and fire stations subject to the following conditions:
1. The requirement may only be made upon preliminary plats filed at least thirty days after the adoption of a general or specific plan affecting the land area to be reserved.
2. The required reservations are in accordance with definite principles and standards adopted by the legislative body.
3. The land area reserved shall be of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.
4. The land area reserved shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.
E. The public agency for whose benefit an area has been reserved shall have a period of one year after recording the final subdivision plat to enter into an agreement to acquire such reserved land area. The purchase price shall be the fair market value thereof at the time of the filing of the preliminary subdivision plat plus the taxes against such reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of such reserved area, including interest cost incurred on any loan covering such reserved area. 

F. If the public agency for whose benefit an area has been reserved does not exercise the reservation agreement set forth in subsection E of this section within such one year period or such extended period as may be mutually agreed upon by such public agency and the subdivider, the reservation of such area shall terminate.

G. The legislative body of every municipality shall comply with all provisions of this article and applicable state statutes pertaining to the hearing, approval or rejection, and recordation of:

1. Final subdivision plats.
2. Plats filed for the purpose of reverting to acreage of land previously subdivided.
3. Plats filed for the purpose of vacating streets or easements previously dedicated to the public.
4. Plats filed for the purpose of vacating or redescribing lot or parcel boundaries previously recorded.

H. Approval of every preliminary and final plat by a legislative body is conditioned upon compliance by the subdivider with:

1. Rules as may be established by the department of transportation relating to provisions for the safety of entrance upon and departure from abutting state primary highways.
2. Rules as may be established by a county flood control district relating to the construction or prevention of construction of streets in land established as being subject to periodic inundation.
3. Rules as may be established by the department of health services or a county health department relating to the provision of domestic water supply and sanitary sewage disposal.

I. If the subdivision is within a groundwater active management area, as defined in section 45-402, the preliminary plat shall not be approved unless accompanied by a certificate of assured water supply issued by the director of water resources, unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to section 45-576, subsection D, E or G. The legislative body of the municipality shall note on the face of the preliminary plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is within an area designated as having an assured water supply, pursuant to section 45-576, subsection D, E or G.

J. Every municipality is responsible for the recordation of all final plats approved by the legislative body and shall receive from the subdivider and transmit to the county recorder the recordation fee established by the county recorder.
K. Pursuant to provisions of applicable state statutes, the legislative body of any municipality may itself prepare or have prepared a plat for the subdivision of land under municipal ownership.

L. The legislative bodies of cities and towns may by ordinance regulate land splits within their corporate limits. Authority granted under this section refers to the determination of division lines, area and shape of the tracts or parcels and does not include authority to regulate the terms or condition of the sale or lease nor does it include the authority to regulate the sale or lease of tracts or parcels not the result of land splits as defined in section 9-463.

Sec. 2. Section 11-806.01, Arizona Revised Statutes, is amended to read:

11-806.01. Subdivision regulation; platting rules; classification

A. The county board of supervisors shall regulate the subdivision of all lands within its corporate limits, except subdivisions which are regulated by municipalities.

B. No plat of a subdivision of land within the area of jurisdiction of such county shall be accepted for recording or recorded until it has been approved by the board. The approval of the board shall be endorsed in writing on the plat and shall also include specific identification of and approval of the assurances except those for hiking and equestrian trails required by this section. Where a county planning and zoning commission exists, the plat shall first have been referred to such commission for its consideration and the board shall have received the recommendation of the commission. If the subdivision is within a groundwater active management area, as defined in section 45-402, the plat shall not be approved unless accompanied by a certificate of assured water supply issued by the director of water resources, unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to section 45-576, subsection D, E OR G. The board shall note on the face of the plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is within an area designated as having an assured water supply, pursuant to section 45-576, subsection D, E OR G.

C. Any person causing a final plat to be recorded without first submitting the plat and obtaining approval of the board shall be guilty of a class 2 misdemeanor. No county recorder shall accept for recording or record any plat which has not been approved as provided by this article.

D. The ground of refusal or approval of any plat submitted, including citation of or reference to the rule or regulation violated by the plat, shall be stated upon the record of the board.

E. The commission shall recommend to the board and the board shall adopt general rules and regulations of uniform application governing plats and subdivisions of land within its area of jurisdiction. The regulations adopted shall secure and provide for the proper arrangement of streets, or other highways in relation to existing or planned streets, or highways or to the official map for adequate and convenient open spaces for traffic,
utilities, drainage, access of fire fighting apparatus, recreation, light and air. The board may adopt general rules and regulations to provide for the proper arrangement of hiking and equestrian trails in relation to existing or planned streets or highways and if adopted, such hiking and equestrian trails shall conform to the official map for adequate and convenient open spaces for traffic, utilities, drainage, access of fire fighting apparatus, recreation, light and air. The general rules and regulations may provide for modification by the commission in planned area development or specific cases where unusual topographical or other exceptional conditions may require such action. The regulations shall include provisions as to the extent to which streets and other highways shall be graded and improved and to which water, sewer or other utility mains, piping or other facilities shall be installed or provided for on the plat as a condition precedent to the approval of the final plat.

F. Boards of supervisors of counties shall prepare specifications and make orders, inspections, examinations and certificates as may be necessary to protect and complete the provisions and make them effective. The regulations shall require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

G. Before adoption of rules and regulations by the board or any amendment thereof as provided in this article, a public hearing shall be held by the commission. A copy of the rules and regulations shall be certified by the commission to the county board of supervisors which shall hold a public hearing after notice of time and place has been given by one publication fifteen days prior to the public hearing in a newspaper of general circulation in the county.

H. Approval of a plat shall not be deemed to constitute or effect an acceptance by the county for designation of any street, highway or other way or open space shown upon the plat into the county maintenance system, except for hiking and equestrian trails which shall be constructed and maintained by the county. However, at such time as the streets, highways or other ways are fully completed in accordance with the approved plat and written specifications made by the county board, the county shall accept such streets, highways and other ways into the county maintenance system within one year of completion.

Sec. 3. Section 32-2181, Arizona Revised Statutes, is amended to read:

32-2181. Notice to commissioner of intention to subdivide lands; fractional interests; exceptions; deed restrictions

A. Before offering subdivided lands for sale or lease, the owner, agent or subdivider shall notify the commissioner in writing of his intention. The notice shall contain:

1. Name and address of owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation,
partnership or trust, a statement naming the type of legal entity and
listing the interest and the extent of such interest of each principal in
the entity. For the purposes of this section, "principal" means any person
or entity having a ten per cent or more financial interest or, if the legal
entity is a trust, each beneficiary of the trust holding a ten per cent or
more beneficial interest.

2. Name and address of subdivider.

3. Legal description and area of land.

4. A true statement of the condition of the title to the land,
including all encumbrances thereon.

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

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

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

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

9. A statement as to the location of the nearest public common and
high schools available for the attendance of school age pupils residing on
the subdivision property.

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

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

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

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

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

15. A true statement as to the approximate amount of annual taxes,
special assessments or fees to be paid by the buyer for the proposed annual
maintenance of common facilities in the subdivision.
16. A statement of the provisions for easements for permanent access for irrigation water where applicable.

17. A true statement of assurances for the installation of off-site improvements, such as roads and utilities, and approval thereof by the political subdivision having such authority.

18. A true statement of provisions made for financing any community, recreational or other facilities to be included in the offering or represented as being in the offering. Such statement shall include a trust agreement or other evidence of assurances for delivery of such facilities and a statement of the provisions, if any, for the continued maintenance of such facilities.

19. A true statement of the nature of any improvements to be installed by the developer, the estimated schedule for completion and the estimated costs related to such improvements which will be borne by purchasers of lots in the subdivision.

20. A true statement of the availability of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities in the subdivision, the estimated schedule for their installation, and the estimated costs related to such facilities and utilities which will be borne by purchasers of lots in the subdivision.

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 are or have 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 five acres or more in size.

22. A true statement identifying all other subdivisions, designated in paragraph 21, subdivisions (a), (b) and (c), in which any of the following are or, within the last five years, have 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. Such other information and such other documents and certifications as the commissioner may reasonably require.

B. The commissioner, upon application, may grant an owner, agent or subdivider of ten or less lots or parcels within a subdivision previously approved by the commissioner, an exemption from all or part of the notification requirements of subsection A of this section. Such owner, agent or subdivider shall file a statement with the commissioner indicating the change of ownership in such lots or parcels together with any material changes occurring subsequent to the original approval of the
subdivision within which such lots or parcels are located. Such statement
shall further refer to the original approval by the commissioner.

C. If the subdivision is within a groundwater active management
area, as defined in section 45-402, the owner, agent or subdivider shall
accompany the notice with a certificate of assured water supply issued by
the director of water resources, unless the subdivision is located within
an area designated as having an assured water supply by the director of
water resources pursuant to section 45-576, subsection D, or E OR G. If
the owner, agent or subdivider has submitted a certificate of assured water
supply to a city, town or county prior to approval of the plat by the city,
town or county and this has been noted on the face of the plat, such
submission constitutes compliance with this subsection.

D. It shall be unlawful for a person or group of persons acting in
concert to attempt to avoid the provisions of this article by acting in
concert to divide a parcel of land by using a series of owners or
conveyances or by any other method which ultimately results in the division
of such lands into a subdivision. Such a plan or offering is subject to
the provisions of this article.

E. A creation of four or more fractional interests in improved or
unimproved land, lots or parcels of any size shall subject such land to the
provisions of this article except when:

1. Each of the fractional interests represents, on a partition
basis, thirty-six acres or more in area of land located in this state
including to the center line of dedicated roads or easements, if any,
contiguous to the land in which such interests are held.

2. The 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.

3. The fractional interests are created by a valid order or decree
of a court or by operation of law.

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

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

F. In areas outside of groundwater active management areas
established pursuant to title 45, chapter 2, article 2, 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 sale of lots in subdivisions

-8-
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.

G. The commissioner may require any additional information which is
reasonably necessary to determine the good moral character of anyone
directly involved in subdividing land within the state. The information
may include:

1. Prior criminal records.
2. Fingerprints and background information, pursuant to section
41-1750, subsection G. With respect to each person requiring a fingerprint
and background investigation a fee shall be charged in an amount to be
determined by the commissioner. For such purpose, the real estate
department and the department of public safety may enter into an
intergovernmental agreement pursuant to title 11, chapter 7, article 3.
Such fees shall be credited pursuant to section 35-148.
3. An affidavit setting out whether the applicant, any holder of an
ownership interest or any principal of such holder has participated in,
operated or held an interest in any land development company which has
filed, or is subject to, a petition under any chapter of the federal
bankruptcy act, or the names of any persons who have been indicted for
fraud or against whom an information for fraud has been filed.

H. The commissioner may require the owner, agent or subdivider to
supplement the notice of intention to subdivide lands and may require the
filing of periodic reports to update the information contained in the
original notice of intention to subdivide lands.

I. The commissioner may adopt rules and regulations authorizing the
owner, agent or subdivider to file as the notice of intention to subdivide
lands, in lieu of some or all of the requirements of subsection A of this
section, a copy of the statement of record filed with respect to the
subdivision pursuant to the federal interstate land sales full disclosure
act provided that the statement complies with the requirements of such act
and the regulations pertinent thereto.

J. Cemeteries once formed and approved pursuant to this chapter
shall be exempt from the requirements of this section upon further
subdivision or development if such further subdivision or development is
not inconsistent with the original notice filed pursuant to this section
and the original report prepared pursuant to section 32-2183.

K. Neither a real estate sales contract, conveyance, lease,
assignment or other instrument to transfer any interest in subdivided land
nor any covenant or restriction affecting real property shall contain any
provision limiting the right of any party to appear or testify in support
of or opposition to zoning changes, building permits or any other official
acts affecting real property before a governmental body or official
considering zoning changes, building permits or any other official acts
affecting real property, whether such property is located within or
outside of the boundaries of the subdivision. All contractual provisions
which conflict with this subsection are declared to be contrary to public
policy. Nothing contained in this subsection shall prohibit private restrictions on the use of any real property.

L. Before offering subdivided lands for lease or sale an owner, agent or subdivider who makes any promises through any form of advertising media that the subdivided lands will be exclusively a retirement community or one which is limited to the residency of adults or senior citizens shall include such promises as deed restrictions in all deeds or other instruments affecting any interest in real property within such subdivided lands.

Sec. 4. Section 32-2183, Arizona Revised Statutes, is amended to read:

32-2183. Issuance of public report by commissioner on subdivision; denial of issuance; voidable sale or lease; order prohibiting sale or lease; investigations by commissioner; public hearings; summary orders

A. Upon examination of a subdivision, the commissioner shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease in this state of the lots or parcels within the subdivision. The report shall contain the data obtained in accordance with section 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. The commissioner shall require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor.

B. The commissioner may deny issuance of a public report on any of the following grounds:

1. Failure to comply with any of the provisions of this article or the regulations of the commissioner pertaining to this article.
2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.
3. Inability to deliver title or other interest contracted for.
4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.
5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.
6. Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative to such parcels.
7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering if the subdivision meets all of the following criteria:
   (a) The subdivision contains fifty or more parcels of which any fifty are both:
   (i) Not improved with residential, industrial, commercial or institutional buildings, and
(ii) Offered for sale, lease or financing for purposes other than industrial, commercial, institutional or commercial agricultural uses.

(b) The subdivision is located in an area with less than one thousand residences within the subdivision or within ten miles of the boundaries of the property described in the final public report.

8. The owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for a felony fraud or against whom an information for a felony fraud has been filed or has been convicted of a felony.

C. If the subdivision is within a groundwater active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report unless the owner, agent or subdivider has been issued a certificate of assured water supply by the director of water resources, or unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to section 45-576, subsection D, or E.

D. No person shall sell or lease or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01. Any sale or lease of subdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action, the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.

E. Any applicant objecting to the denial of a public report or to denial by the commissioner of exemption from special regulation pursuant to section 32-2181.01 may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within twenty days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within twenty days after request for a hearing is received, plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner, agent or subdivider. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of all sales transactions and funds received by him pursuant thereto, and make them accessible to the commissioner upon reasonable notice and demand.
G. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, or that the owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which is bankrupt or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the public report as provided in subsection A of this section, may conduct an investigation of such matter, issue a summary order as provided in section 32-2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, or rules and regulations or public report or the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. Such court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

H. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of such person, for a writ of ne exeat or both.

I. The court upon receipt of an application for the appointment of a receiver, for a writ ne exeat or both shall examine the verified application of the commissioner and such other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require such notice be given as the court deems satisfactory.

J. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of such person which is on file with the real estate department. The order shall inform such person that he has the right to request a hearing within ten days of the date of the order and if requested, the hearing shall be held within thirty days from the date of the order.
Sec. 5. Section 32-2195.01, Arizona Revised Statutes, is amended to read:

32-2195.01. Notice to commissioner of intention prior to the offering for sale or lease of unsubdivided land

A. Prior to the offering for sale or lease of unsubdivided land which consists of four or more contiguous parcels of land, which parcels are more than thirty-six acres each but less than one hundred sixty acres each, and which are offered, known or advertised under a common plan for sale or lease, the owner or agent shall notify the commissioner in writing of his intention to offer such parcels for sale or lease.

B. The notice required by this section shall contain the following information:

1. The name and address of the owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of such interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. The name and address of the agent.

3. The legal description and area of the lands.

4. A true statement of the condition of the title to the land, including all encumbrances thereon.

5. A true statement of the terms and conditions under which such lands are to be offered to the public.

6. A statement of the use or uses for which the land will be offered or a statement that it is offered for no specific use.

7. A true statement of the provisions made for permanent access.

8. A true statement setting out the availability of water or lack thereof.

9. A true statement of the availability to the land of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities.

10. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, taxing area or assessment district within the boundaries of which the unsubdivided lands are located, and which is to pay for the construction or installation of any improvements to that land.

11. If the owner or agent 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 are or have 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 five acres or more in size.

12. A true statement identifying all other subdivisions, designated in paragraph 11, subdivisions (a), (b) and (c), in which any of the following are or, within the last five years, have been directly or indirectly involved:
   (a) The holder of any ownership interest in the land.
   (b) The agent.
   (c) Any principal or officer in the holder.

13. Such other information as the commissioner may require for the protection of the public.

C. Copies of original promotional and advertising material to be used with such offering shall be attached to the notice.

D. If the land to be offered is within a groundwater active management area, as defined in section 45-402, the owner or agent shall accompany the notice with a certificate of assured water supply issued by the director of water resources, unless the land to be offered is within an area designated as having an assured water supply by the director of water resources pursuant to section 45-576, subsection D, E OR G.

E. It shall be unlawful for any owner or agent to make any offerings regulated by this section without the written authorization of the commissioner. The commissioner shall issue a public report thereon and require a copy of same to be furnished to each offeree at the time of such offering.

F. It shall be unlawful to offer any lands regulated by this article without provisions having been made for permanent access over terrain on which roads could be established for conventional motor vehicles unless such provision is waived by the commissioner.

G. Satisfactory proof or evidence that access meets the requirements of subsection F of this section shall be furnished to the department in a report by a licensed engineer or land surveyor of this state.

H. The commissioner may terminate any authorization issued upon the grounds and in the manner set out in section 32-2183.

I. The commissioner may require any additional information which is reasonably necessary to determine the good moral character of any person directly involved in the sale or lease of unsubdivided lands within this state. The information shall include:
   1. Prior criminal records.
   2. Fingerprints and background information, pursuant to section 41-1750, subsection G. With respect to each person requiring a fingerprint and background investigation, a fee shall be charged in an amount to be determined by the commissioner. For such purpose, the real estate department and the department of public safety may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3. Such fees shall be credited pursuant to section 35-148.
3. An affidavit setting out whether the applicant, any holder of an
ownership interest or any principal of such holder has participated in,
operated or held an interest in any land development company which has
filed, or is subject to, a petition under any chapter of the federal
bankruptcy act, or the names of any persons who have been indicted for
fraud or against whom an information for fraud has been filed.

J. In areas outside of groundwater active management areas
established pursuant to title 45, chapter 2, article 2, if the director of
water resources has issued a water availability report, the state real
estate commissioner shall require that all promotional material and
contracts for the sale of such unsubdivided lands adequately display the
director of water resources' report or a brief summary of the results
prepared by the developer and approved by the real estate commissioner. If
no report has been prepared by the director of water resources and the
availability of water is unknown, the real estate commissioner shall
require that all promotional material and contracts adequately display
that no report has been prepared and that the availability of water is
unknown.

K. Neither a real estate sales contract, conveyance, lease,
assignment or other instrument to transfer any interest in unsubdivided
land nor any covenant or restriction affecting real property shall contain
any provision limiting the right of any party to appear or testify in
support of or opposition to zoning changes, building permits or any other
official acts affecting real property before a governmental body or
official considering zoning changes, building permits or any other
official acts affecting real property, whether such property is located
within or outside of the boundaries of the unsubdivided land. All
contractual provisions which conflict with this subsection are declared to
be contrary to public policy. Nothing contained in this subsection shall
prohibit private restrictions on the use of any real property.

Sec. 6. Section 32-2195.03, Arizona Revised Statutes, is amended to
read:

32-2195.03. Report of commissioner on unsubdivided
land; order prohibiting sale or lease;
investigations by commissioner; public
hearings; summary orders

A. Upon examination of unsubdivided land, the commissioner shall,
unless there are grounds for denial, prepare and issue to the owner or
agent a public report authorizing the sale or lease of the unsubdivided
lands in this state. The report shall contain the data obtained in
accordance with section 32-2195.01 and any other information which the
commissioner determines is necessary to implement the purposes of this
article. The commissioner shall require the owner or agent to reproduce
the report and furnish each prospective customer with a copy, taking a
receipt therefor.

B. The commissioner may deny issuance of a public report on any of
the following grounds:

1. Failure to comply with any of the provisions of this article or
the regulations of the commissioner pertaining to this article.
2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.
3. Inability to deliver title or other interest contracted for.
4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.
5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.
6. Failure to provide in the contract or other writing the use or uses, if any, for which the parcels are offered, together with any covenants or conditions relative to such parcel.
7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.
8. The owner or agent or, if a corporation, any officer, director or stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for a felony fraud or against whom an information for a felony fraud has been filed or has been convicted of a felony.
9. If the unsubdivided land is within a groundwater active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report unless the owner or agent has been issued a certificate of assured water supply by the director of water resources, or unless the unsubdivided land is within an area designated as having an assured water supply by the director of water resources pursuant to section 45-576, subsection D, E OR G.
D. No owner or agent may sell or lease or offer for sale or lease unsubdivided lands without first obtaining a public report from the commissioner. Any sale or lease of unsubdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.
E. Any applicant objecting to the denial of a public report may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within twenty days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within twenty days after request for a hearing is received plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.
F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner or agent is violating any provision set forth in this article or the rules and
regulations of the commissioner or has engaged in any unlawful practice as
defined in section 44-1522 with respect to the sale of unsubdivided lands
or deviated from the provisions of the public report, may investigate the
subdivision project and examine the books and records of the owner or
agent. For the purpose of examination, the owner or agent shall keep and
maintain records of all sales transactions and funds received by him
pursuant thereto, and make them accessible to the commissioner upon
reasonable notice and demand.

G. The commissioner, on his own motion, or when he has received a
complaint and he has satisfactory evidence that any person has violated any
of the provisions of this article or the rules and regulations of the
commissioner or has engaged in any unlawful practice as defined in section
44-1522 with respect to the sale of unsubdivided lands or deviated from the
provisions of the public report, or that the owner or agent, officer or
partner, trust beneficiary or, if a corporation, any stockholder owning
ten per cent or more of the stock in such corporation has participated in,
operated or held an interest in any land development company which has been
indicted for a felony fraud or against whom an information for a felony
fraud has been filed or has been convicted of a felony, before or after the
commissioner prepares the public report as provided in subsection A of this
section, may conduct an investigation of such matter, issue a summary order
as provided in section 32-2157, or hold a public hearing and, after the
hearing, may issue such order or orders as he may deem necessary to protect
the public interest and insure compliance with the law, rules and
regulations or public report. If, after such hearing, violation of the
law, rules and regulations or public report continues, the commissioner
may bring action in any court of competent jurisdiction against such person
to enjoin such person from continuing such violation or engaging therein or
doing any act or acts in furtherance thereof.

Sec. 7. 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 upon 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 which has
been designated pursuant to article 2 of this chapter as requiring active
management of groundwater.
3. "ANIMAL INDUSTRY USE" MEANS THE PRODUCTION, GROWING AND FEEDING
OF LIVESTOCK, RANGE LIVESTOCK OR POULTRY, AS SUCH TERMS ARE DEFINED IN
SECTION 24-101. 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.
"Convey" means to transfer the ownership of a grandfathered right from one person to another.

"Effluent" means water which, after being withdrawn as groundwater or diverted as surface water, has been used for domestic, municipal or industrial purposes and which is available for reuse for any purpose, whether or not the water has been treated to improve its quality.

"Exempt well" means a well having a pump with a maximum capacity of not more than thirty-five gallons per minute which is used to withdraw groundwater for domestic purposes, including the non-commercial irrigation of not more than one acre of land.

"EXPANDED ANIMAL INDUSTRY USE" MEANS INCREASED WATER USE BY AN ANIMAL INDUSTRIAL ENTERPRISE ON THE LAND IN USE BY THE ENTERPRISE ON JUNE 12, 1980 OR ON IMMEDIATELY ADJOINING LAND, EXCLUDING IRRIGATION USES.

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

"Farm unit" means one or more farms irrigated with groundwater which are contiguous or in proximity to each other with similar soil conditions, crops and cropping patterns.

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

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

"Initial active management area" means the Tucson, Phoenix, Prescott or Pinal active management area established by section 45-411.

"Irrigate" means to apply water to TWO OR MORE ACRES OF land for the purpose of commercial agricultural production, 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 TERMS ARE DEFINED IN SECTION 24-101.

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

"Irrigation district" means a political subdivision, however designated, established pursuant to chapter 4 or 6 of this title.

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

"Irrigation non-expansion area" means a geographical area which 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.

17. 19. "Irrigation use" means the use of groundwater for
commercial agricultural irrigation 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 terms are defined in
section 24-101.

18. 20. "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.

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

20. 22. "Non-irrigation use" means a use of groundwater other than
for commercial agricultural irrigation an irrigation use.

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

22. 24. "Private water company" means any entity which distributes
or sells groundwater, except a political subdivision or an entity
established pursuant to this title which is not regulated as a public
service corporation by the Arizona corporation commission under a
certificate of public convenience and necessity. A city or town is not a
private water company.

23. 25. "Service area" means:

(a) With respect to a city or town, the area of land actually being
served water by the city or town plus:

(i) Additions to such area which contain an operating distribution
system owned by the city or town primarily for the delivery of
non-irrigation water.

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

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

24. 26. "Service area of an irrigation district" means:

(a) With respect to an irrigation district which was engaged in the
withdrawal, delivery and distribution of groundwater as of the date of the
designation of the active management area, the area of land within the
boundaries of the irrigation district actually being served water by the
irrigation district at any time during the five years preceding the date of
the designation of the active management area plus—

(4) any areas as of the date of the designation of the active
management area within the boundaries of the irrigation district which
contain an operating system of canals, flumes, ditches and other works
owned or operated by the irrigation district. THE SERVICE AREA MAY BE
MODIFIED PURSUANT TO SECTION 45-494.01.

(b) With respect to an irrigation district which was not engaged in
the withdrawal, delivery and distribution of groundwater as of the date of
the designation of the active management area:
(i) The acres of member lands within the boundaries of the
irrigation district which were legally irrigated at any time from
January 1, 1975 through January 1, 1980 for initial active management
areas or during the five years preceding the date of the designation of the
active management area for subsequent active management areas.
(ii) Any areas as of the date of the designation of the active
management area within the boundaries of the irrigation district which
contain an operating system of canals, flumes, ditches and other works for
the withdrawal, delivery and distribution of water.

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

26. "Subsequent active management area" means an active
management area established after the effective date of this chapter
JUNE 12, 1980 pursuant to article 2 of this chapter.

27. "Subsidence" means the settling or lowering of the surface
of land which results from the withdrawal of groundwater.

28. "Transportation" means the movement of groundwater from the
point of withdrawal to the point of use.

29. "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.

30. "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.

31. "Well" means a man-made opening in the earth through which
water may be withdrawn or obtained from beneath the surface of the earth.

Sec. 8. Section 45-452, Arizona Revised Statutes, is amended to
read:

45-452. No new irrigated acreage in active management areas;
central Arizona project water; agricultural
experimentation; definition

A. In an initial active management area, except as provided in
subsection SUBSECTIONS B AND H of this section, only acres of land which
were legally irrigated at any time from January 1, 1975 through January 1,
1980, which are capable of being irrigated, which have not been retired
from irrigation for a non-irrigation use pursuant to section 45-463 or
45-469 and for which the irrigation grandfathered right has not been
conveyed for a non-irrigation use, may be irrigated with any water. IN AN
INITIAL ACTIVE MANAGEMENT AREA, LAND WHICH WAS NOT IRRIGATED AT ANY TIME
FROM JANUARY 1, 1975 THROUGH JANUARY 1, 1980 IS DEEMED TO HAVE BEEN IN
IRRIGATION IF THE DIRECTOR FINDS THAT EITHER OF THE FOLLOWING APPLY:
1. In areas of an initial active management area not designated as critical groundwater areas under prior statutory law prior to the date of the designation of the active management area, land is deemed to have been in irrigation if substantial capital investment has been made for the subjugation of such land and the drilling of irrigation wells has been for an irrigation use including on-site irrigation distribution facilities and a well or wells the drilling and construction of which were substantially commenced prior to the date of the designation of the active management area.

2. In areas of an initial active management area which were designated as critical groundwater areas under prior statutory law, land is deemed to have been in irrigation if substantial capital investment has been made in the twelve months before June 12, 1980 for the improvement of the land and on-site irrigation distribution facilities, including the drilling of wells, for an irrigation use. This paragraph does not allow irrigation of land which could not have been legally irrigated under prior statutory law.

B. In an initial active management area, a person who owns acres of land which may be irrigated pursuant to subsection A of this section may apply to the director during the central Arizona project contracting period, but no later than January 1, 1985, to permanently retire all or a portion of such acres from irrigation and to irrigate conjunctively with central Arizona project water the same number of substitute acres. The director may approve the substitution of acres if the director determines that all of the following exist:

1. The substitute acres were legally irrigated during the period of September 30, 1958 to September 30, 1968, or such other period as the United States secretary of the interior may designate.

2. The acres to be retired from irrigation and the substitute acres are located outside of the exterior boundaries of the service area of a city, town or private water company and such acres are located within the same irrigation district and the same sub-basin.

3. The substitution of acres is necessary to enable the irrigation district within which the acres are located to contract for and deliver central Arizona project water.

4. Central Arizona project water available to the irrigation district within which the acres are located will be adequate to supply the substitute acres.

5. The substitution of acres will benefit the management of the active management area in which the acres are located.

C. The director shall give notice of an application to substitute acres pursuant to subsection B of this section once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in the active management area in which the irrigation district is located. The notice shall state that written objections to the substitution of acres may be filed by persons residing in the active management area in writing with the director within thirty days after the last publication of notice and that objections are limited to whether the application meets the criteria for substitution of acres as set forth in
subsection B of this section. An objection shall state the name and
to mailing address of the objector, be signed by the objector, his agent or
attorney and clearly set forth reasons why the substitution should not be
allowed. In appropriate cases, including cases where a proper written
objection has been filed, the director may hold a hearing. The director
shall, thirty days prior to the date of the hearing, give notice in the
manner described in this section. A hearing shall be conducted as provided
in section 45-480, subsection B.

D. Any acres permanently retired from irrigation pursuant to
subsection B of this section relinquish their irrigation grandfathered
rights, and such rights are deemed to be appurtenant to the substitute
acres. Groundwater withdrawn or received for the irrigation of the
substitute acres pursuant to an irrigation grandfathered right shall be
reduced by the amount of central Arizona project water received for such
acres.

E. The service area of the irrigation district in which the acres
are located shall be modified to permanently delete the acres permanently
retired from irrigation and include the substitute acres.

F. If a person retires land from irrigation pursuant to subsection
B of this section, groundwater shall not be withdrawn from such retired
land for any purpose unless pursuant to a groundwater withdrawal permit or
unless withdrawn by a city, town or private water company within the
service area of such city, town or private water company.

G. In a subsequent active management area, EXCEPT AS PROVIDED IN
SUBSECTION H OF THIS SECTION, only acres of land which were legally
irrigated at any time during the five years preceding the date of the
designation of the active management area, which are capable of being
irrigated, which have not been retired from irrigation for a
non-irrigation use pursuant to section 45-463 or 45-469 and for which the
irrigation grandfathered right has not been conveyed for a non-irrigation
use, may be irrigated with any water.

H. IN AN ACTIVE MANAGEMENT AREA, A STATE UNIVERSITY ENGAGED IN THE
TEACHING, STUDY OF AND EXPERIMENTATION IN THE SCIENCE OF AGRICULTURE MAY
IRRIGATE NOT MORE THAN THREE HUNDRED TWENTY ACRES OF LAND FOR SUCH PURPOSES
WITH NOT MORE THAN FIVE ACRE-FEET OF GROUNDWATER PER ACRE PER YEAR. WATER
PRODUCED FROM ANY WELL PURSUANT TO THIS SUBSECTION SHALL NOT BE LEASED,
SOLD OR TRANSPORTED OFF THE IRRIGATED LAND OPERATED BY THE STATE
UNIVERSITY. THE RIGHT TO WITHDRAW AND USE GROUNDWATER PURSUANT TO THIS
SUBSECTION DOES NOT REQUIRE A WITHDRAWAL PERMIT, IS NOT A GRANDFATHERED
RIGHT, SHALL NOT GIVE RISE TO A GRANDFATHERED RIGHT AND MAY NOT BE CONVEYED
TO ANY OTHER USER.

Sec. 9. Section 45-472, Arizona Revised Statutes, is amended to
read:

45-472. Conveyance of irrigation grandfathered right;
within service area; outside service area;
change to non-irrigation grandfathered right;
forfeiture of right to convey to non-irrigation use
A. The owner of an irrigation grandfathered right may convey the
right only with the land to which the right is appurtenant.
B. If the land to which an irrigation grandfathered right is appurtenant is within the exterior boundaries of the service area of a city, town or private water company:

1. The irrigation grandfathered right may be conveyed only for an irrigation use, except FOR EXPANDED ANIMAL INDUSTRY USE OR as provided in paragraphs 2 and 3 of this subsection. If an irrigation grandfathered right is conveyed for an irrigation OR EXPANDED ANIMAL INDUSTRY use, the full amount of the right is conveyed. The amount of groundwater conveyed pursuant to the right:

   (a) FOR AN IRRIGATION USE may be withdrawn by the new owner of the right only from the land to which the right is appurtenant and used on that land or on contiguous irrigation acres under common ownership within the service area of the city, town or private water company, except that, if the groundwater was delivered by an irrigation district to the previous owner of the right, the irrigation district may continue to deliver groundwater to the new owner pursuant to the right for use on the land to which the right is appurtenant or on contiguous irrigation acres under common ownership within the service area of the city, town or private water company. For purposes of this section, irrigation acres which are separated by a road, highway, easement or right-of-way from the land to which the irrigation grandfathered right is appurtenant are deemed to be contiguous.

   (b) FOR AN EXPANDED ANIMAL INDUSTRY USE MAY BE WITHDRAWN BY THE NEW OWNER OF THE RIGHT ONLY FROM THE LAND TO WHICH THE RIGHT IS APPURTENANT AND USED ON ANY OTHER LAND, SUBJECT TO THE PROVISIONS OF ARTICLE 8 OF THIS CHAPTER RELATING TO TRANSPORTATION OF GROUNDWATER. IF THE GROUNDWATER WAS DELIVERED BY AN IRRIGATION DISTRICT TO THE PREVIOUS OWNER OF THE RIGHT, THE IRRIGATION DISTRICT MAY CONTINUE TO DELIVER GROUNDWATER TO THE NEW OWNER PURSUANT TO THE RIGHT. IF ANY PORTION OF THE AMOUNT OF GROUNDWATER CONVEYED IS WITHDRAWN BY THE NEW OWNER AND USED ON OTHER LAND, NO ADDITIONAL GROUNDWATER MAY BE WITHDRAWN FOR USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT.

2. The irrigation grandfathered right may be conveyed to an industry engaged in the generation of electrical energy for the purpose of electrical energy generation, except that, if the facility for the generation of electrical energy is not subject to title 40, chapter 2, article 6.2, the conveyance is subject to the approval of:

   (a) The appropriate city or town, if the irrigation grandfathered right to be conveyed is appurtenant to land within the exterior boundaries of the service area of a city or town.

   (b) The director, if the irrigation grandfathered right to be conveyed is appurtenant to land within the corporate limits of a city or town and within the exterior boundaries of the service area of a private water company.

3. If an irrigation grandfathered right is conveyed for a non-irrigation use pursuant to paragraph 2 of this subsection, the amount of the right that is conveyed is the lesser of:
(a) The current maximum amount of groundwater which may be used pursuant to the right, as calculated pursuant to section 45-465, subsection B.

(b) Three acre-feet per year multiplied by the number of water duty acres in the farm in which the acre to which the right is appurtenant is located divided by the number of irrigation acres in the farm.

4. The new owner of an irrigation grandfathered right conveyed pursuant to paragraph 2 of this subsection may withdraw the amount of groundwater conveyed pursuant to that right, as determined in paragraph 3 of this subsection, only from the land to which the right is appurtenant and use the groundwater on that land, but may not use the groundwater on other land, except that, if the groundwater was delivered by an irrigation district to the previous owner of the right, the irrigation district may continue to deliver groundwater to the new owner pursuant to the right for use on the land to which the right is appurtenant.

C. If the land to which an irrigation grandfathered right is appurtenant is included within the exterior boundaries of the service area of a city, town or private water company subsequent to the date of the designation of an active management area, the owner of the right may, with the approval of the director and consistent with the provisions of this chapter, convey the grandfathered right for a non-irrigation use, OTHER THAN AN EXPANDED ANIMAL INDUSTRY USE, on the land to which the right is appurtenant, upon a showing that adequate water service is unavailable at rates comparable to rates charged similar classes of water users within such service area. The amount of the right conveyed is determined pursuant to subsection B, paragraph 3 of this section.

D. If the land to which an irrigation grandfathered right is appurtenant is outside of the exterior boundaries of the service area of a city, town or private water company:

1. The irrigation grandfathered right may be conveyed for an irrigation use or a non-irrigation use. If an irrigation grandfathered right is conveyed for an irrigation OR AN EXPANDED ANIMAL INDUSTRY use, the full amount of the right is conveyed. If an irrigation grandfathered right is conveyed for a non-irrigation use, OTHER THAN AN EXPANDED ANIMAL INDUSTRY USE, the amount of the right that is conveyed is the lesser of:
   (a) The current maximum amount of groundwater which may be used pursuant to the right as calculated pursuant to section 45-465, subsection B.
   (b) Three acre-feet per year multiplied by the number of water duty acres in the farm in which the acre to which the right is appurtenant is located divided by the number of irrigation acres in the farm.

2. The amount of groundwater conveyed pursuant to the right, as determined in paragraph 1 of this subsection, may be withdrawn by the new owner of the right only from the land to which the right is appurtenant and used on that land or on any other land, subject to the provisions of article 8 of this chapter relating to transportation of groundwater, except that, if the groundwater was delivered by an irrigation district to the previous owner of the right, the irrigation district may continue to...
deliver groundwater to the new owner pursuant to the right. If any portion
of the amount of groundwater conveyed is withdrawn by the new owner and
used on other land, no additional groundwater may be withdrawn for use on
the land to which the right is appurtenant, except that, if the new owner
is an industry, it may withdraw a portion of the amount of groundwater
conveyed for use on other land and withdraw the remainder of the amount of
groundwater conveyed for municipal and industrial use on the land to which
the right is appurtenant for purposes directly related to the industry's
industrial operation.

E. For purposes of this section, "land to which the right is
appurtenant" means the acre or group of contiguous acres conveyed with an
irrigation grandfathered right.

F. If an irrigation grandfathered right is conveyed for a
non-irrigation use, the new owner's right to withdraw or receive
groundwater is a non-irrigation grandfathered right associated with
retired irrigated land, or a type I non-irrigation grandfathered right. All
subsequent conveyances of that right are governed by section 45-473.

G. The amount of a type I non-irrigation grandfathered right shall
be determined at the time it is established and shall remain fixed at that
amount.

H. If an irrigation grandfathered right has not been retired in
anticipation of a future non-irrigation use and has not been exercised for
five consecutive years, the right may not be conveyed for a non-irrigation
use.

Sec. 10. Section 45-480, Arizona Revised Statutes, is amended to
read:

45-480. Review of applications; investigations; hearings;
final determination; appeal

A. The director shall review each application for a certificate of
grandfathered right and may conduct such investigations as deemed
necessary to determine whether the information contained in the
application is correct and sufficient to issue a certificate. Except as
provided in section 45-476, subsection C, the director may in appropriate
cases, including cases in which a written objection has been filed, hold a
hearing to determine whether the information contained in the application
is correct and sufficient to issue a certificate. Thirty days prior to the
date of the hearing, the director shall give notice of the hearing to the
applicant and any person who has filed an objection to the application.

B. If a hearing is held, it shall be conducted by a department
hearing officer in the active management area in which the use is located.
The proceedings shall be recorded manually or electronically and shall be
transcribed on request and at the expense of the requesting party. A
hearing shall be conducted in an informal manner without adhering to the
rules of evidence required in judicial proceedings. All parties,
including the department, shall have an opportunity to present evidence
and argument on all issues involved and to be represented by counsel. The
hearing officer shall issue findings and recommend a decision to the
director. The director shall issue a decision and an order either
affirming or modifying the hearing officer's determination within six
months of the filing of the application NOTICE OF THE HEARING.

C. If the director determines that the information contained in the
application is correct and is sufficient to issue a certificate of
grandfathered right, the director shall issue a certificate of
grandfathered right to the applicant pursuant to section 45-481. If the
director determines that the information contained in the application is
incorrect or is insufficient to issue a certificate, the director may
return the application specifically stating the reasons for its return.
The applicant may reapply within thirty days of receipt of the returned
application. A reapplication relates back to the filing of the original
application but otherwise shall be treated as a new application.

D. If the director determines that the applicant is not entitled to
a certificate of grandfathered right or determines that the amount of a
type 1 or type 2 non-irrigation grandfathered right is less than that
requested in the application, the director shall hold a hearing pursuant to
subsection B of this section.

E. The applicant or any person entering an objection to the
application may appeal to the superior court in the county in which the
irrigated land or the non-irrigation use is located pursuant to section
45-405.

Sec. 11. Title 45, chapter 2, article 6, Arizona Revised Statutes,
is amended by adding section 45-494.01, to read:

45-494.01. Addition and exclusion of area by irrigation
districts in initial active management areas

A. IN AN INITIAL ACTIVE MANAGEMENT AREA, AN IRRIGATION DISTRICT
ESTABLISHED PURSUANT TO CHAPTER 6 OF THIS TITLE EXISTING AND ENGAGED IN THE
WITHDRAWAL, DELIVERY AND DISTRIBUTION OF GROUNDWATER AS OF JANUARY 1, 1977
MAY ADD TO THE SERVICE AREA OF THE DISTRICT ACRES OF LAND WHICH HAVE
IRRIGATION GRANDFATHERED RIGHTS TO REPLACE OTHER LANDS THAT HAVE
IRRIGATION GRANDFATHERED RIGHTS OF SIMILAR AREA FOR THE PURPOSE OF
MAINTAINING THE SAME ACREAGE AS OF JUNE 12, 1980, IF BOTH OF THE FOLLOWING
APPLY:

1. THE ADDED AND EXCLUDED ACRES ARE OUTSIDE THE EXTERIOR BOUNDARIES
OF THE SERVICE AREA OF AN INCORPORATED CITY OR TOWN.

2. THE ADDED AND EXCLUDED ACRES ARE EITHER WITHIN THE FRANCHISED
AREA OF A PRIVATE WATER COMPANY OR ARE CONTIGUOUS TO THE FRANCHISED AREA OF
A PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ASSURED WATER SUPPLY
PURSUANT TO SECTION 45-576, SUBSECTION D AND THE CONTIGUOUS ACRES MAY, IN
THE JUDGMENT OF THE DIRECTOR, BE ADDED WITHOUT ADVERSELY AFFECTING THE
ASSURED WATER SUPPLY OF THE PRIVATE WATER COMPANY.

B. NO GREATER QUANTITY OF WATER MAY BE TRANSPORTED ANNUALLY TO THE
ADDED ACRES THAN THE ANNUAL STORED SURFACE WATER ALLOTMENT FOR THAT YEAR.
FOR PURPOSES OF THIS SECTION, "STORED SURFACE WATER" DOES NOT INCLUDE
CENTRAL ARIZONA PROJECT ALLOTMENT WATER. THIS SECTION DOES NOT PROHIBIT
THE TRANSPORTATION TO THE ADDED ACRES OF ANY QUANTITY OF FLOODWATER OR
EFFLUENT AVAILABLE IN ADDITION TO THE STORED SURFACE WATER ALLOTMENT.

Sec. 12. Section 45-511, Arizona Revised Statutes, is amended to
read:
45-511. Definitions
In this article, unless the context otherwise requires:
1. "General industrial use" means a non-irrigation use of groundwater except those subject to permits issued pursuant to sections 45-513 and 45-514 and those for which a certificate of assured water supply is required pursuant to section 45-576. GENERAL INDUSTRIAL USE INCLUDES ANIMAL INDUSTRY USE.
2. "Permit" means a permit to withdraw groundwater which is issued by the director pursuant to this article.

Sec. 13. Section 45-512, Arizona Revised Statutes, is amended to read:
45-512. Categories of groundwater withdrawal permits
Except as provided in SECTION 45-452, SUBSECTION H AND articles 5 and 6 of this chapter, a person may not withdraw groundwater from a nonexempt well in an active management area unless the person obtains a groundwater withdrawal permit from the director pursuant to this article. The categories of groundwater withdrawal permits are as follows:
1. Dewatering permits issued pursuant to section 45-513.
2. Mineral extraction and metallurgical processing permits issued pursuant to section 45-514.
3. General industrial use permits issued pursuant to section 45-515.
4. Poor quality groundwater permits issued pursuant to section 45-516.
5. Temporary permits issued pursuant to sections 45-517 and 45-518.
6. Drainage water permits issued pursuant to section 45-519.

Sec. 14. Section 45-515, Arizona Revised Statutes, is amended to read:
45-515. General industrial use permits; conditions for issuance; duration of permit
A. The director shall issue a permit to withdraw groundwater from a point outside of the exterior boundaries of the service area of a city, town or private water company for a general industrial use outside of the exterior boundaries of such service area if the director determines that all of the following apply:
1. Uncommitted municipal and industrial central Arizona project water is not available at the point where the operator's wellhead or distribution system would otherwise be, at a cost which does not exceed the current municipal and industrial central Arizona project rates.
2. Other surface water of adequate quality or effluent of adequate quality is not available at the point where the operator's wellhead or distribution system would otherwise be, at a cost, including treatment costs, which does not exceed by twenty-five per cent the cost the operator would otherwise incur in withdrawing groundwater.
3. Irrigation grandfathered rights are not available for purchase at a reasonable price or cannot be acquired by eminent domain.
4. The intended general industrial use, if located within three miles of the exterior boundaries of the service area of a city, town or private water company, has been denied service by the city, town or private water company at the customary rate in the customary manner. THE REQUIREMENT OF THIS PARAGRAPH DOES NOT APPLY TO AN EXPANDED ANIMAL INDUSTRY USE.

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

6. There is an assured water supply for the intended use at the intended point of withdrawal. For purposes of this section, "assured water supply" means sufficient groundwater of adequate quality will be available to the applicant to satisfy the projected general industrial use for the duration of the permit.

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

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

Sec. 15. Section 45-521, Arizona Revised Statutes, is amended to read:

45-521. Permit application form; filing; contents
Application for a permit to withdraw groundwater pursuant to this article shall be made on a form provided by the director which shall include the following information:
1. The name and mailing address of the applicant.
2. The name of the active management area and sub-basin, if any, in which the applicant proposes to withdraw groundwater.
3. The name and mailing address of the owner of the land from which the applicant proposes to withdraw groundwater.
4. The legal description of the land on which the applicant proposes to use groundwater and the name and mailing address of the owner of such land.
5. The category of permit for which application is made.
6. The specific purpose for which the groundwater will be withdrawn.
7. The annual amount of groundwater, in acre-feet, for which application is made.
8. If the applicant proposes to withdraw groundwater from an existing well or wells, the location of each such well and the depth and diameter of each well and such other information the director requires.
9. If the applicant proposes to withdraw groundwater from a new well or wells, the proposed location of each such well and the depth and diameter proposed for each well and such other information the director requires.
10. If application is made for a dewatering permit pursuant to
section 45-513:
   (a) The estimated amount of groundwater necessary to meet mineral
   extraction and metallurgical processing requirements of the applicant.
   (b) The estimated amount of groundwater necessary for municipal and
   industrial needs of communities and residential areas directly related to
   the mineral extraction and metallurgical processing operation of the
   applicant.
   (c) The legal description of the acres of land owned or controlled
   by the applicant entitled to the use of groundwater for irrigation.

11. If application is made for a mineral extraction and
metallurgical processing permit pursuant to section 45-514:
   (a) The amount of groundwater available to the applicant under a
   dewatering permit previously obtained by the applicant.
   (b) The estimated cost the applicant would incur in withdrawing
   groundwater at a point where his wellhead or distribution system would
   otherwise be.

12. If application is made for a general industrial use permit
pursuant to section 45-515:
   (a) The estimated cost the applicant would incur in withdrawing
   groundwater at the point where his wellhead or distribution system would
   otherwise be.
   (b) Proof of denial of service or inaction on a service request by a
   city, town or private water company if the location of the applicant's
   intended use is within three miles of the exterior boundaries of the
   service area of such city, town or private water company. SUCH EVIDENCE IS
   NOT REQUIRED FOR AN EXPANDED ANIMAL INDUSTRY USE.
   (c) Studies satisfactory to the director of the probable hydrologic
   impact on the groundwater resources which the applicant proposes to use
   including evidence of the availability of an assured water supply for the
   intended use.

13. If application is made for a temporary dewatering permit
pursuant to section 45-518, evidence demonstrating that a temporary
dewatering permit is necessary for beneficial use of the land from which
the groundwater is proposed to be withdrawn.

14. If application is made for a drainage water permit pursuant to
section 45-519:
   (a) Evidence that drainage of the applicant's irrigated lands is
   necessary for a reasonable economic return from agricultural production on
   such lands.
   (b) The legal description of the acres of land owned or controlled
   by the applicant entitled to the use of groundwater for irrigation.

15. A sworn statement that the information contained in the
application is true and correct to the best belief and knowledge of the
applicant.

16. Any other information which the director may require.

Sec. 16. Section 45-561, Arizona Revised Statutes, is amended to
read:
1. Definitions

In this article, unless the context otherwise requires:

1. "Augmentation" means to supplement the water supply of an active management area and may include the importation of water into the active management area, storage of water or artificial groundwater recharge.

2. "INDUSTRIAL USE" MEANS A NON-IRRIGATION USE OF WATER NOT SUPPLIED BY A CITY, TOWN OR PRIVATE WATER COMPANY, INCLUDING ANIMAL INDUSTRY USE AND EXPANDED ANIMAL INDUSTRY USE.

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

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

5. "Municipal use" means all non-irrigation uses of water supplied by a city, town, private water company or irrigation district.

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

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

45-576. Certificate of assured water supply; designated areas; exemptions

A. A person who proposes to offer subdivided or unsubdivided lands, as these terms are defined in section 32-2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the state real estate commissioner a notice of intention to offer such lands for sale or lease, pursuant to sections 32-2181 and 32-2195.01, unless the subdivision is located within an area designated as having an assured supply pursuant to subsection D or E of this section.

B. A city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the director unless the subdivision is located within an area designated as having an assured water supply pursuant to subsection D or E of this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is located within an area designated as having an assured supply, pursuant to subsection D or E of this section.

C. The state real estate commissioner may issue a public report authorizing the sale or lease of subdivided or unsubdivided lands only if the subdivider, owner or agent has obtained a certificate of assured water supply.
supply from the director, unless the lands are located within an area
designated as having an assured water supply pursuant to subsection D or E
of this section.

D. The director shall designate service areas of private water
companies in active management areas where an assured water supply exists.
An allocation for central Arizona project water by the United States
secretary of the interior to a private water company is deemed a
presumption of an assured water supply upon a finding by the director that
the private water company has made an unconditional offer to enter into a
contract for central Arizona project water sufficient to supply the
intended use and is proceeding to develop the necessary delivery system and
treatment works. The presumption of an assured water supply for a private
water company ceases if the private water company refuses to enter into a
contract for central Arizona project water during the contract period, as
determined by the director. If a city or town acquires a private water
company which has contracted for central Arizona project water, the city or
town shall assume the private water company's contract for central Arizona
project water.

E. The director may designate service areas of private water
companies in active management areas where an assured water supply exists
before an allocation of central Arizona project water as stated in
subsection D of this section, on the written request of a person who
proposes to offer for sale or lease subdivided or unsubdivided lands and
the private water company that would serve the lands. The director shall
determine in his best judgment whether, in addition to other available
supplies, sufficient central Arizona project water will be allocated to
the private water company to meet the water requirements of all existing
development within its franchised area and the requirements of the
specific proposed development or developments, taking into account the
total request for central Arizona project water from all applicants, the
reasonable foreseeability of an allocation by the secretary of the
interior as recommended by the director and any need for reserving a
portion of the total amount of central Arizona project water requested by
all applicants in order to achieve the management goal within the active
management area. The determination by the director shall be based upon a
finding:

1. That the private water company has made an unconditional offer
to enter into a contract for that amount of central Arizona project water
determined by the director to be allocable.

2. That the private water company has submitted a plan generally
describing the treatment works and facilities for the delivery and
treatment of the central Arizona project water and a tentative schedule of
major actions which the company will proceed with upon an allocation of
central Arizona project water.

3. That the private water company will be able to finance and
construct the necessary delivery system and treatment works.

4. If the method of delivery or treatment is by the use of works or
facilities of another or by an exchange of water with another, either that
THERE IS AN EXISTING AGREEMENT FOR THE USE OF THE WORKS OR FACILITIES OR AN
EXCHANGE AGREEMENT OR THAT THERE IS A WRITTEN UNDERSTANDING BETWEEN THE
PARTIES OF THE GENERAL TERMS AND CRITERIA FOR SUCH USE OR EXCHANGE.

F. A DETERMINATION BY THE DIRECTOR PURSUANT TO SUBSECTION E OF THIS
SECTION THAT A SUFFICIENT AMOUNT OF CENTRAL ARIZONA PROJECT WATER CAN BE SO
ALLOCATED IS DEEMED A CONDITIONAL PRESUMPTION OF AN ASSURED WATER SUPPLY
FOR ALL EXISTING DEVELOPMENT WITHIN ITS FRANCHISED AREA AND THE PROPOSED
DEVELOPMENT OR DEVELOPMENTS SPECIFIED IN THE DIRECTOR'S DETERMINATION. AT
THE TIME THE SECRETARY OF THE INTERIOR HAS ORDERED CENTRAL ARIZONA PROJECT
ALLOCATIONS FOR PRIVATE WATER COMPANIES, THE DIRECTOR'S AUTHORITY TO MAKE
DETERMINATIONS WHICH CREATE CONDITIONAL PRESUMPTIONS OF ASSURED WATER
SUPPLY TERMINATES. A CONDITIONAL PRESUMPTION CREATED UNDER THIS
SUBSECTION TERMINATES ON THE DATE OF AN ALLOCATION OF CENTRAL ARIZONA
PROJECT WATER BY THE SECRETARY OF THE INTERIOR TO THE PRIVATE WATER
COMPANY. THEREAFTER, THE PROVISIONS OF SUBSECTION D OF THIS SECTION
APPLY.

G. The director shall designate service areas of cities and
towns in active management areas where an assured water supply exists. If
a city or town has received an allocation from the United States secretary
of the interior for central Arizona project water or has signed a letter of
intent with the director to contract for central Arizona project water, the
service area and extensions of the service area of such city or town are
deemed to have an assured water supply. If the city or town refuses to
enter into a contract for central Arizona project water during the contract
period, as determined by the director, the determination that the city or
town has an assured water supply is subject to review by the director and
the director may determine that a city or town does not have an assured
water supply within its service area. If a city or town enters into a
contract for central Arizona project water, the service area and
extensions of the service area of such city or town are deemed to continue
to have an assured water supply until December 31, 2000. Commencing on
January 1, 2001, the determination that the service area of a city or town
has an assured water supply is subject to review by the director and the
director may determine that a city or town does not have an assured water
supply within its service area.

H. A map identifying and describing the designated service
areas of cities, towns and private water companies where an assured water
supply exists shall be on file in the department and shall be available for
examination by the public during regular business hours. The director
shall notify the mayors of all cities and towns in active management areas
and the chairmen of the boards of supervisors of counties in which active
management areas are located of the service areas where an assured water
supply exists and any modification of such areas within thirty days of the
designation or modification. Persons proposing to offer subdivided or
unsubdivided lands located within such designated service areas for sale
or lease are exempt from applying for and obtaining a certificate of
assured water supply.
S.B. 1403

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

For purposes of this section, "assured water supply" means:
1. Sufficient groundwater or surface water of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years;
2. The projected water use is consistent with the management plan and achievement of the management goal for the active management area; and
3. The financial capability has been demonstrated to construct the delivery system and any treatment works necessary to make the supply of water available for the proposed use.

Sec. 18. Section 45-578, Arizona Revised Statutes, is amended to read:

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

A. When the application for a certificate of assured water supply is determined complete and correct, the director shall, within fourteen days of such determination, give notice of the application, once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in which the active management area in which the applicant proposes to withdraw groundwater is located.

B. Notice pursuant to subsection A of this section shall state that objections to the issuance of the certificate may be filed by residents of the active management area, in writing, with the director within ten days after the last publication of notice. An objection shall state the name and mailing address of the objector, be signed by the objector, his agent or attorney and clearly set forth reasons why the certificate should not be issued. The grounds for objection are limited to whether the certificate application meets the criteria for determining an assured water supply set forth in section 45-576, subsection 4- J.

C. In appropriate cases, including cases where a proper written objection to the certificate application has been filed, the director may hold a hearing on the application. The director shall, thirty days prior to the date of the hearing, give notice in the manner described in subsection A of this section. The hearing shall be scheduled for not less than thirty days nor more than sixty days after the expiration of the time in which to file objections. A hearing shall be conducted as provided in section 45-480, subsection B, except that the director shall issue a decision and order either affirming or modifying the hearing officer's determination within four months of the filing of the application.

D. Upon finding that an assured water supply exists for the proposed use, the director shall issue a certificate of assured water supply to the applicant. Upon finding that an assured water supply does not exist, the director shall deny the application and return it to the applicant.
S.B. 1409

E. An aggrieved party or a person who contested a certificate by filing a proper objection pursuant to subsection B of this section may, within thirty days of the final decision of the director, appeal the decision as provided in section 45-405.

Sec. 19. Section 45-595, Arizona Revised Statutes, is amended to read:

45-595. Well construction requirements; licensing of well drillers and pump installation contractors

A. New well construction, including modifications of wells, shall be performed under the direct and personal supervision of a well driller who holds a contractor's license pursuant to title 32, chapter 10, article 2 and a well driller's license pursuant to subsection B.

B. A person who intends to construct or modify one or more wells in this state and who possesses a contractor's license pursuant to title 32, chapter 10, article 2 shall file an application for a well driller's license with the director. The application shall include:

1. The name, mailing address, place of business and contractor's license number of the applicant.
2. The applicant's experience and qualifications.
3. Such other information as the director may require.

C. The director shall, by rule or regulation, establish qualifications and a reasonable fee of not more than fifty dollars for licenses for well drillers and establish procedures for the evaluation and licensing of applicants. A nontransferable well driller's license shall be issued if the director finds that the applicant meets the qualifications established pursuant to this subsection. The director may revoke a well driller's license for good cause.

D. A PERSON WHO DRILLS OR MODIFIES AN EXEMPT WELL ON LAND OWNED BY THAT PERSON SHALL FIRST OBTAIN A SINGLE WELL LICENSE FROM THE DEPARTMENT. THE DEPARTMENT SHALL ISSUE THE LICENSE TO DRILL THE WELL ACCORDING TO STANDARD SMALL WELL CONSTRUCTION STANDARDS. NO FEE MAY BE CHARGED FOR A SINGLE WELL LICENSE.

Sec. 20. Intent regarding termination

Notwithstanding the provisions of this act, the legislature intends that, if the provisions of title 41, chapter 20, Arizona Revised Statutes, operate to terminate an agency, any provisions regarding powers, duties, functions or personnel added or amended by this act terminate on the date of termination of the particular agency.

Sec. 21. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 22, 1981

Filed in the Office of the Secretary of State - April 22, 1981
AN ACT

RELATING TO WATERS; PROVIDING FOR AN EXEMPTION TO THE REQUIREMENT OF A CERTIFICATE OF ASSURED WATER SUPPLY FOR CERTAIN LANDS.

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

Section 1. Exemption from requirement of certificate of assured water supply

A. A person who proposes to offer subdivided or unsubdivided lands, as these terms are defined in section 32-2101, Arizona Revised Statutes, for sale or lease in an active management area is not required to obtain a certificate of assured water supply pursuant to section 45-576, Arizona Revised Statutes, but shall proceed pursuant to the requirements of section 45-108, Arizona Revised Statutes, as if the lands were located outside the active management area, if the real estate commissioner and the director of water resources find by June 30, 1981 that all of the following apply:

1. The person has made substantial capital investment toward the construction of the proposed project before June 12, 1980 in addition to the original cost of acquiring the real property.

2. The person has shown that he was ignorant of the proposed requirement for a certificate of assured water supply at the time the investment was made.

3. The proposed project complied in all other respects with existing law as of June 12, 1980.

B. This section applies notwithstanding section 9-463.01, subsection I, section 11-806.01, subsection B, section 32-2181, subsection C, section 32-2183, subsection C, section 32-2195.01, subsection D, section 32-2195.03, subsection C and section 45-476, Arizona Revised Statutes.

Sec. 2. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 22, 1981

Filed in the Office of the Secretary of State - April 22, 1981
APPENDIX B

ARIZONA WATER COMMISSION
TUCSON
ACTIVE MANAGEMENT AREA

Legend

ACTIVE MANAGEMENT AREA BOUNDARY

ACTIVE MANAGEMENT AREA SUB-BASIN

30  ARIZONA WATER COMMISSION
    TUCSON
    ACTIVE MANAGEMENT AREA

J52
APPENDIX D
COCONINO COUNTY

PRESCOTT
ACTIVE MANAGEMENT
AREA

32 BASE FROM ARIZONA DEPARTMENT OF TRANSPORTATION
YAVAPAI CO. 1:250,000, 1978

JUNE 1980

YAVAPAI COUNTY

ARIZONA WATER COMMISSION

PRESCOTT
ACTIVE MANAGEMENT
AREA

BASE FROM ARIZONA DEPARTMENT OF TRANSPORTATION
YAVAPAI CO. 1:250,000, 1978

June 1980
PINAL
ACTIVE MANAGEMENT AREA

OFFICIAL APPLICATION FORMS
FOR
GRANDFATHERED GROUNDWATER RIGHTS

STATE OF ARIZONA
DEPARTMENT OF WATER RESOURCES
P. O. Box 2600
Phoenix, Arizona 85002

COMPLETED APPLICATIONS MUST BE MAILED BY
SEPTEMBER 14, 1981
YOUR GROUNDWATER RIGHTS

The future use of groundwater by current water users may depend on acquiring a Certificate of Grandfathered Right. This information will help you to decide if you need to apply for a certificate. Read it carefully.

A NEW SYSTEM OF GROUNDWATER RIGHTS FOR ARIZONA

For years Arizonans have been using water more rapidly than nature has replenished it. This has been possible only through massive withdrawals of water banked as groundwater reserves in the long distant past. Groundwater — that is, water withdrawn from beneath the ground — accounts for about two thirds of the water used in Arizona. In many parts of the State, these massive withdrawals, or “overdrafts”, of groundwater have led to higher costs of pumping groundwater, earth cracks and the deterioration of water quality. After years of increasing concern for these problems, the Arizona Legislature passed the Arizona Groundwater Management Act. Governor Bruce Babbitt signed the Act into law on June 12, 1980.

In passing this new law, the Legislature declared that “In the interest of protecting and stabilizing the general economy and welfare of this state and its citizens it is necessary to conserve, protect and allocate the use of groundwater resources of the state and to provide a framework for the comprehensive management and regulation of . . . groundwater (uses) . . .”. This Act established the Department of Water Resources (DWR) and gave it the responsibility to regulate water rights and develop long-range water management plans for the State. The Act also established four Active Management Areas (AMAs) in parts of the State in need of immediate groundwater management: the Phoenix, Tucson, Pinal and Prescott Active Management Areas. In these areas, the DWR must prepare long-term water conservation programs, with the help of local Groundwater Users Advisory Councils. Additionally, the Act created a new system of groundwater rights for Active Management Areas, which includes:

1. Grandfathered Rights — a way for persons who have been pumping or using groundwater to preserve their right to continue to use groundwater;
2. Withdrawal Permits — a way for new non-irrigation users of groundwater to obtain the right to withdraw groundwater; and
3. Service Area provisions — a way for cities, towns, private water companies and irrigation districts to continue to serve their customers within their service areas.

This booklet concerns only the first category of rights — GRANDFATHERED RIGHTS. It includes a brief explanation of the three different kinds of grandfathered rights, an application form for each kind of grandfathered right and instructions for filling out the applications. You may be eligible to apply for one or more kind of right; or you may not need to apply at all. Read this explanation carefully before deciding. The deadline for filing applications is September 14, 1981. If you have questions, contact the DWR by mail or by calling the telephone numbers below.

FOR QUESTIONS ABOUT GRANDFATHERED RIGHTS, CALL:

255-1546 Phoenix Area
1-800-352-5464 Outside Phoenix Area
WHAT IS A "GRANDFATHERED RIGHT"?

A grandfathered right is a right to withdraw groundwater which is based on the fact that a person was legally withdrawing and using groundwater prior to the establishment of the Active Management Areas (June 12, 1980). The Groundwater Management Act provides that all existing legal users of groundwater will be allowed to continue to use groundwater, and it provides a means of "quantifying" or determining the amount of these historical rights. There are three kinds of grandfathered rights: IRRIGATION GRANDFATHERED RIGHTS, TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHTS, and TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHTS. An irrigation use is defined in the Act as commercial agricultural irrigation. A non-irrigation use is defined in the Act as any use other than commercial agricultural irrigation.

THE ACT SPECIFIES THAT A PERSON WHO WISHES TO CLAIM A GRANDFATHERED RIGHT BUT WHO FAILS TO FILE AN APPLICATION FOR A RIGHT BY SEPTEMBER 14, 1981, WAIVES AND RELINQUISHES THE RIGHT TO WITHDRAW OR RECEIVE AND USE GROUNDWATER, PURSUANT TO A GRANDFATHERED RIGHT. However, in deciding whether to file, bear in mind the following:

1. CITIES, TOWNS AND PRIVATE WATER COMPANIES MAY PUMP AS MUCH WATER AS IS NECESSARY TO MEET THE NEEDS OF LANDOWNERS AND RESIDENTS WITHIN THEIR SERVICE AREAS, SUBJECT TO CONSERVATION REQUIREMENTS. PERSONS RECEIVING GROUNDWATER FROM CITIES, TOWNS OR PRIVATE WATER COMPANIES FOR NON-IRRIGATION USES DO NOT NEED TO FILE A GRANDFATHERED RIGHT TO BE ENTITLED TO USE THE GROUNDWATER DELIVERED BY THE CITY, TOWN OR PRIVATE WATER COMPANY.

2. PERSONS WITHDRAWING GROUNDWATER ONLY FROM "EXEMPT" WELLS WILL NOT WAIVE OR RELINQUISH THE RIGHT TO WITHDRAW GROUNDWATER BY FAILURE TO FILE FOR A GRANDFATHERED RIGHT. AN "EXEMPT" WELL IS A WELL WHICH IS USED FOR DOMESTIC PURPOSES, INCLUDING THE NON-COMMERCIAL IRRIGATION OF ONE ACRE OR LESS.

After the deadline for filing applications has passed, a registry of all applications will be established and will be open for public inspection at the DWR. There will be a period during which objections to applications may be filed by residents of the Active Management Area. The DWR will review each application, and may consult with the applicant or request additional information from the applicant before making its determination. The DWR may conduct investigations and hold hearings to determine if the information in the application is correct and sufficient to issue a Certificate of Grandfathered Right. The Department will issue Certificates to all persons whose applications meet the requirements for a grandfathered right.

THE IRRIGATION RIGHT

An irrigation grandfathered right is the right to use groundwater to irrigate land for commercial agricultural production. In the four Active Management Areas only land which was irrigated some time between January 1, 1975, and January 1, 1980, may be irrigated in the future. Only acres of land which have this history of irrigation are eligible for a grandfathered right.

The maximum amount of groundwater which may be used on the land each year will be determined by the Department according to provisions of the Act, after consultation with farmers, Area Groundwater Users Advisory Councils and technical consultants. The irrigation grandfathered right is owned by the owner of the irrigated land. The State Land Department will be filing applications for all land which it leases for irrigation.

THE TYPE 1 NON-IRRIGATION RIGHT

A Type 1 non-irrigation grandfathered right is based on the fact that land which had been legally irrigated has been retired from irrigation in order to conserve or use groundwater for a specific non-irrigation purpose. A person who has retired legally irrigated land has the right to withdraw from this land up to three acre-feet/acre/year.
A person claiming a Type 1 non-irrigation right must have owned the land since the date it was retired from irrigation, must be able to show evidence that the land was retired for the stated non-irrigation use and must meet other statutory criteria. A person who owns irrigated land may retire that land after the establishment of the Active Management Area (June 12, 1980) and apply for a Type 1 non-irrigation right, but only if the land is outside the exterior boundaries of the service area of any city, town or private water company.

THE TYPE 2 NON-IRRIGATION RIGHT

A Type 2 non-irrigation grandfathered right is based on the user's historical withdrawals rather than on land acreage. The amount of the right is based on the maximum amount withdrawn and used in any one year of the five years preceding June 12, 1980, to the extent that amount exceeds the amount of any Type 1 right claimed. The Type 2 right is owned by the owner of the land from which the groundwater is withdrawn, but the user of the water, if different from the owner of the land, may apply for the right on behalf of the landowner. A person may apply for a Type 2 right for one well or for a group of wells operated conjunctively, that is, in connection with the same distribution system.

FILING FEE

Each application filed must be accompanied by a filing fee of $20.00. Make checks payable to the Department of Water Resources.

FILING THE APPLICATION

Completed application forms must be mailed to: State of Arizona, Department of Water Resources, P.O. Box 2600, Phoenix, Arizona 85002, and postmarked no later than September 14, 1981.

References to Groundwater Management Act

1 Section 45—401, Arizona Revised Statutes
2 Section 45—477, Arizona Revised Statutes
3 Section 45—492, Arizona Revised Statutes
4 Section 45—454, Arizona Revised Statutes
5 Section 45—402, Arizona Revised Statutes
6 Section 45—465, Arizona Revised Statutes
7 Section 45—452, Arizona Revised Statutes. In areas of an Active Management Area which were not part of a critical groundwater area under prior statutory law, land is deemed to have been in irrigation if substantial capital investment had been made for the subjugation of that land and if the drilling of irrigation wells had been commenced prior to June 12, 1980.
8 Section 45—463, Arizona Revised Statutes
9 Section 45—469, Arizona Revised Statutes
10 Section 45—464, Arizona Revised Statutes
GENERAL INSTRUCTIONS
FOR
COMPLETING APPLICATION FORMS

1. Read "Your Groundwater Rights" and all instructions before filling out any application form.

2. A PERSON WHO CLAIMS A GRANDFATHERED RIGHT BUT WHO FAILS TO FILE AN APPLICATION FOR A RIGHT BY SEPTEMBER 14, 1981, WAIVES AND RELINQUISHES THE RIGHT TO WITHDRAW OR RECEIVE AND USE GROUNDWATER. (A.R.S. § 45-477)

3. Applications must be filled in completely.
   * If an item on the application is not applicable, write NA by the item.
   * If any information is unobtainable, please indicate and explain.
   * If a complete answer to an item cannot be given in the space provided on the application form, attach additional 8½ x 11 sheets of paper as needed. Number your answer to correspond to the applicable item on the application and record your name and address on each sheet.

4. Applications must be accompanied by a filing fee of $20.00. Make checks payable to the Department of Water Resources.

5. MAIL COMPLETED APPLICATIONS TO:

   STATE OF ARIZONA
   DEPARTMENT OF WATER RESOURCES
   P.O. BOX 2600
   PHOENIX, ARIZONA 85002

   NO APPLICATIONS WILL BE ACCEPTED IF POSTMARKED AFTER SEPTEMBER 14, 1981.

6. Additional Grandfathered Rights Booklets and individual application forms can be obtained by contacting the Department of Water Resources.

   IF YOU HAVE ANY QUESTIONS ON GRANDFATHERED RIGHTS, CALL:

   255-1546 Phoenix Area
   1-800-352-5464 Outside Phoenix Area
IRRIGATION GRANDFATHERED RIGHT

The following pages are the application forms and instructions for an IRRIGATION GRANDFATHERED RIGHT. Before filling out the application, read each item on the four page application form along with the appropriate comments on the instruction sheet.

For some items, the instruction sheet will tell you of additional information which must be submitted with the application. Be sure to make note of these requirements and include any necessary documents when mailing the completed application. If an application item is not referred to on the instruction sheet, it means that this item is considered to be self-explanatory.

When you have filled out the application form, tear the pages along the perforated line and have the application notarized by a Notary Public. Mail the notarized application, along with any additional sheets of paper and the filing fee, to the Department of Water Resources.

You may file separate application forms for non-contiguous parcels of land. Additional forms are available from the Department. Keep this booklet for instructions.
ITEM 1. Type or print the name of the applicant as it appears on land ownership documents. This is the name that will appear on the Certificate of Grandfathered Right.

ITEM 2. The legal description must include all land for which a right is being claimed on this application. You may claim a right only for land which you own. You may file separate applications if part of your land is not contiguous. If you are irrigating land which you do not own, the owner of those acres must file an application for those acres. The State Land Department will be filing applications for all land which it leases for irrigation. The legal description should be in the form of the following examples:

NE¼ NW¼ SW¼ SECTION 1, TOWNSHIP 12S, RANGE 11E;
PIMA COUNTY, ARIZONA, OR

SECTIONS 1, 2 AND 3, TOWNSHIP 12S, RANGE 11E;
PIMA COUNTY, ARIZONA

ITEM 4. Record the location of each well used to irrigate the land, including wells which you do not own. If your land is served by an irrigation district and it is not served by any wells other than those owned or operated by the district, write NA after Item 4 and do not fill out.

ITEM 6. Check Yes if:
   a. you obtain water only from your own well;
   b. you obtain water only from an irrigation district which owns wells but which has no surface water source;
   c. you obtain water only from a well owned jointly with other landowners or owned by a neighboring landowner;
   d. any combination of the above circumstances.

Check No if:
   a. you have the right to appropriate surface water;
   b. you receive water from an irrigation district which has a surface water source in addition to groundwater;
   c. you receive water from an irrigation district and you are not sure what the district’s source of water is.

ITEM 8. The name and address of the previous owner of the land is needed:
(1) to aid in obtaining information which may not be known by the current owner; and
(2) to aid in finding well records which may be filed under the previous owner’s name.

If certain parcels of the land were purchased from different owners since January 1, 1975, give, for each parcel, the legal description, name and address of the previous owner and the date of purchase.

ITEM 9. This information is needed to assist in the determination of the maximum amount of water which may be used on the farm. Indicate the method of irrigation which was used for each crop in 1979, for example, flood, sprinkler, furrow, drip, basin or other method. If you need additional space to be specific on cropping patterns and irrigation methods, attach additional sheets of paper.

ITEM 10. The amount of groundwater you will be allowed to use by your grandfathered right will be determined on the basis of the amount of water reasonably required to irrigate the crops historically grown, as well as on the basis of the number of acres irrigated in past years. The information from these questions will help us to determine reasonable levels of water use for various crops. Be as accurate as possible. If the amount of groundwater use was measured, indicate the method of measurement and recordation. If estimates are made, attach supporting computations including data, coefficients used, and assumptions. If part of your water supply is recycled, return flow or another recycled source and you wish to provide more information about it, do so in the space for comments.

ITEM 11. The purpose of this question is to determine which conservation practices are currently in use. “Land levelling” means any method of levelling, including methods other than laser levelling. If you are using a method not listed, you may identify this in the space for comments and indicate the percentage of the farm operation affected.

ITEM 13. You may draw the map in any scale sufficient to show the land for which the right is being claimed.
PINAL
ACTIVE MANAGEMENT AREA
APPLICATION FOR IRRIGATION
GRANDFATHERED RIGHT

Read all instructions before filling out form.
Filing Fee: $20

1. Last Name                      First                      Middle or Initial
   Last Name                      First                      Middle or Initial
   Mailing Address               City                      State                      Zip

   NOTE: This form is to be filled out only for acres which you own. If you lease farm land, make sure
   that the owner of the leased land or his authorized agent is aware of the requirement to file
   for that land.

2. Legal description of all land presently owned by applicant in the Active Management Area which was
   legally irrigated at any time between January 1, 1975 and January 1, 1980.

   ____________________________________________

3. Total number of acres in Item 2: __________________________

4. Describe the location of each well used to irrigate the land. Indicate as accurately as possible the year
   the well was drilled.

   ¼, ½, ¾, ¼, Section ------- Township ------- Range ------- Year -------
   ¼, ½, ¾, Section ------- Township ------- Range ------- Year -------
   ¼, ½, ¾, Section ------- Township ------- Range ------- Year -------
   ¼, ½, ¾, Section ------- Township ------- Range ------- Year -------

5. Is the land served by an irrigation district, agricultural improvement district or irrigation water delivery
   district? ________ Yes ________ No
   If so, give name of district and point of diversion:

   ____________________________

6. Is groundwater the sole source of water? ________ Yes ________ No

7. If water sources other than groundwater are used, indicate the basis on which those supplies are available
   to you; for example: court decree, delivery contract, surface water appropriation, contract for sewage effluent, etc. Be as specific as possible.

   ____________________________
   ____________________________
   ____________________________
   ____________________________
8. Have you owned the land since January 1, 1975? ________ Yes ________ No. If not, list below the name and address of the previous owner of the land and the date of purchase.

9. Indicate the crops grown, the number of acres planted in each crop and the total number of acres planted in each year. Do not count double cropped acres twice in the last column. Indicate irrigation methods used for each crop for 1979 only.

<table>
<thead>
<tr>
<th>Crops Grown</th>
<th># Acres in Crop</th>
<th>Irrigation Method</th>
<th>Total # Acres Planted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1978</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1977</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1976</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1975</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If additional space is needed, attach additional sheet of paper

10. Indicate the amount of water used from each source in each of the five years (acre-feet).

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Groundwater</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Surface Water</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sewage Effluent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The above amounts are □ measured □ estimated. See instructions for documentation requirements.

COMMENTS: __________________________________________________________

11. Do you make use of any of the following?

<table>
<thead>
<tr>
<th>Feature</th>
<th>Yes</th>
<th>No</th>
<th>Percentage of Ditches Lined</th>
<th>Number of Acres Served</th>
<th>Number of Acres Levelled</th>
<th>Number of Acres Affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lined Ditches or Pipes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pump-back System</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land levelling</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

COMMENTS: __________________________________________________________

12. Indicate the source of the data included in this application. (All sources must be available for inspection by the Department.)

□ Agricultural Stabilization and Conservation Service (ASCS) □ Farm Records □ Other

□ Irrigation District Records □ County Agent Records

If other is checked, please identify the source of the data: ____________________________________________________________
13. On the grid below, draw a map of the land described in Item 2 and indicate the location of the wells described in Item 4. Indicate the scale of the map in the space below.
YOUR FUTURE USE OF GROUNDWATER DEPENDS ON WHETHER THE INFORMATION IN THIS FORM IS COMPLETE AND CORRECT.

I, (We), ___________________________ _____________________________________________— the applicant(s) named in this application, do hereby certify under the penalty of perjury, that the information contained, and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

DATED this__________day of______________, 19___.

If owner is an individual, sign here:

Telephone number

Owner or authorized agent

Mailing Address

City

State

Zip

If owner is a corporation, partnership, association, etc., sign here:

Telephone number

Owner or authorized agent

Title

Mailing Address

City

State

Zip

Subscribed and sworn to before me this__________day of______________________, 19___.

Notary

Authorized Personnel of the Department of Water Resources

My Commission Expires:

Application is: Application is:

Rejected

Rejected

Returned for:

Returned for:

Completion

Completion

Correction

Correction

Other

Other

Approved for Receipt

Approved for Receipt

Do not write below this line.
TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT

The following pages are the application form and instructions for a TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT. Before filling out the application, read each item on the four page application form along with the appropriate comments on the instruction sheet.

For some items, the instruction sheet will tell you of additional information which must be submitted with the application. Be sure to make note of these requirements and include any necessary documents when mailing the completed application. If an application item is not referred to on the instruction sheet, it means that this item is considered to be self-explanatory.

When you have filled out the application form, tear the pages along the perforated line and have the application notarized by a Notary Public. Mail the notarized application, along with any additional sheets of paper and the filing fee, to the Department of Water Resources.

You may file separate application forms for non-contiguous parcels of retired land. Additional forms are available from the Department. Keep this booklet for instructions.
ITEM 1. Type or print the name of the applicant as it appears on land ownership documents. This is the name that will appear on the Certificate of Grandfathered Right.

ITEM 2. The legal description must include all lands for which a right is being claimed on this application. The legal description should be in the form of the following examples:

NE¼ NW¼ SW¼, SECTION 1, TOWNSHIP 12S, RANGE 11E;
PIMA COUNTY, ARIZONA.

ITEM 4. Record the location of each well which was used to irrigate the land, including wells which you do not own. If your land is served by an irrigation district and it is not served by any wells other than those owned or operated by the district, write NA after Item 4 and do not fill out.

ITEM 6. "Same ownership" is defined in Section 45–461, paragraph 4, Arizona Revised Statutes as:

"ownership by the same person or entity or by successor persons or entities as a result of succession to heirs and personal representatives, corporate and partnership reorganizations, mergers, dissolutions, divestitures, partnerships, partitions, joint ventures, foreclosures, receivership or bankruptcy, purchase of capital stock, sale pursuant to United States Code, title 11, or similar succession, but not by outright sale to a bona fide purchaser for value where no portion of or beneficial interest in the successor in interest is retained by the original owner, its shareholders, partners, limited partners or beneficiaries."

Evidence of "same ownership" may include tax statements, a title search or other similar documents.

ITEM 9. A non-irrigation use is any use other than commercial agricultural irrigation.

ITEM 10. Indicate the type of non-irrigation use for which the land was retired, such as residential development or electrical energy generation, and give the name and address of the enterprise if different than that of the applicant.

ITEM 12. Evidence of substantial capital commitments may include partial construction of facilities, non-irrigation improvements of the land and payment for professional services in connection with the non-irrigation use.

ITEM 13. Enclose evidence sufficient to show that:
1. The land was retired from irrigation for the purpose of conserving or using water for the non-irrigation use described in this application; and,
2. The intention to use or conserve such water for that non-irrigation use existed at the time the land was retired. Evidence of (1) or (2) may include:
   - An existing master plan for development of the non-irrigation use;
   - A plat map of subdivided or unsubdivided land which has been or will be filed with a city or county or the State Real Estate Department;
   - Correspondence or documents indicating an attempt by the owner to have the land zoned or rezoned, or to obtain a zoning variance, special exception or amendment to a land use control ordinance which would have the effect of allowing the proposed non-irrigation use;
   - A permit for construction of residential, commercial or industrial buildings which are part of or contributory to the non-irrigation use;
   - Documents indicating the land was officially reclassified from agricultural use to another land use;
   - "Purpose" statement in any existing partnership, joint venture, or corporate documents recorded in the County Recorder's Office which indicates that the non-irrigation use was the purpose of the retirement of the land;
   - Dated and signed memoranda, correspondence or opinions indicating that the land in question has been retired for a non-irrigation use;
   - Financing arrangements for the proposed non-irrigation use; or
   - Other pertinent information.

ITEM 14. You may draw the map in any scale sufficient to show the retired land for which the right is being claimed.
PINAL
ACTIVE MANAGEMENT AREA
APPLICATION FOR TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT

Read all instructions before filling out form.
Filing Fee: $20

1. Last Name       First       Middle or Initial
   Last Name
Mailing Address       City       State       Zip

2. Legal description of land presently owned by applicant in the Active Management Area which was legally entitled to be irrigated with groundwater and was retired from irrigation by the applicant after January 1, 1965.

3. Total number of acres described in Item 2

4. Describe the location of each well which was used to irrigate the land. Indicate as accurately as possible the year the well was drilled.
   ___ 1/4,   1/2,   1/4, Section ______ Township ______ Range ______ Year ______
   ___ 1/4,   1/2,   1/4, Section ______ Township ______ Range ______ Year ______
   ___ 1/4,   1/2,   1/4, Section ______ Township ______ Range ______ Year ______
   ___ 1/4,   1/2,   1/4, Section ______ Township ______ Range ______ Year ______

5. On what date did the applicant assume ownership of the land described in Item 2?
   Day Month Year

6. Has the land been held under the same ownership since it was retired from irrigation? Yes No
   If yes, enclose evidence to show same ownership.

7. In what year was the land last irrigated?

8. If irrigated in 1980, was the land irrigated after June 12, 1980? Yes No

9. Was the land retired from irrigation in anticipation of a non-irrigation use? Yes No
   If no, explain why the land was retired.

10. If the answer to Item 9 is yes, identify the non-irrigation use for which the land was retired.
11. Was the non-irrigation use described in Item 10 in existence as of June 12, 1980? □ Yes □ No

If yes, enclose evidence to show that the use was in existence as of June 12, 1980.

12. If the answer to Item 11 is no, had substantial capital commitments been incurred for the non-irrigation use described in Item 10 as of June 12, 1980? □ Yes □ No

If yes, enclose evidence to show substantial capital commitments.

13. If the answers to Items 11 and 12 are no, enclose evidence to show that the land was retired from irrigation for the non-irrigation use described in Item 10.
14. On the grid below, draw a map of the land described in Item 2 and indicate the location of the wells described in Item 4. Indicate the scale of the map in the space below.
YOUR FUTURE USE OF GROUNDWATER DEPENDS ON WHETHER THE INFORMATION IN THIS FORM IS COMPLETE AND CORRECT.

I, (We), ___________________________________________ the applicant(s) named in this application, do hereby certify under the penalty of perjury, that the information contained, and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

DATED this ____________ day of ______________________, 19 ___.

If owner is an individual, sign here:

Telephone number ___________________________ Owner or authorized agent ___________________________

Mailing Address ___________________________ City ___________________________ State ___________________________ Zip ___________________________

If owner is a corporation, partnership, association, etc., sign here:

Telephone number ___________________________ Owner or authorized agent ___________________________

Title ___________________________

Mailing Address ___________________________ City ___________________________ State ___________________________ Zip ___________________________

Subscribed and sworn to before me this ____________ day of ___________________________, 19 ___.

__________________________________________
Notary Public

My Commission Expires: ___________________________

Do not write below this line.

Application is:

Rejected ____________

Returned for:

Completion ____________

Correction ____________

Other ____________

Approved for Receipt ____________
The following pages are the application form and instructions for a TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT. Before filling out the application, read each item on the four page application form along with the appropriate comments on the instruction sheet.

For some items, the instruction sheet will tell you of additional information which must be submitted with the application. Be sure to make note of these requirements and include any necessary documents when mailing the completed application. If an application item is not referred to on the instruction sheet, it means that this item is considered to be self-explanatory.

When you have filled out the application form, tear the pages along the perforated line and have the application notarized by a Notary Public. Mail the notarized application, along with any additional sheets of paper and the filing fee, to the Department of Water Resources.
TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT

INSTRUCTIONS
FOR COMPLETING APPLICATION

ITEM 1. Type or print the name of the owner of the land from which groundwater is being withdrawn, as it appears on land ownership documents. This is the name that will appear on the Certificate of Grandfathered Right.

A Type 2 Non-Irrigation Grandfathered Right is owned by the owner of the land from which the water is withdrawn. However, the person using the water, if different from the owner of the land, may file an application on behalf of the owner. If you withdraw water both from wells on land you own and from wells on land you do not own, separate applications must be filed for each category of wells, even if the wells are operated conjunctively. Where separate applications are being filed for this reason and the wells are operated conjunctively, indicate on an attached sheet of paper.

ITEM 2. Include the legal description of the land from which all groundwater withdrawals being claimed on this application are made. The legal description should be in the form of the following examples:

NE¼ NW¼, SW¼, SECTION 1, TOWNSHIP 12S, RANGE 11E;
PIMA COUNTY, ARIZONA, OR

SECTIONS 1, 2 and 3, TOWNSHIP 12S, RANGE 11E;
PIMA COUNTY, ARIZONA.

ITEM 3. If the location for the use of groundwater is the same as that described in Item 2, write SAME.

ITEM 5. Indicate the general type of non-irrigation use for which the groundwater is withdrawn, such as a dairy or electrical energy generation, and give the name and address of the enterprise or user, if different from that of the applicant.

ITEM 6. The amount of the Type 2 non-irrigation right is based on the maximum amount of groundwater withdrawn and used in any one year of the five years preceding June 12, 1980, to the extent that amount exceeds the amount of any Type 1 right claimed. Choose the 12-month period in which the highest amount of groundwater was withdrawn from the well or wells indicated in Item 4, and set forth the total amount of groundwater withdrawn in that period.

ITEM 7. If the amount of groundwater was measured, indicate the method of measurement and recordation. If an estimate is made, attach supporting computations including data, coefficients used and assumptions.

ITEM 8. If the applicant owns a facility which was in existence as of June 12, 1980, but was using groundwater for less than one year during the 12-month period prior to June 12, 1980, the amount of the Type 2 right will be an amount determined by the Director to be reasonable to meet the yearly requirements of the facility.

ITEM 9. An applicant claiming a Type 1 non-irrigation right and filing an application for a Type 2 non-irrigation right is entitled to a Type 2 right only to the extent that the maximum amount of groundwater withdrawn in any one of the five years exceeds the amount of the Type 1 right being claimed.

ITEM 10. If the user of the groundwater being withdrawn is different than the owner of the land, either the user or the owner may file for the Type 2 right on behalf of the owner of the land. However, filing shall not confer any right upon the user. The Type 2 right is owned by the owner of the land.

ITEM 11. You may draw the map in any scale sufficient to show the location of the groundwater withdrawals for which the Type 2 right is being claimed.
For Department use only

PINAL
ACTIVE MANAGEMENT AREA
APPLICATION FOR TYPE 2 NON-IRRIGATION
GRANDFATHERED RIGHT

Read all instructions before filling out form.
Filing Fee: $20

1. Last Name First Middle or Initial

Last Name First Middle or Initial

Mailing Address City State Zip

2. Legal description of the land owned by the person named in Item 1 from which groundwater is being withdrawn in the Active Management Area.

____________________________________________________

3. Legal description of location of use of groundwater withdrawn.

____________________________________________________

4. Describe the location of each well from which the groundwater under the claimed Type 2 right is being withdrawn.

\% \, \% \, \% \, Section \, Township \, Range

\% \, \% \, \% \, Section \, Township \, Range

\% \, \% \, \% \, Section \, Township \, Range

\% \, \% \, \% \, Section \, Township \, Range

5. Identify the non-irrigation use for which the groundwater is withdrawn.

____________________________________________________

6. Set forth the total maximum amount of groundwater legally withdrawn from the land, from the well or wells indicated in Item 4 in any one of the following 12-month periods (in acre-feet or gallons).

a) June 12, 1975 to June 11, 1976

□ Acre-Feet

□ Gallons

b) June 12, 1976 to June 11, 1977

c) June 12, 1977 to June 11, 1978

d) June 12, 1978 to June 11, 1979

e) June 12, 1979 to June 11, 1980
7. The above amounts are □ measured □ estimated.
   See instructions for documentation requirements.

8. If groundwater was used for less than 12 months in the 12-month period prior to June 12, 1980, for
   a facility owned by the applicant in existence as of June 12, 1980, indicate:
   a) The date the use was commenced ___________________
   b) The number of months groundwater was withdrawn prior to June 12, 1980_____________________
   c) The estimated annual groundwater requirement for the facility (acre-feet or gallons)______________

9. Is the person withdrawing groundwater also applying for a Type 1 non-irrigation grandfathered
   right? □ Yes □ No
   If Yes is checked, enclose a reproduced copy of the application for a Type 1 Right. Documents required
   to be submitted with Type 1 application should not be enclosed.

10. Person filing application is:
    □ owner of land described in Item 2.
    □ user of water other than owner of land described in Item 2.
11. On the grid below, draw a map of the land described in Item 2 and indicate the location of the wells described in Item 4. Indicate the scale of the map in the space below.
YOUR FUTURE USE OF GROUNDWATER DEPENDS ON WHETHER THE INFORMATION IN THIS FORM IS COMPLETE AND CORRECT.

I, (We), ____________________________________________________________ the applicant(s) named in this application, do hereby certify under the penalty of perjury, that the information contained, and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

DATED this __________ day of ____________, 19__.

If owner/user is an individual, sign here:

Telephone number ____________________________________________

Owner or authorized agent ____________________________________

User of water, if filing for landowner. _____________________________

Mailing Address ___________________________________________________________________________________

City __________________ State __________ Zip ______________

If owner/user is a corporation, partnership, association, etc., sign here:

Telephone number ____________________________________________

Owner or authorized agent ____________________________________

Title _______________________________________________________

User of water, if filing for landowner. _____________________________

Mailing Address ___________________________________________________________________________________

City __________________ State __________ Zip ______________

Subscribed and sworn to before me this ________________ day of ________________, 19__.

________________________________________________________
Notary Public

My Commission Expires: __________________________________

or

Authorized Personnel of the Department of Water Resources

Do not write below this line.

Application is:

____ Rejected
____ Returned for:
   Completion __________________
   Correction __________________
   Other _______________________
____ Approved for Receipt

Application is:

____ Rejected
____ Returned for:
   Completion __________________
   Correction __________________
   Other _______________________
____ Approved for Receipt
THIS BOOKLET CONTAINS OFFICIAL APPLICATION FORMS FOR GRANDFATHERED GROUNDWATER RIGHTS, INSTRUCTIONS FOR COMPLETING THE APPLICATIONS, AS WELL AS INFORMATION TO HELP YOU DECIDE IF YOU NEED TO FILE FOR THESE WATER RIGHTS.

COMPLETED APPLICATIONS MUST BE MAILED BY SEPTEMBER 14, 1981 TO:

STATE OF ARIZONA
DEPARTMENT OF WATER RESOURCES
P.O. BOX 2600
PHOENIX, ARIZONA 85002
AN ACT

RELATING TO WATERS; PROVIDING FOR THE MANAGEMENT OF GROUNDWATER; PROVIDING FOR A DEPARTMENT OF WATER RESOURCES AND PRESCRIBING ITS ORGANIZATION, ADMINISTRATION, POWERS AND DUTIES; PROVIDING FOR A DIRECTOR OF WATER RESOURCES AND PRESCRIBING THE DIRECTOR'S POWERS AND DUTIES; PROVIDING FOR A CONTINUATION OF THE ARIZONA WATER COMMISSION WITHIN THE DEPARTMENT OF WATER RESOURCES; PRESCRIBING THE AUTHORITY OF THE COMMISSION; PROVIDING FOR ADMINISTRATION OF WATER LAWS BY DIRECTOR OF WATER RESOURCES; PRESCRIBING PROCEDURES; PROVIDING FOR APPEALS OF CERTAIN GROUNDWATER PROCEEDINGS; PROVIDING FOR DESIGNATION OF GROUNDWATER BASINS AND SUB-BASINS, ACTIVE MANAGEMENT AREAS AND IRRIGATION NON-EXPANSION AREAS; PRESCRIBING CONDITIONS ON THE WITHDRAWAL AND USE OF GROUNDWATER IN ACTIVE MANAGEMENT AREAS AND IRRIGATION NON-EXPANSION AREAS; PROVIDING FOR AREA DIRECTORS AND GROUNDWATER USERS ADVISORY COUNCILS IN ACTIVE MANAGEMENT AREAS AND PRESCRIBING THEIR POWERS AND DUTIES; PRESCRIBING LIMITATIONS ON IRRIGATED ACREAGE IN DESIGNATED AND PROPOSED ACTIVE MANAGEMENT AREAS AND IRRIGATION NON-EXPANSION AREAS; PROVIDING FOR EXEMPT WELLS; PRESCRIBING THE DETERMINATION OF RIGHTS TO WITHDRAW AND USE GROUNDWATER; PRESCRIBING THE USE, NATURE OF AND CONDITIONS AND LIMITATIONS ON GROUNDWATER RIGHTS; PROVIDING FOR GROUNDWATER OPERATING FLEXIBILITY ACCOUNTS; PROVIDING FOR VARIANCES; PROVIDING FOR CONVEYANCE OF CERTAIN RIGHTS; PROVIDING FOR WAIVER AND RELINQUISHMENT OF CERTAIN RIGHTS; PROVIDING FOR CERTIFICATES OF RIGHTS TO GROUNDWATER; PROVIDING FOR REGISTRIES OF CERTAIN DOCUMENTS; PRESCRIBING RIGHTS OF CITIES, TOWNS, PRIVATE WATER COMPANIES AND OTHERS TO WITHDRAW AND SUPPLY GROUNDWATER; PRESCRIBING LIMITATIONS ON EXTENSIONS OF
SERVICE AREAS; PROSCRIBING FORMATION OF PRIVATE WATER COMPANY FOR IRRIGATION PURPOSES; PRESCRIBING RIGHT OF CERTAIN IRRIGATION DISTRICTS TO WITHDRAW AND TRANSPORT GROUNDWATER; PROVIDING FOR MAPS OF CITY, TOWN, PRIVATE WATER COMPANY AND IRRIGATION DISTRICT SERVICE AREAS; PROVIDING FOR GROUNDWATER WITHDRAWAL PERMITS; PRESCRIBING REQUIREMENTS, CONTENTS, CONDITIONS AND LIMITATIONS OF PERMITS; PROVIDING FOR REVOCATION OF PERMITS; PRESCRIBING RESTRICTIONS ON CHANGE IN LOCATION OF GROUNDWATER WITHDRAWAL AND USE; PRESCRIBING REQUIREMENTS, CONDITIONS AND LIMITATIONS ON THE TRANSPORTATION OF GROUNDWATER; PROVIDING FOR AWARD OF DAMAGES FOR INJURY CAUSED BY CERTAIN TRANSPORTATION OF GROUNDWATER; PROVIDING FOR MANAGEMENT GOALS AND MANAGEMENT PLANS IN ACTIVE MANAGEMENT AREAS; PRESCRIBING GUIDELINES FOR MANAGEMENT PLANS IN DESIGNATED MANAGEMENT PERIODS; PROVIDING FOR ADMINISTRATIVE REVIEW AND MODIFICATION OF CERTAIN COMPONENTS OF MANAGEMENT PLANS; PROVIDING FOR VARIANCES IN MANAGEMENT PLANS; PRESCRIBING REQUIREMENTS FOR ASSURED WATER SUPPLY FOR CERTAIN SUBDIVIDED AND UNSUBDIVIDED LAND WITHIN AND WITHOUT SERVICE AREAS OF CITY, TOWN AND PRIVATE WATER COMPANIES; PROSCRIBING THE APPROVAL OF PLATS IN CERTAIN SUBDIVIDED AND UNSUBDIVIDED LAND WITHOUT AN ASSURED WATER SUPPLY; PROVIDING FOR CERTIFICATES OF ASSURED WATER SUPPLY; PROVIDING FOR THE REGISTRATION AND REGULATION OF WELLS; PROVIDING FOR LICENSING WELL DRILLERS AND PUMP INSTALLERS; PROVIDING FOR STANDARDS FOR WELL LOCATION, CONSTRUCTION AND OPERATION; PROVIDING FOR PERMITS TO CONSTRUCT NEW AND CERTAIN REPLACEMENT WELLS; PROVIDING FOR WELL Logs AND COMPLETION REPORTS; PRESCRIBING USE OF WATER MEASURING DEVICES IN ACTIVE MANAGEMENT AREAS AND IRRIGATION NON-EXPANSION AREAS; PROVIDING FOR A GROUNDWATER WITHDRAWAL FEE; PRESCRIBING AMOUNTS, PURPOSES AND DISPOSITION OF FEE; PROVIDING FOR AN AUGMENTATION FUND, PURCHASE AND RETIREMENT FUND AND GROUNDWATER ENFORCEMENT FUND; PROVIDING FOR RECORDS AND REPORTS OF GROUNDWATER WITHDRAWAL AND USE; PROVIDING FOR INSPECTIONS, INVESTIGATIONS AND AUDITS OF GROUNDWATER FACILITIES AND RECORDS; PRESCRIBING ENFORCEMENT POWERS OF DIRECTOR OF WATER RESOURCES; PROVIDING FOR CEASE AND DESIST ORDERS, INJUNCTIONS AND CIVIL PENALTIES; PRESCRIBING DEFINITIONS AND CLASSIFICATIONS OF CERTAIN CRIMINAL OFFENSES; PRESCRIBING CERTAIN CONDITION ON SITING CERTAIN ELECTRICAL GENERATING AND TRANSMISSION FACILITIES; PRESCRIBING VALUE OF CERTAIN CERTIFICATED AREA OF PRIVATE WATER COMPANIES FOR PURPOSES OF CONDEMNATION; EXEMPTING CERTAIN MAPS FROM CERTAIN RECORDING REQUIREMENTS; MAKING CONFORMING AND TECHNICAL STATUTORY CHANGES; PROVIDING FOR LEGISLATIVE REVIEW AND TERMINATION OF DEPARTMENT OF WATER RESOURCES; PROVIDING FOR DISTRIBUTION OF FUNCTIONS, POWERS AND DUTIES AND TRANSFER OF PERSONNEL, PROPERTY RECORDS, FUNDS, CONTRACTS, JUDICIAL ACTIONS AND DATA BETWEEN THE ARIZONA WATER COMMISSION AND DEPARTMENT OF WATER RESOURCES; CHANGING THE HEADING OF TITLE 45, CHAPTER 1, ARIZONA REVISED STATUTES, TO "ADMINISTRATION AND GENERAL PROVISIONS"; CHANGING THE HEADING OF TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, TO "DEPARTMENT OF WATER RESOURCES"; REPEALING THE HEADINGS OF TITLE 45, CHAPTER 2 AND TITLE 45, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES; CHANGING THE HEADING OF TITLE 45, CHAPTER 3, ARIZONA REVISED STATUTES, TO "INTERSTATE STREAMS, DAMS AND RESERVOIRS"; AMENDING SECTIONS
S.B. 1001

9-463.01, 11-481, 11-709, 11-806.01, 17-231, 26-322, 27-667, 30-104, 30-553, 32-1121, 32-1168, 32-2181, 32-2183, 32-2195.01, 32-2195.03, 36-1853, 36-1869, 37-703, 37-904, 40-360.01, 41-192, 41-505, 41-511.25, 41-521, 41-2366 AND 41-2374, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, SECTION 45-101 AS 45-131; REPEALING SECTIONS 45-102, 45-103, 45-104 AND 45-108, ARIZONA REVISED STATUTES; RENUMBERING SECTIONS 45-105 AS 45-109, 45-106 AS 45-110, 45-107 AS 45-111 AND 45-109 AS 45-112, ARIZONA REVISED STATUTES, AND AMENDING SECTIONS 45-109, 45-110 AND 45-111, ARIZONA REVISED STATUTES, AS RENUMBERED; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 45-101 THROUGH 45-108; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, SECTIONS 45-512 AS 45-107 AND 45-513 AS 45-108, AND AMENDING SECTIONS 45-107 AND 45-108, ARIZONA REVISED STATUTES, AS RENUMBERED; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-113; AMENDING TITLE 45, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.1; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 1, ARTICLE 1.1, ARIZONA REVISED STATUTES, SECTIONS 45-502 AS 45-121, 45-503 AS 45-122 AND 45-504 AS 45-123, AND AMENDING SECTION 45-123, ARIZONA REVISED STATUTES, AS RENUMBERED; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-124 AND 45-125; AMENDING SECTIONS 45-141, 45-142, 45-143, 45-144, 45-145, 45-146, 45-147, 45-148, 45-149, 45-150, 45-151, 45-152, 45-153, 45-156, 45-172, 45-181, 45-182, 45-187, 45-190, 45-203, 45-251, 45-252, 45-253, 45-254, 45-255, 45-256, 45-257 AND 45-260, ARIZONA REVISED STATUTES; REPEALING SECTIONS 45-185, 45-186, 45-193 AND 45-258, ARIZONA REVISED STATUTES; REPEALING TITLE 45, CHAPTER 1, ARTICLE 7, ARIZONA REVISED STATUTES; RENUMBERING TITLE 45, CHAPTER 1, ARTICLE 8, ARIZONA REVISED STATUTES, AS A NEW ARTICLE 7; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 1, ARTICLE 7, ARIZONA REVISED STATUTES, SECTIONS 45-401 AS 45-271, 45-402 AS 45-272, 45-403 AS 45-273, 45-404 AS 45-274, 45-405 AS 45-275 AND 45-406 AS 45-276, AND AMENDING SECTIONS 45-272, 45-273, 45-274, 45-275 AND 45-276, ARIZONA REVISED STATUTES, AS RENUMBERED; REPEALING SECTIONS 45-501 AND 45-505 THROUGH 45-511, ARIZONA REVISED STATUTES; TRANSFERRING TITLE 45, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARIZONA REVISED STATUTES, AS ARTICLE 2; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, SECTION 45-561 AS 45-731; TRANSFERRING TITLE 45, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARIZONA REVISED STATUTES, AS ARTICLE 3; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, SECTION 45-571 AS 45-741; TRANSFERRING TITLE 45, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARIZONA REVISED STATUTES, AS ARTICLE 4; TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, SECTION 45-581 AS 45-751; TRANSFERRING TITLE 45, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE
45, CHAPTER 3, ARIZONA REVISED STATUTES, AS ARTICLE 5; TRANSFERRING AND
RENUMBERING FOR PLACEMENT IN TITLE 45, CHAPTER 3, ARTICLE 5, ARIZONA
REVISED STATUTES, SECTION 45-601 AS 45-761; AMENDING TITLE 45, ARIZONA
REVISED STATUTES, BY ADDING A NEW CHAPTER 2; AMENDING SECTIONS 45-701,
45-702, 45-703, 45-705, 45-706, 45-707, 45-708, 45-709, 45-710, 45-711,
45-712, 45-713, 45-714, 45-716, 45-717, 45-1065, 45-1585 AND 45-1814,
ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING TITLE 45, CHAPTER
8, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 37, ARIZONA REVISED
STATUTES, AS CHAPTER 5; TRANSFERRING TITLE 45, CHAPTER 8, ARTICLES 1, 2, 3
AND 4, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 37, CHAPTER 5,
ARIZONA REVISED STATUTES, AS ARTICLES 1, 2, 3 AND 4, RESPECTIVELY;
TRANSFERRING AND RENUMBERING FOR PLACEMENT IN TITLE 37, CHAPTER 5,
ARTICLES 1, 2, 3 AND 4, ARIZONA REVISED STATUTES, SECTIONS 45-2001 AS
37-955, 45-2056 AS 37-956 AND 45-2057 AS 37-957, AND AMENDING SECTIONS
37-934, 37-936, 37-939 AND 37-951, ARIZONA REVISED STATUTES, AS
RENUMBERED; AMENDING SECTIONS 45-2101, 45-2112, 45-2191, 45-2192, 45-2194,
45-2309, 45-2341, 45-2342, 45-2360, 45-2401, 45-2402, 45-2403, 45-2404,
45-2405, 45-2502, 45-2504, 45-2505, 45-2506, 45-2507, 45-2508, 45-2509,
45-2510, 45-2511, 45-2512, 45-2513, 45-2514, 45-2519, 45-2521, 45-2601,
45-2604, 45-2605, 45-2606, 45-2607, 45-2701, 45-2702, 45-2703, 45-2704,
45-2705, 45-2706, 45-2707, 45-2708, 45-2709, 45-2710, 45-2711, 45-2721,
45-2722, 45-2723, 45-2731, 45-2732, 45-2801, 45-2802, 45-2803, 45-2804,
45-2805, 45-2806 AND 45-2909, ARIZONA REVISED STATUTES, AND MAKING AN
APPROPRIATION.

1  Be it enacted by the Legislature of the State of Arizona:
2  Section 1. Section 9-463.01, Arizona Revised Statutes, is amended
to read:
3  9-463.01. Authority
4  A. Pursuant to the provisions of this article, the legislative body
5  of every municipality shall regulate the subdivision of all lands within
6  its corporate limits.
7  B. The legislative body of a municipality shall exercise the
authority granted in subsection A by ordinance prescribing:
1  1. Procedures to be followed in the preparation, submission, review
and approval or rejection of all final plats.
2  2. Standards governing the design of subdivision plats.
3  3. Minimum requirements and standards for the installation of
subdivision streets, sewer and water utilities and improvements as a
condition of final plat approval.
4  C. By ordinance, the legislative body of any municipality shall:
5  1. Require the preparation, submission and approval of a
preliminary plat as a condition precedent to submission of a final plat.
2. Establish the procedures to be followed in the preparation, submission, review and approval of preliminary plats.

3. Make requirements as to the form and content of preliminary plats.

4. Determine that certain lands may either not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or man-made hazard to life or property, or control the lot size, establish special grading and drainage requirements, and impose other regulations deemed reasonable and necessary for the public health, safety or general welfare on any lands to be subdivided affected by such characteristics.

5. Require payment of a proper and reasonable fee by the subdivider based upon the number of lots or parcels on the surface of the land to defray municipal costs of plat review and site inspection.

6. Require the dedication of public streets, sewer and water utility easements or rights-of-way, within the proposed subdivision.

7. Require the preparation and submission of acceptable engineering plans and specifications for the installation of required street, sewer, electric and water utilities, drainage, flood control, adequacy of water and improvements as a condition precedent to recordation of an approved final plat.

8. Require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

D. The legislative body of any municipality may require by ordinance that land areas within a subdivision be reserved for parks, recreational facilities, school sites and fire stations subject to the following conditions:

1. The requirement may only be made upon preliminary plats filed at least thirty days after the adoption of a general or specific plan affecting the land area to be reserved.

2. The required reservations are in accordance with definite principles and standards adopted by the legislative body.

3. The land area reserved shall be of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.

4. The land area reserved shall be in such multiples of streets and parcels as to permit an efficient division of the reserved area in the event that it is not acquired within the prescribed period.

E. The public agency for whose benefit an area has been reserved shall have a period of one year after recording the final subdivision plat to enter into an agreement to acquire such reserved land area. The purchase price shall be the fair market value thereof at the time of the filing of the preliminary subdivision plat plus the taxes against such reserved area from the date of the reservation and any other costs incurred.
by the subdivider in the maintenance of such reserved area, including
interest cost incurred on any loan covering such reserved area.

F. If the public agency for whose benefit an area has been reserved
does not exercise the reservation agreement set forth in subsection E of
this section within such one year period or such extended period as may be
mutually agreed upon by such public agency and the subdivider, the
reservation of such area shall terminate.

G. The legislative body of every municipality shall comply with all
provisions of this article and applicable state statutes pertaining to the
hearing, approval or rejection, and recordation of:
1. Final subdivision plats.
2. Plats filed for the purpose of reverting to acreage of land
previously subdivided.
3. Plats filed for the purpose of vacating streets or easements
previously dedicated to the public.
4. Plats filed for the purpose of vacating or redescribing lot or
parcel boundaries previously recorded.

H. Approval of every preliminary and final plat by a legislative
body is conditioned upon compliance by the subdivider with:
1. Rules as may be established by the department of transportation
relating to provisions for the safety of entrance upon and departure from
abutting state primary highways.
2. Rules as may be established by a county flood control district
relating to the construction or prevention of construction of streets in
land established as being subject to periodic inundation.
3. Rules as may be established by the department of health services
or a county health department relating to the provision of domestic water
supply and sanitary sewage disposal.

I. IF THE SUBDIVISION IS WITHIN A GROUNDWATER ACTIVE MANAGEMENT
AREA, AS DEFINED IN SECTION 45-402, THE PRELIMINARY PLAT SHALL NOT BE
APPROVED UNLESS ACCOMPANIED BY A CERTIFICATE OF ASSURED WATER SUPPLY
ISSUED BY THE DIRECTOR OF WATER RESOURCES, UNLESS THE SUBDIVISION IS
LOCATED WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE
DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E.
THE LEGISLATIVE BODY OF THE MUNICIPALITY SHALL NOTE ON THE FACE OF THE
PRELIMINARY PLAT THAT A CERTIFICATE OF ASSURED WATER SUPPLY HAS BEEN
SUBMITTED WITH THE PLAT OR THAT THE PROPOSED SUBDIVISION IS WITHIN AN AREA
DESIGNATED AS HAVING AN ASSURED WATER SUPPLY, PURSUANT TO SECTION 45-576,
SUBSECTION D OR E.

J. Every municipality is responsible for the recordation of all
final plats approved by the legislative body and shall receive from the
subdivider and transmit to the county recorder the recordation fee
established by the county recorder.

K. Pursuant to provisions of applicable state statutes, the
legislative body of any municipality may itself prepare or have prepared a
plat for the subdivision of land under municipal ownership.

L. The legislative bodies of cities and towns may by ordinance
regulate land splits within their corporate limits. Authority granted
under this section refers to the determination of division lines, area and
shape of the tracts or parcels and does not include authority to regulate
the terms or condition of the sale or lease nor does it include the
authority to regulate the sale or lease of tracts or parcels not the result
of land splits as defined in section 9-463.

Sec. 2. Section 11-481, Arizona Revised Statutes, is amended to
read:

11-481. Size prerequisites for recording maps and plats;
recording fees; exception

A. Notwithstanding any other provision of law to the contrary, Any
map or plat offered for recording that exceeds a size of eight and one-half
by fourteen inches shall be subject to the following restrictions:

1. A map or plat of a subdivision shall be on a sheet or sheets of
linen or mylar measuring twenty-four by thirty-six inches, with a left
margin of two inches and be drawn to an accurate scale not to exceed two
hundred feet to the inch.

2. All other maps or plats shall be on a sheet or sheets of linen or
mylar measuring eighteen by twenty-six inches, with a left margin of two
inches and drawn to a scale not to exceed three hundred feet to the inch.

B. The fee for recording any map or plat sheet exceeding eight and
one-half by fourteen inches shall be ten dollars and shall be exclusive of
the fees for recording any documents to which the map or plat is attached
or by which it is accompanied.

C. THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO ANY MAP REQUIRED
TO BE RECORDED BY THE DIRECTOR OF WATER RESOURCES UNDER TITLE 45,
CHAPTER 2.

Sec. 3. Section 11-709, Arizona Revised Statutes, is amended to
read:

11-709. Purposes for which public improvements may be
undertaken; powers incidental to public improvements

A. When the public interest or convenience requires, the board of
directors of an improvement district may order:

1. The whole or any portion, either in length or width, of one or
more of the streets of the district graded or regraded, paved or repaved,
or otherwise improved or reimproved.

2. The construction, reconstruction or repair of any tunnel,
subway, viaduct or conduit in, on, under or over which the district may
have an easement or right-of-way therefor.

3. The construction or reconstruction of sidewalks, crosswalks,
curbs, gutters, culverts, bridges, tunnels, siphons, manholes, steps,
parkings and parkways.

4. The placement, replacement or repair of pipes, hydrants and
appliances for fire protection.

5. The construction, reconstruction or repair of sewers, ditches,
drains, conduits, pipelines and channels for sanitary and drainage
purposes, with outlets, cesspools, manholes, catch basins, flush tanks,
septic tanks, connecting sewers, ditches, drains, conduits, channels and
other appurtenances in, under, over or through any street or any land of
the district or any right-of-way granted or obtained for such purpose, either within or without the district limits.

6. The acquisition, construction, reconstruction or repair of waterworks for the delivery of water for domestic purposes, and of wells, ditches, canals, channels, conduits, pipelines and siphons, together with the necessary or usual appurtenances for carrying storm water or water from irrigation ditches, water courses, streams or springs into, through or out of such district in, under, over or through any street, or any land of the district or any right-of-way granted or obtained for such purpose, either within or without the district limits. Nothing in this section shall be construed to prohibit the board of directors of an improvement district from purchasing an existing domestic water delivery system within the district.

7. The construction, reconstruction or repair of breakwater levees or walls to protect the streets of the district from injury.

8. The construction, reconstruction or repair of lighting plants and poles, wire conduits, lamps, standards and other appliances for the purpose of lighting and beautifying the streets improved.

9. The construction, reconstruction or repair of any work incidental to or connected with any such improvement.

10. The acquisition, in the name of the district, by gift, purchase or otherwise and the maintenance, repair, improvement or disposal of any real or personal property necessary or convenient for district operation for a community center, park or recreational area.

11. Pursuant to the provisions of section 11-702, the board of directors of an improvement district may contract for or in any other manner provide transportation services within the district.

B. In addition to the powers specifically granted by or reasonably inferred from the provisions of this article, an improvement district through its board of directors may:

1. Acquire by gift, purchase, condemnation or otherwise in the name of the district and own, control, manage and dispose of any real or personal property or interest in such property necessary or convenient for the construction, operation and maintenance of any of the improvements provided for by this article, except that an improvement district formed for the purpose of purchasing an existing domestic water delivery system may not acquire by condemnation any such existing domestic water delivery system or any part of such system.

2. Join with any other improvement district or any city, town, governmental agency or person in the construction, operation or maintenance of any of the improvements hereby authorized.

3. Join with any other improvement district or any city, town or county in improving streets running upon or along the boundary of the district and levy assessments and issue bonds for the district's proportionate part of the cost of such improvements.

4. Sell, lease or otherwise dispose of any property of the district or interest in such property when the property is no longer required for
the purposes of the district or the use of which may be permitted without
interfering with the use thereof by the district.

5. Sell or otherwise dispose of any property or material acquired
in the construction or operation of any improvements as a by-product or
otherwise, and acquire rights-of-way for such disposal by condemnation or
otherwise.

6. Accept from the state of Arizona or the federal government, or
any agency, department or instrumentality of either, grants for or in aid
of the construction of any of the improvements provided for by this
chapter.

7. Enter into contracts with the state of Arizona, the federal
government, or any agency, department or instrumentality of either or
both, for the construction or supervision of construction by the state of
Arizona, the federal government, or any agency, department or
instrumentality of either or both, but reserving to the district the right
to assess against the property benefited by the improvement, and located
within the district, that portion of the cost of the improvement which does
not qualify for aid under a state or federal grant.

8. Do all things incidental to the exercise of the powers granted by
this article.

C. A county improvement district formed for the purpose of
purchasing an existing domestic water delivery system within the district
shall have the same authority and responsibility to pump and transfer
groundwater as an incorporated city or town pursuant to the provisions of
section 45-317.03, subsection A TITLE 45, CHAPTER 2.

Sec. 4. Section 11-806.01, Arizona Revised Statutes, is amended to
read:

11-806.01. Subdivision regulation; platting rules;
classification

A. The county board of supervisors shall regulate the subdivision
of all lands within its corporate limits, except subdivisions which are
regulated by municipalities.

B. No plat of a subdivision of land within the area of jurisdiction
of such county shall be accepted for recording or recorded until it has
been approved by the board. The approval of the board shall be endorsed in
writing on the plat and shall also include specific identification of and
approval of the assurances except those for hiking and equestrian trails
required by this section. Where a county planning and zoning commission
exists, the plat shall first have been referred to such commission for its
consideration and the board shall have received the recommendation of the
commission. IF THE SUBDIVISION IS WITHIN A GROUNDWATER ACTIVE MANAGEMENT
AREA, AS DEFINED IN SECTION 45-402, THE PLAT SHALL NOT BE APPROVED UNLESS
ACCOMPANIED BY A CERTIFICATE OF ASSURED WATER SUPPLY ISSUED BY THE DIRECTOR
OF WATER RESOURCES, UNLESS THE SUBDIVISION IS LOCATED WITHIN AN AREA
DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER
RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E. THE BOARD SHALL
NOTE ON THE FACE OF THE PLAT THAT A CERTIFICATE OF ASSURED WATER SUPPLY HAS
BEEN SUBMITTED WITH THE PLAT OR THAT THE PROPOSED SUBDIVISION IS WITHIN AN
AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY, PURSUANT TO SECTION 45-576, SUBSECTION D OR E.

C. Any person causing a final plat to be recorded without first submitting the plat and obtaining approval of the board shall be guilty of a class 2 misdemeanor. No county recorder shall accept for recording or record any plat which has not been approved as provided by this article.

D. The ground of refusal or approval of any plat submitted, including citation of or reference to the rule or regulation violated by the plat, shall be stated upon the record of the board.

E. The commission shall recommend to the board and the board shall adopt general rules and regulations of uniform application governing plats and subdivisions of land within its area of jurisdiction. The regulations adopted shall secure and provide for the proper arrangement of streets, or other highways in relation to existing or planned streets, or highways or to the official map for adequate and convenient open spaces for traffic, utilities, drainage, access of fire fighting apparatus, recreation, light and air. The board may adopt general rules and regulations to provide for the proper arrangement of hiking and equestrian trails in relation to existing or planned streets or highways and if adopted, such hiking and equestrian trails shall conform to the official map for adequate and convenient open spaces for traffic, utilities, drainage, access of fire fighting apparatus, recreation, light and air. The general rules and regulations may provide for modification by the commission in planned area development or specific cases where unusual topographical or other exceptional conditions may require such action. The regulations shall include provisions as to the extent to which streets and other highways shall be graded and improved and to which water, sewer or other utility mains, piping or other facilities shall be installed or provided for on the plat as a condition precedent to the approval of the final plat.

F. Boards of supervisors of counties shall prepare specifications and make orders, inspections, examinations and certificates as may be necessary to protect and complete the provisions and make them effective. The regulations shall require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

G. Before adoption of rules and regulations by the board or any amendment thereof as provided in this article, a public hearing shall be held by the commission. A copy of the rules and regulations shall be certified by the commission to the county board of supervisors which shall hold a public hearing after notice of time and place has been given by one publication fifteen days prior to the public hearing in a newspaper of general circulation in the county.

H. Approval of a plat shall not be deemed to constitute or effect an acceptance by the county for designation of any street, highway or other way or open space shown upon the plat into the county maintenance system except for hiking and equestrian trails which shall be constructed and
maintained by the county. However, at such time as the streets, highways or other ways are fully completed in accordance with the approved plat and written specifications made by the county board, the county shall accept such streets, highways and other ways into the county maintenance system within one year of completion.

Sec. 5. Section 17-231, Arizona Revised Statutes, is amended to read:

17-231. General powers and duties of the commission

A. The commission shall:
1. Make rules and regulations and establish services it deems necessary to carry out the provisions and purposes of this title.
2. Establish broad policies and long-range programs for the management, preservation and harvest of wildlife.
3. Establish hunting, trapping and fishing regulations and prescribe the manner and methods which may be used in taking wildlife.
4. Be responsible for the enforcement of laws for the protection of wildlife.
5. Prescribe grades, qualifications and salary schedules for department employees.
6. Provide for the assembling and distribution of information to the public relating to wildlife and activities of the department.
7. Prescribe rules and regulations for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts or other sources.
8. Exercise such powers and duties necessary to carry out fully the provisions of this title and in general exercise powers and duties which relate to adopting and carrying out policies of the department and control of its financial affairs.
9. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations on request of the state director of emergency services.

B. The commission may:
1. Conduct investigations, inquiries or hearings in the performance of its powers and duties.
2. Establish game management units or refuges for the preservation and management of wildlife.
3. Construct and operate game farms, fish hatcheries, fishing lakes or other facilities for or relating to the preservation or propagation of wildlife.
4. Expend funds to provide training in the safe handling and use of firearms and safe hunting practices.
5. Remove or permit to be removed from public or private waters fish which hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.
6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a
game farm or fish hatchery and declare wildlife salable when in the public
interest or the interest of conservation.

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

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

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

C. The commission shall confer and coordinate with the Arizona
water commission DIRECTOR OF WATER RESOURCES with respect to the
commission's activities, plans and negotiations relating to water
development and use, restoration projects under the restoration acts
pursuant to provisions of chapter 4, article 1 of this title, where water
development and use is involved, the abatement of pollution injurious to
wildlife and in the formulation of fish and wildlife aspects of Arizona
water commission THE DIRECTOR OF WATER RESOURCES' plans to develop and
utilize water resources of the state and shall have jurisdiction over fish
and wildlife resources and fish and wildlife activities of projects
constructed for the state under or pursuant to the jurisdiction of the
Arizona water commission DIRECTOR OF WATER RESOURCES.

Sec. 6. Section 26-322, Arizona Revised Statutes, is amended to
read:

26-322. Determination of eligibility for flood
relocation and land exchange

A. The governing board shall petition the director to designate a
specific land area within a floodplain as eligible for flood relocation
assistance and exchange for state land pursuant to section 37-610 if five
or more residents, businesses or combination of both from such area so
request the governing board in writing and if the requirements of
subsection B of this section are met.

B. Before petitioning the director, the governing board shall
determine that:

1. A majority of the residents and businesses located in the
specific area of the floodplain have signed a petition with the governing
board requesting relocation.

2. A suitable parcel of state land or a parcel of land held by
another governmental entity is available within a reasonable distance from
the floodplain area, not to exceed twenty-five miles, which is capable of
supporting those who wish to relocate on such parcel of land.

C. The director shall determine the eligibility of a floodplain
area for flood relocation assistance. Eligibility shall occur only if all
of the following apply:
1. The area is in a floodplain, as certified by the Arizona water commission DIRECTOR OF WATER RESOURCES.

2. There is no approved or authorized flood control project which would, upon completion, protect the area as certified by the Arizona water commission DIRECTOR OF WATER RESOURCES.

3. There are funds available in the floodplain land exchange fund to compensate the state trust for the estimated amount of exchanges involving private land valued at less than the state land for which it is exchanged or for the purchase of an available parcel of state land, state trust land or other public or private land as prescribed by subsection E of this section. The director of the DIVISION OF EMERGENCY SERVICES shall obtain certification from the state land department that such funds are available.

4. There are funds available from federal, state and local sources for support of the relocation process.

D. If it is determined by the governing board pursuant to subsection B, paragraph 2 of this section that a parcel of land held by a governmental entity other than the state is available for exchange, the director shall attempt to secure such land for the relocation program.

E. The director may purchase land to support the relocation using funds from the floodplain land exchange fund if he determines, in consultation with the state land commissioner, that the purchase is in the best interest of this state. If the director so determines, he may exchange the purchased land with land belonging to residents in floodplain areas.

F. If private land within such a floodplain is not exchanged to this state pursuant to this section, the division may, upon the determination of the director, condemn such land.

G. The director may enter into contracts of indemnity to indemnify any public or private agency, association, corporation or other entity or any individual against liability by virtue of injuries, losses or damages in connection with the administration of this article.

H. Lands purchased or exchanged for flood relocation purposes which are adjacent to any area currently being used for agricultural purposes must include a buffer zone of one-quarter mile from any school ground or campus and one hundred feet from any dwelling unit.

Sec. 7. Section 27-667, Arizona Revised Statutes, is amended to read:

27-667. Relationship of geothermal resources to water laws

A. Geothermal resources and their development shall be exempt from the water laws of this state unless:

1. Such resources are commingled with surface waters or groundwaters of this state; or

2. Such development causes impairment of or damage to the groundwater supply.

B. In the development of geothermal resources, any well drilled to obtain and use groundwater, as defined in section 45-301, shall be subject to the water laws of this state.
C. An operator shall notify the Arizona water commission DIRECTOR OF WATER RESOURCES of any well which is drilled or abandoned. The commission DIRECTOR may prescribe rules and regulations relating to the disposition of abandoned wells.

Sec. 8. Section 30-104, Arizona Revised Statutes, is amended to read:

30-104. Cooperation with land department and director of water resources

The authority shall cooperate with the state land department and the Arizona water commission DIRECTOR OF WATER RESOURCES in the duties and functions of the department and the commission DIRECTOR relating to this chapter. The authority shall also cooperate with the Arizona water commission DIRECTOR OF WATER RESOURCES in the planning of the hydroelectric power generation aspects of the development and use of the state's water resources.

Sec. 9. Section 30-553, Arizona Revised Statutes, is amended to read:

30-553. Supervisory powers of the director of water resources over district projects

A. All engineering determinations and supervision provided for and directed by any law relating to electrical districts shall be made under the direction of the state water engineer DIRECTOR OF WATER RESOURCES, and when so made shall be binding upon the state land department and the state certification board.

B. Upon the certification of an electrical district project, the plans, specifications and contracts therefor, and any modification thereof, shall be filed with the state water engineer DIRECTOR OF WATER RESOURCES. The works approved and authorized thereby shall be performed strictly in accordance with the plans, specifications and contracts and any modifications thereof. The state water engineer DIRECTOR OF WATER RESOURCES in enforcing the provisions of this section shall have the same powers and duties as conferred upon him by article 1, chapter 3 of title 45.

Sec. 10. Section 32-1121, Arizona Revised Statutes, is amended to read:

32-1121. Persons not required to be licensed

A. This chapter shall not be construed to apply to:

1. An authorized representative of the United States government, the state, or any county, incorporated city or town, reclamation district, irrigation district or other municipality or political subdivision of the state.

2. Trustees of an express trust or officers of a court, if they are acting within the terms of their trust or office.

3. Public utilities operating under regulations of the corporation commission on construction, repair or operation incidental to discovering or producing petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well, when performed by an owner or lessee.
4. Any materialman, manufacturer or carpet retailer furnishing finished products, materials or articles of merchandise who does not install or attach such items. Any retailer of carpets or carpeting not required to be licensed under this provision who enters into a sales contract or transaction involving the installation or attachment of such items shall work only with licensed contractors in carrying out the terms of the sales contract or transaction.

5. Owners of property who improve such property or who build or improve structures thereon, who do such work themselves or jointly with duly licensed contractors, provided that such structure, or group of structures, including the improvements thereto, is not intended for sale or for rent, and that if such structure or group of structures is intended for use for commercial or industrial purposes, the total labor and material cost does not exceed ten thousand dollars. In all actions brought under this chapter, proof of the sale or offering for sale of any such structure or proof of the rent or offering for rent of any such structure or proof of the use or offering for use of any such structure for commercial or industrial purposes by the owner-builder within one year after completion of same is prima facie evidence that such structure was undertaken for the purpose of sale, rent or use for commercial or industrial purposes. As used in this paragraph the term "sale" includes any arrangement between two or more persons as a result of which there is an agreement to transfer property for a consideration. As used in this paragraph the term "rent" includes any arrangement whereby the owner receives compensation in money, provisions, chattels or labor from the occupancy of his land or the structures thereon.

6. Owners of property who build or improve structures thereon or appurtenances thereto, who contract for such a project with a contractor or contractors licensed pursuant to this chapter.

7. Architects or engineers engaging in their professional practice as defined in title 32, chapter 1, provided they do not engage in the activity of a contractor as defined in sections 32-1101 and 32-1102.

8. Installers of finished products, materials or articles of merchandise which are not attached or do not become a fixed part of the structure.

9. Owners or their salaried employees repairing or maintaining structures owned by them.

10. Construction or operation incidental to construction and repair of irrigation and drainage ditches of regularly constituted districts or reclamation districts, or to farming, dairying, agriculture, viticulture, horticulture or stock or poultry raising, or clearing or other work upon land in rural districts for fire prevention purposes, except when performed by a licensee under this chapter. This exemption shall not apply to any person drilling or repairing, or causing to be drilled or repaired, any well as defined in section 45-301, paragraph 17 45-402.

11. Any person who engages in the activities regulated by this chapter, as an employee with wages as his sole compensation.
12. A nongovernmental educational institution exempt from federal income taxation and officers and employees thereof, which builds or repairs structures on land or property owned, rented or leased by the institution for its educational purposes.

13. Surety company or companies authorized to transact business in this state who undertake to complete a contract on which they issued a performance or completion bond, provided all construction work is performed by duly licensed contractors.

14. Insurance companies authorized to transact business in this state who undertake to perform repairs resulting from casualty losses pursuant to the provisions of a policy, provided all construction work is performed by duly licensed contractors.

B. A person who is licensed to perform work in a particular trade pursuant to the provisions of this chapter shall not be required to obtain and maintain a separate license for mechanical or structural service work performed within the scope of such trade by such person.

Sec. 11. Section 32-1168, Arizona Revised Statutes, is amended to read:

32-1168. Proof of valid license
Each county, city or other political subdivision or authority of the state or any agency, department, board or commission of the state which requires the issuance of a permit, license or notice of intention to drill pursuant to section 45-305 45-596 as a condition precedent to the construction, alteration, improvement, demolition or repair for which a license is required under this chapter shall, as part of the application procedures which it utilizes, require that each applicant for such a permit, license or notice of intention to drill file a signed statement that the applicant is currently licensed, under the provisions of this chapter, with his license number. If the applicant is exempt from the provisions of this chapter, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work.

Sec. 12. Section 32-2181, Arizona Revised Statutes, is amended to read:

32-2181. Notice to commissioner of intention to subdivide lands; fractional interests; exceptions; deed restrictions
A. Before offering subdivided lands for sale or lease, the owner, agent or subdivider shall notify the commissioner in writing of his intention. The notice shall contain:

1. Name and address of owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of such interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal
entity is a trust, each beneficiary of the trust holding a ten per cent or
more beneficial interest.

2. Name and address of subdivider.

3. Legal description and area of land.

4. A true statement of the condition of the title to the land,
including all encumbrances thereon.

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

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

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

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

9. A statement as to the location of the nearest public common and
high schools available for the attendance of school age pupils residing on
the subdivision property.

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

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

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

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

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

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

16. A statement of the provisions for easements for permanent access
for irrigation water where applicable.
17. A true statement of assurances for the installation of off-site improvements, such as roads and utilities, and approval thereof by the political subdivision having such authority.

18. A true statement of provisions made for financing any community, recreational or other facilities to be included in the offering or represented as being in the offering. Such statement shall include a trust agreement or other evidence of assurances for delivery of such facilities and a statement of the provisions, if any, for the continued maintenance of such facilities.

19. A true statement of the nature of any improvements to be installed by the developer, the estimated schedule for completion and the estimated costs related to such improvements which will be borne by purchasers of lots in the subdivision.

20. A true statement of the availability of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities in the subdivision, the estimated schedule for their installation, and the estimated costs related to such facilities and utilities which will be borne by purchasers of lots in the subdivision.

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 are or have 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 five acres or more in size.

22. A true statement identifying all other subdivisions, designated in subdivisions (a), (b) and (c) of paragraph 21, SUBDIVISIONS (a), (b) AND (c), in which any of the following are or, within the last five years, have 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. Such other information and such other documents and certifications as the commissioner may reasonably require.

B. The commissioner, upon application, may grant an owner, agent or subdivider of ten or less lots or parcels within a subdivision previously approved by the commissioner, an exemption from all or part of the notification requirements of subsection A of this section. Such owner, agent or subdivider shall file a statement with the commissioner indicating the change of ownership in such lots or parcels together with any material changes occurring subsequent to the original approval of the subdivision within which such lots or parcels are located. Such statement shall further refer to the original approval by the commissioner.
C. IF THE SUBDIVISION IS WITHIN A GROUNDWATER ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE OWNER, AGENT OR SUBDIVIDER SHALL ACCOMPANY THE NOTICE WITH A CERTIFICATE OF ASSURED WATER SUPPLY ISSUED BY THE DIRECTOR OF WATER RESOURCES, UNLESS THE SUBDIVISION IS LOCATED WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E. IF THE OWNER, AGENT OR SUBDIVIDER HAS SUBMITTED A CERTIFICATE OF ASSURED WATER SUPPLY TO A CITY, TOWN OR COUNTY PRIOR TO APPROVAL OF THE PLAT BY THE CITY, TOWN OR COUNTY AND THIS HAS BEEN NOTED ON THE FACE OF THE PLAT, SUCH SUBMISSION CONSTITUTES COMPLIANCE WITH THIS SUBSECTION.

C. D. It shall be unlawful for a person or group of persons acting in concert to attempt to avoid the provisions of this article by acting in concert to divide a parcel of land by using a series of owners or conveyances or by any other method which ultimately results in the division of such lands into a subdivision. Such a plan or offering is subject to the provisions of this article.

D. E. A creation of four or more fractional interests in improved or unimproved land, lots or parcels of any size shall subject such land to the provisions of this article except when:

1. Each of the fractional interests represents, on a partition basis, thirty-six acres or more in area of land located in this state including to the center line of dedicated roads or easements, if any, contiguous to the land in which such interests are held.

2. The 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.

3. The fractional interests are created by a valid order or decree of a court or by operation of law.

4. The 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 fractional interests are registered as securities under the laws of the United States or the laws of this state or are exempt transactions under the provisions of sections 44-1844, 44-1845 or 44-1846.

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

E. F. IN AREAS OUTSIDE OF GROUNDWATER ACTIVE MANAGEMENT AREAS ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 2, ARTICLE 2, if the Arizona water commission DIRECTOR OF WATER RESOURCES, pursuant to section 45-613, 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 sale of lots in subdivisions approved by the commissioner adequately display the Arizona water commission's DIRECTOR OF WATER...
RESOURCES' report or the developer's brief summary thereof OF THE REPORT as approved by the commissioner on the proposed water supply for the subdivision.

F. The commissioner may require any additional information which is reasonably necessary to determine the good moral character of anyone directly involved in subdividing land within the state. The information may include:

1. Prior criminal records.
2. Fingerprints and background information, pursuant to section 41-1750, subsection G. With respect to each person requiring a fingerprint and background investigation a fee shall be charged in an amount to be determined by the commissioner. For such purpose, the real estate department and the department of public safety may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3. Such fees shall be credited pursuant to section 35-148.
3. An affidavit setting out whether the applicant, any holder of an ownership interest or any principal of such holder has participated in, operated or held an interest in any land development company which has filed, or is subject to, a petition under any chapter of the federal bankruptcy act, or the names of any persons who have been indicted for fraud or against whom an information for fraud has been filed.

G. The commissioner may require the owner, agent or subdivider to supplement the notice of intention to subdivide lands and may require the filing of periodic reports to update the information contained in the original notice of intention to subdivide lands.

H. The commissioner may adopt rules and regulations authorizing the owner, agent or subdivider to file as the notice of intention to subdivide lands, in lieu of some or all of the requirements of subsection A of this section, a copy of the statement of record filed with respect to the subdivision pursuant to the federal interstate land sales full disclosure act provided that the statement complies with the requirements of such act and the regulations pertinent thereto.

I. Cemeteries once formed and approved pursuant to this chapter shall be exempt from the requirements of this section upon further subdivision or development if such further subdivision or development is not inconsistent with the original notice filed pursuant to this section and the original report prepared pursuant to section 32-2183.

J. Neither a real estate sales contract, conveyance, lease, assignment or other instrument to transfer any interest in subdivided land nor any covenant or restriction affecting real property shall contain any provision limiting the right of any party to appear or testify in support of or opposition to zoning changes, building permits or any other official acts affecting real property before a governmental body or official considering zoning changes, building permits or any other official acts affecting real property, whether such property is located within or outside of the boundaries of the subdivision. All contractual provisions which conflict with this subsection are declared to be contrary to public
policy. Nothing contained in this subsection shall prohibit private
restrictions on the use of any real property.
K. L. Before offering subdivided lands for lease or sale an owner,
agent or subdivider who makes any promises through any form of advertising
media that the subdivided lands will be exclusively a retirement community
or one which is limited to the residency of adults or senior citizens shall
include such promises as deed restrictions in all deeds or other
instruments affecting any interest in real property within such subdivided
lands.

Sec. 13. Section 32-2183, Arizona Revised Statutes, is amended to
read:

32-2183. Issuance of public report by commissioner
on subdivision; denial of issuance; voidable sale
or lease; order prohibiting sale or lease;
investigations by commissioner; public hearings;
summary orders
A. Upon examination of a subdivision, the commissioner shall,
unless there are grounds for denial, issue to the subdivider a public
report authorizing the sale or lease in this state of the lots or parcels
within the subdivision. The report shall contain the data obtained in
accordance with section 32-2181 and any other information which the
commissioner determines is necessary to implement the purposes of this
article. The commissioner shall require the owner, agent or subdivider
to reproduce the report and furnish each prospective customer with a copy,
taking a receipt therefor.
B. The commissioner may deny issuance of a public report on any of
the following grounds:
1. Failure to comply with any of the provisions of this article or
the regulations of the commissioner pertaining to this article.
2. The sale or lease would constitute misrepresentation to or
deceit or fraud of the purchasers or lessees.
3. Inability to deliver title or other interest contracted for.
4. Inability to demonstrate that adequate financial or other
arrangements acceptable to the commissioner have been made for
installation of all streets, sewers, electric, gas and water utilities,
drainage, flood control and other similar improvements included in the
offering.
5. Failure to make a showing that the parcels can be used for the
purpose for which they are offered.
6. Failure to provide in the contract or other writing the use or
uses for which the parcels are offered, together with any covenants or
conditions relative to such parcels.
7. Failure to demonstrate that adequate financial arrangements have
been made for any guaranty or warranty included in the offering if the
subdivision meets all of the following criteria:
(a) The subdivision contains fifty or more parcels of which any
fifty are both:
(i) Not improved with residential, industrial, commercial or institutional buildings, and
(ii) Offered for sale, lease or financing for purposes other than industrial, commercial, institutional or commercial agricultural uses.

(b) The subdivision is located in an area with less than one thousand residences within the subdivision or within ten miles of the boundaries of the property described in the final public report.

8. The owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten percent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for a felony fraud or against whom an information for a felony fraud has been filed or has been convicted of a felony.

C. IF THE SUBDIVISION IS WITHIN A GROUNDWATER ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE COMMISSIONER SHALL DENY ISSUANCE OF A PUBLIC REPORT UNLESS THE OWNER, AGENT OR SUBDIVIDER HAS BEEN ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES, OR UNLESS THE SUBDIVISION IS LOCATED WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E.

D. No person shall sell or lease or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01. Any sale or lease of subdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action, the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.

E. Any applicant objecting to the denial of a public report or to denial by the commissioner of exemption from special regulation pursuant to section 32-2181.01 may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within twenty days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within twenty days after request for a hearing is received, plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner, agent or subdivider. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of all sales
transactions and funds received by him pursuant thereto, and make them accessible to the commissioner upon reasonable notice and demand.

G. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, or that the owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which is bankrupt or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the report or as provided in subsection A of this section, may conduct an investigation of such matter, issue a summary order as provided in section 32-2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, or rules and regulations or public report or the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. Such court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

H. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of such person, for a writ of ne exeat or both.

I. The court upon receipt of an application for the appointment of a receiver, for a writ ne exeat or both shall examine the verified application of the commissioner and such other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require such notice be given as the court deems satisfactory.

J. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of
such person which is on file with the real estate department. The order
shall inform such person that he has the right to request a hearing within
ten days of the date of the order and if requested, the hearing shall be
held within thirty days from the date of the order.
Sec. 14. Section 32-2195.01, Arizona Revised Statutes, is amended
to read:
32-2195.01. Notice to commissioner of intention prior
to the offering for sale or lease of
unsubdivided land
A. Prior to the offering for sale or lease of unsubdivided land
which consists of four or more contiguous parcels of land, which parcels
are more than thirty-six acres each but less than one hundred sixty acres
each, and which are offered, known or advertised under a common plan for
sale or lease, the owner or agent shall notify the commissioner in writing
of his intention to offer such parcels for sale or lease.
B. The notice required by this section shall contain the following
information:
1. The name and address of the owner. If the holder of any
ownership interest in the land is other than an individual, such as a
corporation, partnership or trust, a statement naming the type of legal
entity and listing the interest and the extent of such interest of each
principal in the entity. For the purposes of this section, "principal"
means any person or entity having a ten per cent or more financial interest
or, if the legal entity is a trust, each beneficiary of the trust holding a
ten per cent or more beneficial interest.
2. The name and address of the agent.
3. The legal description and area of the lands.
4. A true statement of the condition of the title to the land,
including all encumbrances thereon.
5. A true statement of the terms and conditions under which such
lands are to be offered to the public.
6. A statement of the use or uses for which the land will be offered
or a statement that it is offered for no specific use.
7. A true statement of the provisions made for permanent access.
8. A true statement setting out the availability of water or lack
thereof.
9. A true statement of the availability to the land of sewage
disposal facilities and other public utilities including water,
electricity, gas and telephone facilities.
10. A true statement or reasonable estimate, if applicable, of the
amount of any indebtedness which has been or is proposed to be incurred by
an existing or proposed special district, taxing area or assessment
district within the boundaries of which the unsubdivided lands are
located, and which is to pay for the construction or installation of any
improvements to that land.
11. If the owner or agent 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 are or have 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 five
acres or more in size.

12. A true statement identifying all other subdivisions, designated
in subdivisions (a), (b) and (c) of paragraph 11, SUBDIVISIONS (a), (b) AND
(c), in which any of the following are or, within the last five years, have
been directly or indirectly involved:
(a) The holder of any ownership interest in the land.
(b) The agent.
(c) Any principal or officer in the holder.

13. Such other information as the commissioner may require for the
protection of the public.

C. Copies of original promotional and advertising material to be
used with such offering shall be attached to the notice.

D. IF THE LAND TO BE OFFERED IS WITHIN A GROUNDWATER ACTIVE
MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE OWNER OR AGENT SHALL
ACCOMPANY THE NOTICE WITH A CERTIFICATE OF ASSURED WATER SUPPLY ISSUED BY
THE DIRECTOR OF WATER RESOURCES, UNLESS THE LAND TO BE OFFERED IS WITHIN AN
AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER
RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E.

E. It shall be unlawful for any owner or agent to make any
offerings regulated by this section without the written authorization of
the commissioner. The commissioner shall issue a public report thereon and
require a copy of same to be furnished to each offeree at the time of such
offering.

F. It shall be unlawful to offer any lands regulated by this
article without provisions having been made for permanent access over
terrain on which roads could be established for conventional motor
vehicles unless such provision is waived by the commissioner.

G. Satisfactory proof or evidence that access meets the
requirements of subsection E-F of this section shall be furnished to the
department in a report by a licensed engineer or land surveyor of this
state.

H. The commissioner may terminate any authorization issued upon
the grounds and in the manner set out in section 32-2183.

I. The commissioner may require any additional information
which is reasonably necessary to determine the good moral character of any
person directly involved in the sale or lease of unsubdivided lands within
this state. The information shall include:
1. Prior criminal records.
2. Fingerprint and background information, pursuant to section 41-1750, subsection G. With respect to each person requiring a fingerprint and background investigation, a fee shall be charged in an amount to be determined by the commissioner. For such purpose, the real estate department and the department of public safety may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3. Such fees shall be credited pursuant to section 35-148.

3. An affidavit setting out whether the applicant, any holder of an ownership interest or any principal of such holder has participated in, operated or held an interest in any land development company which has filed, or is subject to, a petition under any chapter of the federal bankruptcy act, or the names of any persons who have been indicted for fraud or against whom an information for fraud has been filed.

I. IN AREAS OUTSIDE OF GROUNDWATER ACTIVE MANAGEMENT AREAS ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 2, ARTICLE 2, if the Arizona water commission DIRECTOR OF WATER RESOURCES has issued a water availability report, the state real estate commissioner shall require that all promotional material and contracts for the sale of such unsubdivided lands adequately display the Arizona water commission DIRECTOR OF WATER RESOURCES' report or a brief summary of the results prepared by the developer and approved by the real estate commissioner. If no report has been prepared by the Arizona water commission DIRECTOR OF WATER RESOURCES and the availability of water is unknown, the real estate commissioner shall require that all promotional material and contracts adequately display that no report has been prepared and that the availability of water is unknown.

J. Neither a real estate sales contract, conveyance, lease, assignment or other instrument to transfer any interest in unsubdivided land nor any covenant or restriction affecting real property shall contain any provision limiting the right of any party to appear or testify in support of or opposition to zoning changes, building permits or any other official acts affecting real property before a governmental body or official considering zoning changes, building permits or any other official acts affecting real property, whether such property is located within or outside of the boundaries of the unsubdivided land. All contractual provisions which conflict with this subsection are declared to be contrary to public policy. Nothing contained in this subsection shall prohibit private restrictions on the use of any real property.

Sec. 15. Section 32-2195.03, Arizona Revised Statutes, is amended to read:

32-2195.03. Report of commissioner on unsubdivided land; order prohibiting sale or lease; investigations by commissioner; public hearings; summary orders

A. Upon examination of unsubdivided land, the commissioner shall, unless there are grounds for denial, prepare and issue to the owner or agent a public report authorizing the sale or lease of the unsubdivided lands in this state. The report shall contain the data obtained in
S.B. 1001

accordance with section 32-2195.01 and any other information which the commissioner determines is necessary to implement the purposes of this article. The commissioner shall require the owner or agent to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor.

B. The commissioner may deny issuance of a public report on any of the following grounds:

1. Failure to comply with any of the provisions of this article or the regulations of the commissioner pertaining to this article.
2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.
3. Inability to deliver title or other interest contracted for.
4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.
5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.
6. Failure to provide in the contract or other writing the use or uses, if any, for which the parcels are offered, together with any covenants or conditions relative to such parcel.
7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.
8. The owner or agent or, if a corporation, any officer, director or stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for a felony fraud or against whom an information for a felony fraud has been filed or has been convicted of a felony.

C. IF THE UNSUBDIVIDED LAND IS WITHIN A GROUNDWATER ACTIVE MANAGEMENT AREA, AS DEFINED IN SECTION 45-402, THE COMMISSIONER SHALL DENY ISSUANCE OF A PUBLIC REPORT UNLESS THE OWNER OR AGENT HAS BEEN ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES, OR UNLESS THE UNSUBDIVIDED LAND IS WITHIN AN AREA DESIGNATED AS HAVING AN ASSURED WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-576, SUBSECTION D OR E.

D. No owner or agent may sell or lease or offer for sale or lease unsubdivided lands without first obtaining a public report from the commissioner. Any sale or lease of unsubdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.

E. Any applicant objecting to the denial of a public report may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing...
within twenty days thereafter unless the party requesting the hearing shall have requested a postponement. If the hearing is not held within twenty days after request for a hearing is received plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner or agent is violating any provision set forth in this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of unsubdivided lands or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner or agent. For the purpose of examination, the owner or agent shall keep and maintain records of all sales transactions and funds received by him pursuant thereto, and make them accessible to the commissioner upon reasonable notice and demand.

G. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of unsubdivided lands or deviated from the provisions of the public report, or that the owner or agent, officer or partner, trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for a felony fraud or against whom an information for a felony fraud has been filed or has been convicted of a felony, before or after the commissioner prepares the public report as provided in subsection A of this section, may conduct an investigation of such matter, issue a summary order as provided in section 32-2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, rules and regulations or public report. If, after such hearing, violation of the law, rules and regulations or public report continues, the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

Sec. 16. Section 36-1853, Arizona Revised Statutes, is amended to read:

36-1853. State water quality control council; membership; qualifications; terms; compensation; removal; organization; meetings

A. There is established a state water quality control council, which shall consist of the following thirteen members:

1. The director or a member of his staff, designated by him.
2. A member of the state game and fish commission or a member of its administrative staff, designated by the game and fish commission.
3. A member of the oil and gas conservation commission or a member of its administrative staff, designated by the commission.

4. The state land commissioner or a member of his administrative staff if designated by him.

5. A member of the Arizona water commission THE DIRECTOR OF WATER RESOURCES or a member of its administrative HIS staff designated by the commission DIRECTOR.

6. The dean of the agricultural college of the university of Arizona or a member of his staff if designated by him.

7. Seven citizens of the state who shall be appointed by the governor. Each congressional district shall have at least one representative. Of the seven members, one shall be appointed from the utility industry, one from the livestock industry, one from the forest products industry, one from the mining industry, one shall be appointed to represent the league of cities and towns and two shall be appointed from irrigation districts or water user associations. At least one of the foregoing shall be a civil engineer registered in Arizona. Such members shall be appointed for terms of three years. except that of the members first appointed, two shall be appointed for a term expiring April 1, 1968, two for a term expiring April 1, 1969, and three for terms expiring April 1, 1970. Thereafter, the three-year terms of all such members shall commence on April 1 of the year of appointment. A vacancy occurring during the term of office of any member shall be filled by appointment by the governor of a qualified person for the unexpired portion of the regular term.

B. The governor may remove any member appointed pursuant to paragraph 7 of subsection A of this section for cause.

C. Members of the council shall receive compensation as determined pursuant to section 38-611.

D. The council shall organize by the election of a chairman, a vice-chairman, and a secretary from the membership of the council and shall keep a record of its proceedings. The council shall hold regular public quarterly meetings each calendar year and may hold special meetings on the call of the chairman or vice-chairman or within ten days of the written request of any three members. Written notice of the time and place of all meetings shall be mailed at least five days in advance of any such meeting to each member by the secretary. Meetings may also be held upon waiver of notice executed by all members of the council.

E. All members shall have a vote. A majority of the council shall constitute a quorum, and the concurrence of a majority of the council in any matter within its powers and duties shall be required for any determination made by the council.

Sec. 17. Section 36-1869, Arizona Revised Statutes, is amended to read:

36-1869. Cooperation with director of water resources
The director, the water quality control council and the department of health services shall confer and cooperate with the Arizona water-
S.B. 1001

1. The Director of Water Resources in the formulation of plans relative to the quality and safety of the waters of the state.

2. Sec. 18. Section 37-703, Arizona Revised Statutes, is amended to read:

3. 37-703. Processing of proposal by land department;

4. processing by director of water resources;

5. approval or disapproval of application

6. A. The state land department shall determine:

7. 1. Whether the land applied for can be reclaimed by means of the proposed irrigation project.

8. 2. Whether according to records of the Arizona Water Commission DEPARTMENT OF WATER RESOURCES there are sufficient water rights vested in the applicant, or sufficient unappropriated water in the source of supply.

9. 3. Whether the capacity of the project is adequate.

10. 4. Whether the proposed cost of construction is reasonable, and the lands proposed to be irrigated are desert in character and may properly be set apart.

11. B. The application for selection of lands shall then be submitted to the state water engineer DIRECTOR OF WATER RESOURCES who shall make a written report and make recommendations upon the application to the land department. The state water engineer DIRECTOR OF WATER RESOURCES shall make a survey or examination to provide an accurate report if requested by the department to do so.

12. C. If the application is approved, the STATE LAND department shall file in the local land office a request for withdrawal from entry of the land described in the application. If disapproved, the parties shall be notified and given reasons for the disapproval. The parties shall have sixty days in which to submit another proposal, or further time if allowed by the department.

13. Sec. 19. Section 37-904, Arizona Revised Statutes, is amended to read:

14. 37-904. Public lands board of review; members; powers and duties; administrative staff and officers; service of process

15. A. There is established a public lands board of review consisting of the following members:


17. 2. Director of the department of health services division of air and water quality.

18. 3. Director of the department of mineral resources.

19. 4. Director of the Arizona state parks board.

20. 5. Director of the department of transportation.


22. 7. Chairman of the Arizona Water Commission DIRECTOR OF WATER RESOURCES.

23. 8. Director of the Arizona game and fish department.
9. As provided in subsection F, the chairman of the board of supervisors of a county in which public lands are located.
10. One county supervisor, appointed by the governor to serve at the pleasure of the governor.

B. The board shall elect one of its members to serve as chairman. The chairman shall call meetings of the board and prescribe the time and place of each meeting.

C. Members of the board are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

D. The board:
1. Shall review and approve or disapprove all rules and regulations proposed by the commissioner under this chapter.
2. May review any decision of the commissioner relating to public lands under this chapter and affirm, modify or reverse the decision.

E. The state land department shall provide the administrative staff and offices needed by the board, and the state land commissioner shall be deemed the clerk of the board upon which notices of appeal and other process shall be served.

F. The chairman of the county board of supervisors of a county in which public lands are located and which are the subject of the board action shall serve as a member of the board for the purposes of the action.

Sec. 20. Section 40-360.01, Arizona Revised Statutes, is amended to read:

40-360.01. Organization and membership of the committee
A. The commission shall establish a power plant and transmission line siting committee of Arizona.
B. The committee shall consist of the following members:
1. State attorney general.
2. State land commissioner.
3. Chairman of the state water quality control council.
4. Director of the department of health services.
5. Director of the game and fish department.
6. Executive Director of the state water commission WATER RESOURCES.
7. Executive director of the office of economic planning and development.
8. Chairman of the Arizona corporation commission.
9. Chairman of the archaeological department OF ANTHROPOLOGY of the university of Arizona.
10. Director of the state parks board.
11. Executive director of the Arizona atomic energy commission RADIATION REGULATORY AGENCY.
12. Seven members appointed by the commission to serve for a term of two years of which two members shall represent the public, two members shall represent incorporated cities and towns, two members shall represent counties and one member shall be a registered landscape architect.
C. The attorney general or his designee shall be chairman of the committee.

D. The commission shall establish such procedures as provide for expeditious review of the proposed siting plans and necessary consultation with the person proposing the facilities, for noticing and conducting the hearing provided by section 40-360.04, and for a timely decision regarding the issuance of a certificate of environmental compatibility of the proposed site.

E. Committee members are not eligible to receive compensation for their services, but shall be reimbursed from the filing fee required by section 40-360.09 for their actual and necessary expenses incurred in connection with their participation in committee meetings.

F. The committee may utilize the staff resources of its constituent agencies as well as necessary consultants. All studies required by the committee shall be conducted as specified by the committee and under its general direction.

Sec. 21. Section 41-192, Arizona Revised Statutes, is amended to read:

41-192. Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions

A. The attorney general shall have charge of and direct the department of law, and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of the state and render such legal services as the departments require.

2. Establish administrative and operational policies and procedures within his department.

3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of the state or other state agencies.

4. Represent school districts and boards of trustees in any lawsuit involving a conflict of interest with other county offices.

5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies, provided that the attorney general shall notify in writing such political subdivision, school districts and municipalities of his intention to bring any such action on its behalf. At any time within thirty days after such notification, such political subdivision, school districts and municipalities may, by formal resolution of its governing body, withdraw the authority of the attorney general to bring the intended action on its behalf.

6. In any action brought by the attorney general pursuant to state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies for the recovery of damages by the state or any of its political subdivisions, school districts or municipalities, in addition to his other powers and authority, the attorney general on behalf of the state may enter into contracts relating
to the investigation and prosecution of such action with any other party
plaintiff who has brought a similar action for the recovery of damages and
with whom the attorney general finds it advantageous to act jointly or to
share common expenses or to cooperate in any manner relative to such
action. In any such action, notwithstanding any other laws to the
contrary, the attorney general may undertake, among other things, to
render legal services as special counsel, or to obtain the legal services
of special counsel from any department or agency of the United States, of
this state, or any other state, or any department or agency thereof, any
county, city, public corporation or public district in this state or in any
other state, that has brought or intends to bring a similar action for the
recovery of damages, or their duly authorized legal representatives in
such action.

7. Organize the civil rights division within the department of law
and administer such division pursuant to the powers and duties provided in
title 41, chapter 9 of this title.

8. Except as otherwise provided by law, the attorney general may:
1. Organize the department into such bureaus, subdivisions or units
as he deems most efficient and economical, and consolidate or abolish
them.

2. Adopt and promulgate rules for the orderly conduct of the
business of the department.

3. Employ and assign assistants and other employees necessary to
perform the functions of the department.

4. Compromise or settle any action or claim by or against the state
or any department, board or agency thereof. Where such compromise or
settlement involves a particular department, board or agency of the state,
the compromise or settlement shall be first approved by such department,
board or agency. Where no department or agency is named or otherwise
materially involved, the approval of the governor shall be first
obtained.

C. Assistants and employees in any legal division subject to a
merit system prior to March 6, 1953 shall remain subject thereto.

D. The powers and duties of a bureau, subdivision or unit shall be
limited to those assigned by law to the department.

E. Notwithstanding any other provision of law to the contrary, no
state agency other than the attorney general shall employ legal counsel or
make an expenditure or incur an indebtedness for legal services, but the
Arizona water commission director of water resources and the industrial
commission shall be exempt from the provisions of this article.

F. Any department or agency of the state authorized by law to
maintain a legal division or incur expenses for legal services from funds
derived from sources other than the general revenue of the state, or from
any special or trust fund, shall pay from such source of revenue, or
special or trust fund into the general fund of the state, to the extent
such funds are available and upon a reimbursable basis for warrants drawn
upon the state treasurer, the amount actually expended by the department of
law within legislative appropriations for such legal division or legal
services.
G. Appropriations made pursuant to subsection F of this section shall not be subject to lapsing provisions otherwise provided by law. Services for departments or agencies to which this subsection and subsection F of this section are applicable shall be performed by special or regular assistants to the attorney general.

Sec. 22. Section 41-505, Arizona Revised Statutes, is amended to read:

41-505. Inter-agency economic coordinating council
A. There shall be an inter-agency economic coordinating council with the executive director of the office of economic planning and development and the director of the department of administration serving as chairman and vice-chairman respectively. The council shall be comprised of, but not limited to, representatives from the following state agencies:
1. Arizona Atomic Energy Commission RADIATION REGULATORY AGENCY.
2. Arizona board of regents.
3. Arizona commission of Indian affairs.
5. Arizona department of transportation.
6. Arizona game and fish commission.
7. Arizona industrial commission.
8. Arizona power authority.
10. Arizona water commission.
11. Department of economic security.
12. Department of mineral resources.
13. Oil and gas conservation commission.
15. State department of education.
16. Department of health services.
17. State land department.
18. Department of revenue.
19. THE DIRECTOR OF WATER RESOURCES.
B. Representatives from the agencies prescribed by the terms of subsection A shall ordinarily be the chief administrative officer of the agency and shall be appointed by the governor.
C. The council may request the governor to appoint representatives from agencies not prescribed by the terms of subsection A.
D. The council shall meet bi-monthly or more frequently at the call of the chairman.

Sec. 23. Section 41-511.25, Arizona Revised Statutes, is amended to read:

41-511.25. Arizona outdoor recreation coordinating commission; members; powers and duties
A. The Arizona outdoor recreation coordinating commission is established for the purpose of planning, coordinating and administering an outdoor recreation program in the state of Arizona. The outdoor recreation coordinating commission shall be composed of seven members consisting of
the director of the Arizona game and fish department, the director of the Arizona state parks board and five members appointed by the governor. Of the members appointed by the governor three shall be professional full-time parks and recreation department directors of a county, city, or town and no two shall reside in the same county. Two members appointed by the governor shall be from the general public and each shall have broad experience in outdoor recreation. Of the five appointed members, no more than two shall reside in the same county. The appointed member serving on the effective date of this section shall continue to serve until the end of his term on January 31, 1977. After the effective date of this section, two members shall be appointed for terms expiring January 31, 1978 and two members shall be appointed for terms expiring January 31, 1979. Thereafter each appointed member shall be appointed for a term of three years. Appointed members shall be reimbursed for expenses incurred while attending meetings called by the commission as prescribed by section 38-624.

B. The commission shall:
1. Prepare, maintain and keep up to date a comprehensive plan for the development of the outdoor recreation resources of the state.
2. Initiate and carry out studies to determine the recreational needs of the state, the counties, cities and towns.
3. Coordinate recreational plans and developments of federal, state, county, city, town and private agencies.
4. Receive and allocate in the name of the state monies from the federal government in accordance with Public Law 88-578, eighty-eighth Congress, and such monies as may be appropriated by the legislature, from other agencies of the state, political subdivisions thereof, or other source, to carry out the recreation program in the state.
5. Establish criteria for the administration of the plan and disbursement for funds allocated to the state of Arizona under Public Law 88-578.
6. Adopt rules for the conduct of its meetings which shall be open to the public and a record shall be kept of all proceedings and transactions.
7. Coordinate and confer with the Arizona director of recreation DIRECTOR OF WATER RESOURCES in the formulation of the recreational aspects of plans to develop and utilize the water resources of the state.

C. The commission may:
1. Enter into contracts and agreements with the United States or any appropriate agency thereof, or any state agency or political subdivisions thereof, or private organizations, for the purpose of carrying out the duties prescribed in this article.
2. Collect and expend funds appropriated to it by the legislature for administrative costs of the program, provided that such administrative costs shall not exceed ten per cent of each project, and further provided that such costs to the state, political subdivision thereof, or other agency shall be in the same proportion as their proportionate share is of the total project.
3. Employ such personnel as necessary, within legislative appropriation, to carry out the purposes of this article.

Sec. 24. Section 41-521, Arizona Revised Statutes, is amended to read:

41-521. Colorado river boundary commission

A. There shall be a Colorado river boundary commission which shall consist of the attorney general, the state land commissioner and the chairman of the Arizona water commission DIRECTOR OF WATER RESOURCES, who shall serve without additional compensation and each of whom may from time to time serve by and through any member of his staff designated by him in writing for the purpose. One member of the senate appointed by the president of the senate and one member of the house appointed by the speaker of the house shall meet with and advise with the commission to the extent that such advisory participation is not incompatible with their respective positions as members of the legislature.

B. The commission may employ such engineering and technical assistants and employees as it deems necessary to carry out the provisions of this article.

Sec. 25. Section 41-2366, Arizona Revised Statutes, is amended to read:

41-2366. Schedule for termination July 1, 1990

The following agencies shall terminate on July 1, 1990:

1. The department of health services.
2. The solar energy commission.
3. The state board of tax appeals.
4. The Arizona commission on uniform state laws.
5. The Arizona water commission.
6. The air pollution control hearing board.
7. The day care advisory board.
8. The Arizona council for the deaf.
9. The water quality control council.
10. The feed advisory council.
11. The state community development council.
12. The compensation fund board and board of directors, including the compensation fund investment committee and the compensation fund manager.
13. The state board of deposit.
14. The department of library, archives, and public records, including the activities and functions of the library and archives board and director and the historical advisory commission and the board of library examiners.
15. The joint legislative budget committee.
16. The state auditor general.
17. The legislative council.
18. The joint legislative tax committee.
19. THE DEPARTMENT OF WATER RESOURCES.

Sec. 26. Section 41-2374, Arizona Revised Statutes, is amended to read:
41-2374. Schedule for termination of statutes

January 1, 1991

The following statutes are repealed on January 1, 1991:

1. Title 36, Arizona Revised Statutes, relating to the department of health services.
2. Title 41, chapter 3, article 6, Arizona Revised Statutes, relating to the solar energy research commission.
3. Title 42, chapter 1, article 3, Arizona Revised Statutes, relating to the state board of tax appeals.
4. Sections 41-1306 and 41-1307, Arizona Revised Statutes, relating to the Arizona commission on uniform state laws.
5. Title 45, chapter 2-1, ARTICLE 1.1, Arizona Revised Statutes, relating to the Arizona water commission.
6. Title 36, chapter 14, article 1, Arizona Revised Statutes, relating to the air pollution control hearing board.
7. Title 36, chapter 7.1, article 2, Arizona Revised Statutes, relating to the day care advisory board.
8. Title 36, chapter 17.1, article 1, Arizona Revised Statutes, relating to the Arizona council for the deaf.
9. Title 36, chapter 16, article 1, Arizona Revised Statutes, relating to the water quality control council.
10. Title 24, chapter 7, article 1, Arizona Revised Statutes, relating to the food advisory committee.
11. Title 11, chapter 5, article 2, Arizona Revised Statutes, relating to the state community development council.
12. Title 23, chapter 6, article 5, Arizona Revised Statutes, relating to the compensation fund board and board of directors, including the compensation fund investment committee and the compensation fund manager.
13. Title 35, chapter 2, article 2, Arizona Revised Statutes, relating to the state board of deposit.
14. Title 11, chapter 7, article 1, Arizona Revised Statutes, relating to the board of library examiners and title 41, chapter 8, article 3, relating to the department of library, archives, and public records, including the activities and functions of the library and archives board, director and the historical advisory commission.
15. Title 41, chapter 7, article 10, Arizona Revised Statutes, relating to the joint legislative budget committee.
16. Title 41, chapter 7, articles 10.1 and 10.2, Arizona Revised Statutes, relating to the state auditor general.
17. Title 41, chapter 8, article 1, Arizona Revised Statutes, relating to the legislative council.
18. Title 41, chapter 8, article 2, Arizona Revised Statutes, relating to the joint legislative tax committee.
19. TITLE 45, CHAPTER 1, ARTICLE 1 AND CHAPTER 2, ARIZONA REVISED STATUTES, RELATING TO THE DEPARTMENT OF WATER RESOURCES.

Sec. 27. Heading changes
A. The heading of title 45, chapter 1, Arizona Revised Statutes, is changed from "STATE WATER CODE" to "ADMINISTRATION AND GENERAL PROVISIONS".

B. The heading of title 45, chapter 1, article 1, Arizona Revised Statutes, is changed from "PUBLIC NATURE AND USE OF WATER" to "DEPARTMENT OF WATER RESOURCES".

Sec. 28. Title 45, chapter 1, Arizona Revised Statutes, is amended by adding article 2, which is entitled "PUBLIC NATURE AND USE OF SURFACE WATER".

Sec. 29. Transfer and renumber
Section 45-101, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 1, article 2, Arizona Revised Statutes, as section 45-131.

Sec. 30. Repeal
Sections 45-102, 45-103, 45-104 and 45-108, Arizona Revised Statutes, are repealed.

Sec. 31. Section 45-105, Arizona Revised Statutes, is renumbered as section 45-109, and as so renumbered, is amended to read:

45-109. Division of state into water districts; district water superintendent

A. The commission DIRECTOR shall divide the state into water districts with reference to drainage watersheds in order to secure the best protection to claimants to water and the most economical supervision by the state. Districts shall not be created until necessary but shall be created as the claims from the streams or supply of the state are determined.

B. The commission DIRECTOR shall appoint one water superintendent for each district, who is eligible to receive such compensation as the commission DIRECTOR fixes, which shall be paid by the water users of the district. Each superintendent shall keep an account of the time spent by the superintendent and assistants in performing their duties in each county, and present a verified copy of the account to the superior court of each county at the end of each month, whereupon the judge of the court shall order the account paid according to an equitable distribution of the amount among the water users. The superintendent may employ assistants whose compensation shall be fixed and paid in like manner as the superintendent.

Sec. 32. Section 45-106, Arizona Revised Statutes, is renumbered as section 45-110, and as so renumbered, is amended to read:

45-110. Duties of superintendent; injunctive relief of injured water user

A. The superintendent of each water district shall:

1. Divide the water of the sources of supply of his district among the several ditches and reservoirs taking water therefrom, and among the laterals and ditches according to the rights of each.

2. Shut and fasten the head gates of ditches, and regulate the controlling works of reservoirs in time of scarcity of water as is necessary by reason of the rights existing from the supply of his district.
3. Regulate the distribution of water among the users under a partnership ditch or reservoir in accordance with existing judgments or decrees where the rights have been determined.

4. As far as practicable, divide, regulate and control the use of waters in his district by closing head gates to prevent the waste of water or its use in excess of the volume to which the owner of the right is lawfully entitled.

B. When the superintendent regulates a head gate to a ditch or the controlling works of reservoirs, he shall attach to the head gate or controlling works a written notice, dated and signed, stating that the head gate or controlling works has been regulated by him and is wholly under his control, and the notice shall be legal notice to all parties interested in the division and distribution of the water of the ditch or reservoir.

C. Any person injured by such action by the superintendent may apply to the superior court for an injunction against the superintendent, but the injunction shall not be issued unless it appears that the superintendent has failed to carry into effect the order of the commission, the director or a judgment or decree of a court determining existing rights to the use of the water.

D. The county attorney shall appear for the superintendent in any action arising in connection with his official duties.

Sec. 33. Section 45-107, Arizona Revised Statutes, is renumbered as section 45-111, and as so renumbered, is amended to read:

45-111. Annual report by director

The commission on or before July 1 each year the director shall render to the governor annually, and more often if required, and the legislature a full and true report of the department's operations under this title. The report shall be delivered to the governor on or before December 31 each year, and shall include suggestions as to amending existing laws or enacting new legislation as the director and the commission deems necessary and such other information, suggestions and recommendations as the director considers of value to the public. The report shall be published and made available to the public.

Sec. 34. Renumber

Section 45-109, Arizona Revised Statutes, is renumbered as section 45-112.

Sec. 35. Title 45, chapter 1, article 1, Arizona Revised Statutes, is amended by adding new sections 45-101 through 45-106, to read:

45-101. Definitions

In this title, unless the context otherwise requires:


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

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

4. "Groundwater" means water under the surface of the earth regardless of the geologic structure in which it is standing or moving. Groundwater does not include water flowing in underground streams with ascertainable beds and banks.
5. "INTERSTATE STREAM" MEANS ANY STREAM CONSTITUTING OR FLOWING
ALONG THE EXTERIOR BOUNDARIES OF THIS STATE, AND ANY TRIBUTARY ORIGINATING
IN ANOTHER STATE OR FOREIGN COUNTRY AND FLOWING INTO OR THROUGH THIS
STATE.
6. "SURFACE WATER" MEANS THE WATERS OF ALL SOURCES, FLOWING IN
STREAMS, CANYONS, RAVINES OR OTHER NATURAL CHANNELS, OR IN DEFINITE
UNDERGROUND CHANNELS, WHETHER PERENNIAL OR INTERMITTENT, FLOOD, WASTE OR
SURPLUS WATER, AND OF LAKES, PONDS AND SPRINGS ON THE SURFACE. FOR THE
PURPOSES OF ADMINISTERING THIS TITLE, SURFACE WATER IS DEEMED TO INCLUDE
CENTRAL ARIZONA PROJECT WATER.

45-102. Department of water resources; director; appointment;
qualifications; compensation
A. THERE IS ESTABLISHED A DEPARTMENT OF WATER RESOURCES.
B. THERE SHALL BE A DIRECTOR OF THE DEPARTMENT WHO SHALL BE
RESPONSIBLE FOR THE DIRECTION, OPERATION AND CONTROL OF THE DEPARTMENT.
C. THE DIRECTOR SHALL BE APPOINTED BY THE GOVERNOR PURSUANT TO
SECTION 38-211 AND SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.
D. THE DIRECTOR SHALL BE EXPERIENCED AND COMPETENT IN WATER
RESOURCES MANAGEMENT AND CONSERVATION, AND SHALL HAVE PROVEN
ADMINISTRATIVE ABILITY.
E. THE DIRECTOR IS ENTITLED TO RECEIVE COMPENSATION PURSUANT TO
SECTION 38-611.

45-103. Scope of authority and responsibility of department
and director
A. THE DEPARTMENT, THROUGH THE DIRECTOR, SUCCEEDS TO THE AUTHORITY,
Powers, duties and responsibilities of the commission and the state water
engineer relating to surface water, groundwater and dams and reservoirs.
B. THE DIRECTOR HAS GENERAL CONTROL AND SUPERVISION OF SURFACE
WATER, ITS APPROPRIATION AND DISTRIBUTION, AND OF GROUNDWATER TO THE
EXTENT PROVIDED BY THIS TITLE, EXCEPT DISTRIBUTION OF WATER RESERVED TO
SPECIAL OFFICERS APPOINTED BY COURTS UNDER EXISTING JUDGMENTS OR DECREES.

45-104. Department organization, Arizona water commission
continued; deputy directors; employees; legal counsel; branch offices
A. THE ARIZONA WATER COMMISSION ESTABLISHED PURSUANT TO SECTION
45-121 IS CONTINUED WITHIN THE DEPARTMENT WITH THE POWERS AND DUTIES
PRESCRIBED IN ARTICLE 1.1 OF THIS CHAPTER.
B. THE DIRECTOR MAY ESTABLISH AND ORGANIZE DIVISIONS WITHIN THE
DEPARTMENT AND OTHERWISE ORGANIZE THE DEPARTMENT IN THE MANNER HE DEEMS
NECESSARY TO MAKE THE OPERATION OF THE DEPARTMENT EFFICIENT AND
EFFECTIVE.
C. THE DIRECTOR MAY APPOINT A DEPUTY DIRECTOR TO EACH DIVISION OR
ORGANIZATIONAL UNIT THAT HE MAY ESTABLISH. DEPUTY DIRECTORS ARE EXEMPT
FROM THE STATE PERSONNEL SYSTEM, SHALL SERVE AT THE PLEASURE OF THE
DIRECTOR AND ARE ENTITLED TO RECEIVE COMPENSATION PURSUANT TO SECTION
38-611.
D. THE DIRECTOR, WITHIN THE CLASSIFICATION AND PAY SCALES ADOPTED
BY THE STATE PERSONNEL BOARD, MAY EMPLOY, DEFINE THE DUTIES AND PRESCRIBE
THE TERMS AND CONDITIONS OF EMPLOYMENT OF SUCH CLERICAL, TECHNICAL,
PROFESSIONAL AND ADMINISTRATIVE PERSONNEL AS NECESSARY TO EFFICIENTLY
PERFORM THE RESPONSIBILITIES OF THE DEPARTMENT. COMPENSATION FOR ALL
EMPLOYEES SHALL BE PURSUANT TO SECTION 38-611.
E. THE DIRECTOR MAY EMPLOY ON A CONTRACT BASIS GEOLOGISTS,
HYDROLOGISTS, CONSULTING ENGINEERS, OTHER EXPERT CONSULTANTS AND
ENGINEERING AND OTHER ASSISTANTS AS HE DEEMS ADVISABLE, WHO ARE NOT SUBJECT
TO THE CLASSIFICATION PROVIDED FOR IN TITLE 41, CHAPTER 4, ARTICLE 5.
F. THE DIRECTOR MAY UTILIZE THE SERVICES OF ACCOUNTING, LEGAL OR
ENGINEERING PERSONNEL MADE AVAILABLE BY ANY DEPARTMENT OR AGENCY OF THIS
STATE, WHO SHALL SERVE WITHOUT ADDITIONAL COMPENSATION.
G. THE DIRECTOR MAY EMPLOY LEGAL COUNSEL TO ADVISE HIM, REPRESENT
THE DEPARTMENT IN CONNECTION WITH LEGAL MATTERS BEFORE OTHER DEPARTMENTS
AND AGENCIES OF THIS STATE, AND REPRESENT THE DEPARTMENT AND THIS STATE IN
LITIGATION CONCERNING AFFAIRS OF THE DEPARTMENT. LEGAL COUNSEL IS NOT
SUBJECT TO THE CLASSIFICATION PROVIDED FOR IN TITLE 41, CHAPTER 4, ARTICLE
5.
H. THE DIRECTOR SHALL MAINTAIN HIS OFFICE IN PHOENIX AND MAY
ESTABLISH A BRANCH OFFICE OF THE DEPARTMENT IN EACH ACTIVE MANAGEMENT AREA
ESTABLISHED PURSUANT TO CHAPTER 2, ARTICLE 2 OF THIS TITLE.
45-105. Powers and duties of director
A. THE DIRECTOR MAY:
1. FORMULATE PLANS AND DEVELOP PROGRAMS FOR THE PRACTICAL AND
ECONOMICAL DEVELOPMENT, MANAGEMENT, CONSERVATION AND USE OF SURFACE WATER,
GROUNDWATER AND THE WATERSHEDS IN THIS STATE, INCLUDING THE MANAGEMENT OF
WATER QUANTITY AND QUALITY.
2. INVESTIGATE WORKS, PLANS OR PROPOSALS PERTAINING TO SURFACE
WATER AND GROUNDWATER, INCLUDING MANAGEMENT OF WATERSHEDS, AND ACQUIRE,
PRESERVE, PUBLISH AND DISSEMINATE RELATED INFORMATION WHICH THE DIRECTOR
DEEMS ADVISABLE.
3. COLLECT AND INVESTIGATE INFORMATION UPON AND PREPARE AND DEVISE
MEANS AND PLANS FOR THE DEVELOPMENT, CONSERVATION AND UTILIZATION OF ALL
WATERWAYS, WATERSHEDS, SURFACE WATER, GROUNDWATER AND GROUNDWATER BASINS
IN THIS STATE AND OF ALL RELATED MATTERS AND SUBJECTS, INCLUDING
IRRIGATION, DRAINAGE, WATER QUALITY MAINTENANCE, REGULATION OF FLOW,
DIVERSION OF RUNNING STREAMS ADAPTED FOR DEVELOPMENT IN COOPERATING WITH
THE UNITED STATES OR BY THIS STATE INDEPENDENTLY, FLOOD CONTROL,
UTILIZATION OF WATER POWER, PREVENTION OF SOIL WASTE, STORAGE,
CONSERVATION AND DEVELOPMENT OF WATER FOR EVERY USEFUL PURPOSE.
4. MEASURE, SURVEY AND INVESTIGATE THE WATER RESOURCES OF THIS
STATE AND THEIR POTENTIAL DEVELOPMENT AND COOPERATE AND CONTRACT WITH
AGENCIES OF THE UNITED STATES FOR SUCH PURPOSES.
5. ACQUIRE, HOLD AND DISPOSE OF PROPERTY, INCLUDING LAND,
RIGHTS-OF-WAY, WATER AND WATER RIGHTS, AS NECESSARY OR CONVENIENT FOR THE
PERFORMANCE OF THE GROUNDWATER AND WATER QUALITY MANAGEMENT FUNCTIONS OF
THE DEPARTMENT.
6. ACQUIRE, OTHER THAN BY CONDEMNATION, CONSTRUCT, IMPROVE,
MAINTAIN AND OPERATE WORKS FOR THE RECOVERY, STORAGE, TREATMENT AND
DELIVERY OF WATER.
7. ACCEPT GRANTS, GIFTS OR DONATIONS OF MONEY OR OTHER PROPERTY FROM ANY SOURCE, WHICH MAY BE USED FOR ANY PURPOSE CONSISTENT WITH THIS TITLE. ALL PROPERTY ACQUIRED BY THE DIRECTOR IS PUBLIC PROPERTY AND IS SUBJECT TO THE SAME TAX EXEMPTIONS, RIGHTS AND PRIVILEGES GRANTED TO MUNICIPALITIES, PUBLIC AGENCIES AND OTHER PUBLIC ENTITIES.

8. ACT JOINTLY OR COOPERATE WITH ANY PUBLIC AGENCY, PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3, AND ANY PERSON TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS TITLE.

9. PROSECUTE AND DEFEND ALL RIGHTS, CLAIMS AND PRIVILEGES OF THIS STATE RESPECTING INTERSTATE STREAMS.

10. INITIATE AND PARTICIPATE IN CONFERENCES, CONVENTIONS OR HEARINGS, INCLUDING CONGRESSIONAL HEARINGS, COURT HEARINGS, COMMISSION HEARINGS OR HEARINGS OF OTHER COMPETENT JUDICIAL OR QUASI-JUDICIAL DEPARTMENTS, AGENCIES OR ORGANIZATIONS, AND NEGOTIATE AND COOPERATE WITH AGENCIES OF THE UNITED STATES OR OF ANY STATE OR GOVERNMENT AND REPRESENT THIS STATE CONCERNING MATTERS WITHIN THE DEPARTMENT'S JURISDICTION.

11. APPLY FOR AND HOLD PERMITS AND LICENSES FROM THE UNITED STATES OR ANY AGENCY OF THE UNITED STATES FOR RESERVOIRS, DAM SITES AND RIGHTS-OF-WAY.


13. CONTRACT WITH ANY PERSON FOR IMPORTED WATER OR FOR THE ACQUISITION OF WATER RIGHTS OR RIGHTS TO WITHDRAW, DIVERT OR USE SURFACE WATER OR GROUNDWATER AS NECESSARY FOR THE PERFORMANCE OF THE GROUNDWATER MANAGEMENT FUNCTIONS OF THE DIRECTOR PRESCRIBED BY CHAPTER 2 OF THIS TITLE. IF WATER BECOMES AVAILABLE UNDER ANY CONTRACT EXECUTED UNDER THIS PARAGRAPH, THE DIRECTOR MAY CONTRACT WITH ANY PERSON FOR ITS DELIVERY OR EXCHANGE FOR ANY OTHER WATER AVAILABLE.

14. RECOMMEND TO THE ADMINISTRATIVE HEADS OF AGENCIES, BOARDS AND COMMISSIONS OF THIS STATE, AND POLITICAL SUBDIVISIONS OF THIS STATE, REGULATIONS TO PROMOTE AND PROTECT THE RIGHTS AND INTERESTS OF THIS STATE AND ITS INHABITANTS IN ANY MATTER RELATING TO THE SURFACE WATER AND GROUNDWATER IN THIS STATE.

15. PROVIDE INFORMATION TO THE DIRECTOR OF THE DIVISION OF EMERGENCY SERVICES OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS ACCORDING TO SECTION 26-322.

B. THE DIRECTOR SHALL:

1. EXERCISE AND PERFORM ALL POWERS AND DUTIES VESTED IN OR IMPOSED UPON THE DEPARTMENT AND ADOPT AND ISSUE RULES AND REGULATIONS NECESSARY TO CARRY OUT THE PURPOSES OF THIS TITLE.
2. Administer all laws relating to groundwater, as provided in this title.

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

4. Coordinate and confer with and may contract with:

   (a) The Arizona Power Authority, Game and Fish Commission, State Land Department, Arizona Outdoor Recreation Coordinating Commission, Office of Economic Planning and Development, Radiation Regulatory Agency and political subdivisions of this state with respect to matters within their jurisdiction relating to surface water and groundwater and the development of state water plans.

   (b) The Department of Health Services and the Water Quality Control Council with respect to Title 36, Chapter 1, Article 1 for their assistance in the development of state water plans.

5. Cooperate with the Arizona Power Authority in the performance of the duties and functions of the authority.

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

7. Maintain a public docket of all matters before the department which may be subject to appeal pursuant to this title.

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

9. Report to and consult with the commission at regular intervals.

10. Adopt an official seal for the authentication of records, orders, rules, regulations and other official documents and actions.

45-106. Limitation of powers

An agreement entered into between the director and the United States or a state or government involving a sovereign right or claim of this state is not effective unless approved by the legislature by concurrent resolution.

Sec. 36. Section 45-512, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 1, article 1, Arizona Revised Statutes, as section 45-107, and as so renumbered, is amended to read:

45-107. Cooperation with the secretary of the interior of the United States

A. The Arizona Water Commission Director is authorized, for and on behalf of the state of Arizona, to consult, advise and cooperate with the secretary of the interior of the United States, as follows:

1. In the exercise of any authority conferred upon the secretary of the interior under the provisions of sections 4, 5 and 14 of the act commonly known as the Boulder Canyon project act (43 U.S.C. sec. 617-617t),
as contemplated and provided in section 16 of the Boulder Canyon project act.

2. In respect to the authority of the secretary of the interior to contract for the delivery of water of the main stream of the Colorado river for use within the state of Arizona.

3. In respect to all powers and duties of the secretary of the interior under the provisions of that certain contract between the United States of America, acting by Harold L. Ickes, secretary of the interior, and the state of Arizona, acting by the Colorado river commission, entered into on the 9th day of February, 1944, pursuant to chapter 46 of the 1939 session laws of Arizona, and approved by chapter 4 of the 1944 session laws of Arizona.

4. In respect to the exercise by the secretary of the interior of any authority relative to the water of the Colorado river conferred upon the secretary of the interior by the provisions of any legislation enacted by the Congress of the United States of America.

B. The powers and duties of the Arizona water commission DIRECTOR authorized by this section shall be limited and restricted to only that quantity of water which may be available for use in the state of Arizona, after the satisfaction of all existing contracts between the secretary of the interior and users in the state of Arizona for the delivery of water of the main stream of the Colorado river, and shall not extend to any such contracts, any amendments or supplements thereto, or to any federal statute enacted before the effective date of this section pertaining to any federal reclamation project within the state of Arizona constructed and using water of the main stream of the Colorado river before the effective date of this section. Nothing shall be done under the authority of this section which will impair existing rights in the state of Arizona for the diversion and use of Colorado river water.

C. The privilege and right of individuals, irrigation districts, corporations, state departments, agencies, boards, commissions or political subdivisions of the state of Arizona to negotiate and directly contract with the secretary of the interior for the delivery of water of the main stream of the Colorado river for use within the state of Arizona and all rights under such contracts shall not be affected by the provisions of this section, except as provided in subsection D.

D. Beginning on the effective date of this subsection, Individuals, irrigation districts, corporations, state departments, agencies, boards, commissions and political subdivisions of the state shall cooperate, confer with and obtain the advice of the commission DIRECTOR as to those negotiations and contracts described in subsection C that affect the allocation and use of main stream Colorado river water.

Sec. 37. Section 45-513, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 1, article 1, Arizona Revised Statutes, as section 45-108, and as so renumbered, is amended to read:

45-108. Evaluation of subdivision water supply
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 the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy thereof to meet the needs projected by the developer to the Arizona water commission DIRECTOR. The Arizona water commission DIRECTOR shall evaluate the plans and issue a report thereon. The Arizona water commission DIRECTOR may designate service areas where an adequate water supply exists by reporting such designation to the water department of the city or town or private water company and the state real estate commissioner. A developer shall not be required to submit plans for the water supply in such service areas. The Arizona water commission DIRECTOR may revoke such designation when THE DIRECTOR finds that the water supply may become inadequate.

B. The Arizona water commission DIRECTOR shall evaluate the proposed source of water for the subdivision to determine its ability to meet proposed uses for a period of years commensurate with normal practices in other areas of the state and forward a copy of such evaluation to the state real estate commissioner.

C. The state of Arizona and the Arizona water commission DIRECTOR OR DEPARTMENT shall not be liable for any report, designation or evaluation prepared in good faith pursuant to this section.

Sec. 38. Title 45, chapter 1, article 1, Arizona Revised Statutes, is amended, by adding section 45-113, to read:

45-113. Fees
EXCEPT AS OTHERWISE PRESCRIBED, THE DIRECTOR SHALL ESTABLISH BY RULE OR REGULATION AND THE DEPARTMENT SHALL COLLECT REASONABLE FEES TO COVER THE COSTS OF ADMINISTRATIVE SERVICES AND EXPENSES.

Sec. 39. Title 45, chapter 1, Arizona Revised Statutes, is amended by adding article 1.1, which is entitled "ARIZONA WATER COMMISSION".

Sec. 40. Transfer and renumber
Sections 45-502 and 45-503, Arizona Revised Statutes, are transferred and renumbered for placement in title 45, chapter 1, article 1.1, Arizona Revised Statutes, as section 45-121 and 45-122, respectively.

Sec. 41. Section 45-504, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 1, article 1.1, Arizona Revised Statutes, as section 45-123, and as so renumbered, is amended to read:

45-123. Organization; administrative powers and duties
A. The commission shall elect from its members a chairman and vice-chairman for terms of two years which shall expire on the third Monday of January of each even numbered year.

B. The powers and authority vested in and the duties imposed upon the members of the commission shall be exercised by a majority of the members then in office, but not less than five members shall constitute a quorum for the transaction of business.

C. The commission shall:
1. Maintain its principal offices in Phoenix.
2. Determine the operational plan of its organization and methods
of procedure, not in conflict with the provisions of this title.
3. Adopt an official seal for the authentication of its records,
orders and resolutions.
4. Keep the minutes of its meetings, and all records, reports, and
other information relating to its work and programs, in permanent form,
indexed and systematically filed.
5. Designate the person or persons who shall execute all documents
and instruments on behalf of the commission.
6. Manifest and record its actions by motion, resolution, order or
other appropriate means.
7. Adopt or rescind its rules, regulations and forms.

Sec. 42. Title 45, chapter 1, article 1.1, Arizona Revised
Statutes, is amended by adding sections 45-124 and 45-125, to read:
45-124. Duty of commission relative to the director;
recommendations to governor and legislature
A. THE COMMISSION MAY ADVISE AND MAKE RECOMMENDATIONS TO THE
DIRECTOR ON ANY MATTERS AND SUBJECTS UNDER THE DIRECTOR’S JURISDICTION.
B. THE COMMISSION SHALL REVIEW THE EFFECTIVENESS AND ADEQUACY OF
ALL STATE LAWS GOVERNING THE CONTROL, SUPERVISION, APPROPRIATION AND
DISTRIBUTION OF SURFACE WATER AND GROUNDWATER AND SHALL, WHEN APPROPRIATE,
MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE TO IMPROVE THE
EFFECTIVENESS AND ADEQUACY OF SUCH LAWS.
45-125. Assistance to commission
THE DEPARTMENT SHALL FURNISH TO THE COMMISSION SUCH ASSISTANCE,
INCLUDING TECHNICAL, LEGAL AND CLERICAL SERVICES, AS IS REQUIRED TO THE
EXTENT FUNDS ARE AVAILABLE FOR SUCH ASSISTANCE.

Sec. 43. Section 45-141, Arizona Revised Statutes, is amended to
read:
45-141. Right of appropriation; permitted uses;
water rights in stockponds
A. Any person or the state of Arizona or a political subdivision
thereof may appropriate unappropriated water for domestic, municipal,
irrigation, stock watering, water power, recreation, wildlife, including
fish, mining uses, for his personal use or for delivery to consumers. The
person or the state of Arizona or a political subdivision thereof first
appropriating the water shall have the better right.
B. To effect the beneficial use, the person or the state of Arizona
or a political subdivision thereof appropriating the water may construct
and maintain reservoirs, dams, canals, ditches, flumes and other necessary
waterways.
C. A water right in a stockpond, certified pursuant to article 8-7
of this chapter, shall be recognized as if such water had been appropriated
pursuant to this article.

Sec. 44. Section 45-142, Arizona Revised Statutes, is amended to
read:
45-142. Application for permit to appropriate water
A. Any person, including the United States, the state or a
municipality, intending to acquire the right to the beneficial use of
S.B. 1001

water, shall make an application to the commission DIRECTOR OF WATER RESOURCES for a permit to make an appropriation of the water. The application shall state:

1. The name and address of the applicant.
2. The water supply from which the appropriation is applied for.
3. The nature and amount of the proposed use.
4. The location, point of diversion and description of the proposed works by which the water is to be put to beneficial use.
5. The time within which it is proposed to begin construction of such works and the time required for completion of the construction and the application of the water to the proposed use.

B. The application also shall set forth:

1. If for agricultural purposes, the legal subdivisions of the land and the acreage to be irrigated.
2. If for power purposes, the nature of the works by which power is to be developed, the pressure head and amount of water to be utilized, the points of diversion and release of the water and the uses to which the power is to be applied.
3. If for the construction of a reservoir, the dimensions and description of the dam, the capacity of the reservoir for each foot in depth, the description of the land to be submerged and the uses to be made of the impounded waters.
4. If for municipal uses, the population to be served, and an estimate of the future population requirements.
5. If for mining purposes, the location and character of the mines to be served and the methods of supplying and utilizing the waters.
6. If for recreation or wildlife, including fish, the location and character of the area to be used and the specific purposes for which such area shall be used.

C. The application shall be accompanied by maps, drawings and data prescribed by the commission DIRECTOR.

Sec. 45. Section 45-143, Arizona Revised Statutes, is amended to read:

45-143. Criteria for approval or rejection of applications; restrictions on approval; municipal use

A. The commission DIRECTOR shall approve applications made in proper form for the appropriation of water for a beneficial use, but when the application or the proposed use conflicts with vested rights, is a menace to public safety, or is against the interests and welfare of the public, the application shall be rejected.

B. An application may be approved for less water than applied for if substantial reasons exist but shall not be approved for more water than may be put to a beneficial use. Applications for municipal uses may be approved to the exclusion of all subsequent appropriations if the estimated needs of the municipality so demand after consideration by and upon order of the commission DIRECTOR.

-47-
Sec. 46. Section 45-144, Arizona Revised Statutes, is amended to read:

45-144. Correction of defective application

Upon receipt of the application, the commission DIRECTOR shall endorse on the application the date of its receipt and keep a record of applications received. If the application is defective it shall be returned for correction or completion, with the date of and reasons for returning it endorsed on the application and a record made of applications returned. The application shall not lose priority of filing because of defects if the application is corrected, completed and refilled with the commission DIRECTOR within sixty days after its return to the applicant, or within such further time as the commission DIRECTOR may, by an order of record, allow. Applications shall be recorded in a book kept for that purpose.

Sec. 47. Section 45-145, Arizona Revised Statutes, is amended to read:

45-145. Requiring additional information on application

A. Before approving or rejecting the application, the commission DIRECTOR may require additional information to enable it to protect properly the public interest and may, on applications proposing to divert more than ten cubic feet of water per second, require a statement of the following facts:

1. If a corporation, a copy of the articles of incorporation, the names and residences of directors and officers and the amount of its authorized and paid-up capital.

2. If not a corporation, the name of the party proposing to construct the works and a disclosure of the party's financial ability to complete the proposed work.

B. The commission DIRECTOR may also require the applicant to show that the proposed diversion of water will not conflict with vested rights.

Sec. 48. Section 45-146, Arizona Revised Statutes, is amended to read:

45-146. Legislative authorization for appropriation of water
to generate power; change in use

A. An application for appropriation of waters of a stream within the state for generating electric energy in excess of twenty-five thousand horsepower, or an application for a permit to build a dam for generating hydroelectric energy on a stream within the state in excess of twenty-five thousand horsepower, shall not be approved or granted unless authorized by an act of the legislature.

B. A change in the use of water appropriated for domestic, municipal or irrigation uses shall not be made without approval of the commission DIRECTOR, and if the change contemplates generating hydroelectric energy or power of over twenty-five thousand horsepower, approval shall not be granted unless authorized by an act of the legislature.

-48-
Sec. 49. Section 45-147, Arizona Revised Statutes, is amended to read:

45-147. Relative value of uses

A. As between two or more pending conflicting applications for the use of water from a given water supply, when the capacity of the supply is not sufficient for all applications, preference shall be given by the commission DIRECTOR according to the relative values to the public of the proposed use.

B. The relative values to the public for the purposes of this section shall be:

1. Domestic and municipal uses. Domestic uses shall include gardens not exceeding one-half acre to each family.
2. Irrigation and stock watering.
3. Power and mining uses.
4. Recreation and wildlife, including fish.

Sec. 50. Section 45-148, Arizona Revised Statutes, is amended to read:

45-148. Effect of approval or rejection of application

The approval or rejection of an application for the appropriation of water shall be endorsed on the application, a record of the action kept by the commission DIRECTOR, and the application returned immediately to the applicant. If approved, the applicant may construct the necessary works, take steps to apply the water to a beneficial use and perfect the appropriation. If the application is rejected, the applicant shall take no steps toward construction of the proposed work or diversion of the water.

Sec. 51. Section 45-149, Arizona Revised Statutes, is amended to read:

45-149. Assignability of permit; approval by director; value of permit; conditions of acceptance of permit

A. A permit to appropriate water may be assigned, subject to the conditions of the permit, but shall not be binding except upon the parties to the assignment unless the assignment is approved by and filed with the commission DIRECTOR.

B. The permittee, if he accepts the permit, shall accept it upon the condition that no value in excess of the amount paid to the state shall be claimed for the permit or for the rights so acquired when a public authority is regulating or fixing the rate or charges of the services to be rendered by the permittee, his successors or assigns, or when the state, county, city, town, municipal water or irrigation district, or any political subdivision of the state, is seeking to acquire the rights and property of the permittee, his successors or assigns.

Sec. 52. Section 45-150, Arizona Revised Statutes, is amended to read:

45-150. Limitation on time of completion of construction; exception

Actual construction, except under applications by a city or town for municipal uses, shall begin within two years after approval of the application, and shall be prosecuted with reasonable diligence and
completed within a reasonable time which shall be fixed in the permit at
not to exceed five years from the date of approval. The commission
DIRECTOR shall, for good cause shown, extend the time beyond the five-year
period if the magnitude, physical difficulties and cost of the work justify
extension.

Sec. 53. Section 45-151, Arizona Revised Statutes, is amended to
read:

45-151. Applications for reservoir permits; secondary
permits for water

A. Applications for reservoir permits shall be governed by this
article, except that the lands proposed to be irrigated from the works need
not be enumerated in the primary permit.

B. The person proposing to apply to a beneficial use the water
stored in such reservoir shall file an application for a secondary permit,
which shall refer to the reservoir as the supply of water and shall show
that a written agreement has been entered into with the owners of the
reservoir for a permanent interest in the reservoir sufficient for the
purposes set forth in the application. When the beneficial use has been
perfected under the secondary permit, the final certificate of
appropriation shall issue and refer to both the conduit described in the
secondary permit and the reservoir described in the primary permit.

C. If at any time it appears to the commission DIRECTOR, after a
hearing, that the holder of the primary permit will not or cannot within a
reasonable period develop the supply of water or complete the works, the
commission DIRECTOR may, upon application of the holder of the secondary
permit, permit such holder joint occupancy and use under the primary permit
with the holder of the primary permit to the extent deemed advisable by the
commission DIRECTOR, but such applicant shall pay to the holder of the
primary permit a pro rata portion of the total cost of the works, which
shall be based on the proportion of water used by the original and the
additional users of such works.

Sec. 54. Section 45-152, Arizona Revised Statutes, is amended to
read:

45-152. Certificate of water right; time limitation
on use of water for power purposes

A. When it appears to the satisfaction of the commission DIRECTOR
that an appropriation has been perfected and a beneficial use completed in
accordance with the provisions of this article, the commission DIRECTOR
shall issue to the applicant a certificate signed by the chairman of the
commission DIRECTOR and attested by the seal of the commission DEPARTMENT.
The certificate shall set forth the name and address of the owner of the
right, the priority of date and the extent and purpose of the right and, if
the water is for irrigation purposes, a description of the legal
subdivisions of land to which the water is appurtenant. The commission
DIRECTOR shall transmit the certificate and the recording fee to the county
recorder of the county in which such right is located, who shall record the
certificate in a book kept for that purpose and immediately transmit the
certificate to the owner.
B. Certificates for rights to the use of water for power development shall limit the right or franchise to a period of forty years from the date of application, subject to a preferred right of renewal under the laws existing at the date of expiration of the franchise or right. The right acquired by the appropriation shall date from filing the application in the office of the commission with the Director.

Sec. 55. Section 45-153, Arizona Revised Statutes, is amended to read:

45-153. Application for interstate operations

A. An application for appropriation of water shall not be denied because the point of diversion of water described in the application or any portion of the works to be constructed for the purpose of storing, diverting or distributing water, or the place of intended use, or the lands to be irrigated by the water or part of such water, is located in another state. If the point of diversion or any of the works, or the place of intended use, or the lands or part of the lands to be irrigated by such water, are located within the state, the permit shall be issued.

B. The commission Director may, in its discretion, decline to issue a permit if the point of diversion is within the state but the place of beneficial use is in some other state.

Sec. 56. Section 45-156, Arizona Revised Statutes, is amended to read:

45-156. Judicial review

Decisions of the commission Director shall be subject to judicial review pursuant to title 12, chapter 7, article 6.

Sec. 57. Section 45-172, Arizona Revised Statutes, is amended to read:

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

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

1. Except as otherwise provided in this section no such severance or transfer shall be made unless approved by the commission Director, and the approval of the commission Director shall prescribe the conditions of the approval.

2. Vested or existing rights to the use of water shall not be affected, infringed upon nor interfered with, and in no event shall the water diverted or used after the transfer of such rights exceed the vested rights existing at the time of such severance and transfer, and the commission Director shall by order so define and limit the amount of water to be diverted or used annually subsequent to such transfer.
3. The water rights sought to be transferred shall have been lawfully perfected under the laws of the territory or the state of Arizona and shall not have thereafter been forfeited or abandoned.

4. No such severance or transfer of water rights shall be permitted or allowed from lands within the exterior boundaries of any irrigation district, agricultural improvement district or water users association without first having obtained the written consent and approval of such irrigation district, agricultural improvement district or water users association.

5. No right to the use of water on or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within an irrigation district, agricultural improvement district or water users association shall be severed or transferred without the consent of the governing body of such irrigation district, agricultural improvement district or water users association. All proposed applications for the severance and transfer of a right to use water of or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district or water users association shall be submitted to the governing body of such irrigation district, agricultural improvement district or water users association prior to the filing of such application with the commission DIRECTOR. Within forty-five days after the receipt of the application such governing body shall reject or approve the proposed application. Failure of such governing body to approve or reject the proposed application within forty-five days after receipt shall constitute approval of the proposed application by such governing body. No application for the severance or transfer of a right to the use of water of or from any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district, agricultural improvement district or water users association shall be accepted for filing by the commission DIRECTOR unless accompanied by the written consent of the governing body of such irrigation district, agricultural improvement district or water users association to the proposed application or by satisfactory evidence that such governing body failed to either accept or reject the proposed application within forty-five days after receipt by such governing body.

6. A severance and transfer of an irrigation water right appurtenant to lands within the boundaries of an irrigation district to other lands within the boundaries of the same irrigation district for agricultural use may be accomplished by the exclusion of lands to which a water right is appurtenant from within the boundaries of an irrigation district, and the inclusion in lieu of other lands within the boundaries of such irrigation district. Such severance and transfer of a water right shall require the consent of only the irrigation district within which the affected lands are situated and of the owners of the lands affected by the severance and transfer. No proceedings before nor approval by the commission DIRECTOR shall be required to accomplish such severance and transfer.

7. An application for severance and transfer of a water right shall be filed with the commission DIRECTOR. The commission DIRECTOR shall fix a
time and place for a hearing on the application and shall give notice of
such hearing by publication once a week for three successive weeks in a
newspaper of general circulation in the county or counties in which the
watershed or drainage area is located. Any interested person may appear
and show cause why the proposed application for the severance and transfer
should not be granted.

Sec. 58. Section 45-181, Arizona Revised Statutes, is amended to
read:

45-181. Claim of right to withdraw, divert or use public
waters; exception; administration by
director of water resources

A. All persons using or claiming the right to withdraw or divert and
make beneficial use of public waters of the state, except as provided in
subsection B, shall file with the Arizona water commission not later than
June 30, 1979 a statement of claim for each water right asserted, on a
PRESCRIBED form provided by the commission. The filing by any person on
behalf of its members or users shall constitute the required filing of the
individual users under this section. A recognized Indian tribe shall have
until April 1, 1980, within which to make the filing required by this
section.

B. The requirement of the filing of a statement of claim shall not
apply to:
1. Any water rights issued pursuant to a permit or certificate
issued by the commission or its predecessors PURSUANT TO LAW;
2. Rights acquired to the use of the mainstream waters of the
Colorado river; or
3. Rights acquired or validated by contract with the United States
of America, court decree or other adjudication.

C. THE COMMISSION SHALL TRANSFER THE RECORDS, FILES, WATER RIGHTS
CLAIMS REGISTRY AND ALL OTHER INFORMATION AND EVIDENCE OF WATER RIGHTS
CLAIMS RECEIVED UNDER THIS ARTICLE TO THE CUSTODY OF THE DIRECTOR OF WATER
RESOURCES. THE DIRECTOR SUCCEEDS TO THE ADMINISTRATION OF THIS ARTICLE AND
MAY ADOPT SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO DO SO. SUCH
RULES AND REGULATIONS SUPERSEDE THOSE PREVIOUSLY ADOPTED BY THE STATE LAND
DEPARTMENT AND THE COMMISSION RELATING TO THIS ARTICLE.

Sec. 59. Section 45-182, Arizona Revised Statutes, is amended to
read:

45-182. Contents of statement of claim;
filing procedure; fee

A. The statement of claim for each water right shall include the
following:
1. The name and mailing address of the person filing the claim.
2. The name of the watercourse or water source from which the right
to divert or make use of water is claimed.
3. The quantities of water and times of year use is claimed.
4. The legal description to the nearest forty-acre tract or by
other appropriate description of the point or points of diversion and place
of use of the waters.
5. The purpose and extent of use.

6. The approximate dates of first putting water to beneficial use for the various amounts and times claimed in paragraph 3 of this subsection.

7. The legal basis for the claim.

8. The sworn statement that the claim set forth is true and correct.

B. A statement of claim for a water right may be verified by the person claiming the right or may be verified by an authorized agent of such person.

C. Filing of a statement of claim shall be complete upon TIMELY receipt by the state land department at its office in Phoenix or by the Arizona water commission APPROPRIATE STATE AGENCY of a properly executed statement of claim and a five dollar filing fee for each such claim.

D. Any statement of claim filed with the state land department shall be immediately forwarded by the department to the Arizona water commission.

E. Within thirty days after the filing of statement of claim, the commission shall acknowledge its filing.

Sec. 60. Section 45-187, Arizona Revised Statutes, is amended to read:

45-187. Water rights claims registry

The commission is directed to establish a registry entitled the “water rights claims registry”. All claims set forth pursuant to this article shall be filed in such a WATER RIGHTS CLAIMS registry in such a manner as deemed appropriate by the commission DIRECTOR.

Sec. 61. Section 45-190, Arizona Revised Statutes, is amended to read:

45-190. Reversion of rights due to nonuse; notice; hearing; order; exception

A. When it appears to the commission DIRECTOR that a person entitled to the use of water has not beneficially used all or a portion of the water right for a period of five or more consecutive years, and it appears that the right has or may have reverted to the state because of such nonuse, as provided by section 45-131, the commission DIRECTOR shall notify such person to show cause at a hearing before the commission DIRECTOR why his right or portion of the right should not be declared relinquished.

B. The notice shall contain:

1. The time and place of the hearing as determined by the commission DIRECTOR.

2. A description of the water right, including the approximate location of the point of diversion, the general description of the lands or places where such waters were used, the water source, the amount involved, the purpose of use, and the apparent authority upon which the right is based.

3. A statement that unless sufficient cause be IS shown the water right will be declared relinquished.
C. The notice shall be served by sending the notice by registered or certified mail to the last known address of the person and shall be mailed at least thirty days before the hearing.

D. The commission DIRECTOR shall, as soon as practicable after such hearing, make an order determining whether such water right has been relinquished and give notice to each party of the order by serving such persons by registered or certified mail at their last known addresses.

E. For the purposes of this section the following reasons shall be sufficient cause for nonuse:

1. Drought, or other unavailability of water.

2. Active service in the armed forces of the United States during military crisis.

3. Nonvoluntary service in the armed forces of the United States.

4. The operation of legal proceedings.

5. Federal, state or local laws imposing land or water use restrictions, or acreage limitations, or production quotas.

6. Any other reason that a court of competent jurisdiction deems would warrant nonuse.

Sec. 62. Repeal

Sections 45-185, 45-186 and 45-193, Arizona Revised Statutes, are repealed.

Sec. 63. Section 45-203, Arizona Revised Statutes, is amended to read:

45-203. Head gates; measuring devices required on canals and reservoirs

A. The owner of a ditch or canal shall maintain at the point where the water is diverted a substantial head gate so constructed that it can be locked and kept closed by the water superintendent. An owner, when required by the commission DIRECTOR OF WATER RESOURCES, shall construct and maintain measuring devices at points along the ditch to assist the water superintendent in determining the amount of water to be diverted into the ditch from the stream, or taken from it by the users.

B. The owner of a reservoir located across or upon the bed of a natural stream shall, when required by the commission DIRECTOR, construct and maintain a measuring device, approved by the commission DIRECTOR, below the reservoir, a gauge graduated to feet and tenths of feet inside the reservoir and a capacity table for the reservoir, and, if necessary, a measuring device above the reservoir on each source of supply discharging into the reservoir.

C. When necessary for the protection of other water users, the commission DIRECTOR may require flumes to be installed along the line of a ditch.

D. If the owner of irrigation works refuses or neglects to construct and maintain head gates, flumes or measuring devices after twenty days' notice, the commission DIRECTOR may close the ditch and it shall not be opened or water diverted from the source of supply until the requirements of the commission DIRECTOR have been complied with. If the owner of a reservoir located across the bed of a natural stream neglects to
install such measuring device after twenty days' notice, the commission
DIRECTOR may open the sluice gate or outlet of the reservoir and it shall
not be closed until the measuring devices are installed. A person
violating this subsection shall be punished as provided by section 45-109
45-112.

Sec. 64. Section 45-251, Arizona Revised Statutes, is amended to
read:

45-251. Definitions
In this article, unless the context otherwise requires:
1. "Commission" means the Arizona water commission.
2. 1. "General adjudication" means an action for the judicial
determination or establishment of the extent and priority of the rights of
all persons to use water in any river system and source.
3. 2. "Person" means an individual, a partnership, a corporation,
a municipal corporation, the state of Arizona or any political
subdivision, the United States of America, an Indian tribe or community or
any other legal entity, public or private.
4. 3. "Potential claimant" means all persons claiming water rights
or on whose behalf claims to water rights are asserted.
5. 4. "River system and source" means all water appropriable under
section 45-101 45-131 and all water subject to claims based upon federal
law.

Sec. 65. Section 45-252, Arizona Revised Statutes, is amended to
read:

45-252. General adjudication; representation; superior
court; assignment to judge; petition
A. One or more water users upon a river system and source, the water
rights of which have not been previously adjudicated under this article and
administered by the commission DIRECTOR OF WATER RESOURCES, or the state of
Arizona upon the request of any state agency other than the commission
DEPARTMENT OF WATER RESOURCES may file a petition to have determined in a
general adjudication the nature, extent and relative priority of the water
rights of all persons in the river system and source.
B. The attorney general shall represent the state of Arizona in
connection with all water claims asserted by this state. The commission
DIRECTOR shall be represented by legal counsel retained in accordance with
section 45-505 45-104, subsection 6-6.
C. The general adjudication shall be brought and maintained in the
superior court in the county in which the largest number of potential
claimants resides. The clerk of the court in which the petition is filed
shall notify the supreme court and the supreme court shall be responsible
for assigning the general adjudication to a superior court judge and
appointing a master.
D. The petition for a general adjudication shall be captioned: "In
re the general adjudication of all rights to use water in the
river system and source" and shall request that the court determine the
nature, extent and relative priority of the water rights of all persons in
the river system and source.
Sec. 66. Section 45-253, Arizona Revised Statutes, is amended to read:

45-253. Service of summons, statement of claimant form; record

A. Personal service of the summons and petition shall not be required. The court shall order that:

1. The clerk of the court issue the summons which shall specify the date by which the statement of claimant must be filed, generally describe the nature of the general adjudication and set forth such other information as may be necessary or desirable in the circumstances.

2. The clerk of the court deliver the summons, a copy of the petition and court-approved statement of claimant form to the commission DIRECTOR WHO shall make such copies and prepare such documents as may be necessary to effect service. The commission DIRECTOR shall assist the court in determining the scope of adjudication by recommending the portions of the river, its tributaries and any other relevant sources subject to the adjudication and in development of a statement of claimant form which shall include such duplicates as may be necessary. Upon identifying the potential claimants pursuant to section 45-256, subsection A, paragraph 1, the commission DIRECTOR shall effect service on all known potential claimants by mailing a copy of the summons, petition and court-approved statement of claimant form by registered mail, return receipt requested, to such known potential claimants.

3. The clerk of the court reimburse the commission DIRECTOR from the fund of fees paid by the claimants pursuant to section 45-254, subsection F, for funds expended by the commission DIRECTOR in effecting service of process and any subsequent notices to claimants.

B. At the time of mailing of service of process on known potential claimants, the commission DIRECTOR shall effect service on all unknown potential claimants by publication of the petition and summons at least once a week for four consecutive weeks in a newspaper published in each of the counties within which interests in and to use of water may be affected by the general adjudication.

C. The court shall direct the commission DIRECTOR:

1. To return the original summons to the clerk of the court with an endorsement of the dates on which mailing and publication were completed.

2. To maintain a true and accurate record of the names and addresses of all persons who have in fact been served by registered mail, return receipt requested. Any such record, together with all supporting documents, shall constitute the records of the court which shall be subject as such to the supervision and control of the court.

Sec. 67. Section 45-254, Arizona Revised Statutes, is amended to read:

45-254. Statement of claimant; filing; information to be included; verification; failure to file; fees

A. Each potential claimant who is served shall present in writing the particulars of his claim on the court-approved statement of claimant form and shall file the statement of claimant form with the court within
ninety days of the date of service. The court may extend the time for good cause. A duplicate of each statement of claimant shall be made available by the clerk of the court to the commission DIRECTOR.

B. The statement of claimant form may be filed by a person on behalf of its members or users and shall constitute the required filing of its members or users.

C. Each statement of claimant shall include the following information:
   1. The name and mailing address of the potential claimant.
   2. The name of the specific river, stream, tributary, wash or other source from which the right to divert or make use of water is claimed.
   3. The quantities of water and the periods of time during the year for which use is claimed.
   4. If distributing works are used or required, the date of beginning and completion of construction or of enlargements and the dimensions of the ditch as originally constructed and as enlarged.
   5. If the use is for irrigation, the amount of land reclaimed the first year and in subsequent years, and the amount and general location of the land, the character of the soil and the kind of crops cultivated.
   6. The legal description of the point or points of diversion and place of use of the waters to the nearest forty-acre tract or by other appropriate description and such map or plat showing the relative points of diversion and place of use as may be required.
   7. The purpose and extent of use.
   8. The time of the initiation of the right and the date when water was first used for beneficial purposes for the various amounts and times claimed in paragraph 3 of this subsection.
   9. The legal basis for the claim.

D. The statement of claimant shall be verified by the claimant or the person authorized to file as provided in subsection B.

E. Any potential claimant properly served who fails to file a statement of claimant in accordance with the requirements of this article shall be barred and estopped from subsequently asserting any right theretofore acquired upon the river system and source and shall forfeit all rights to the use of water in the river system and source theretofore claimed by him. Any potential claimant who did not have actual knowledge or notice of the pendency of the proceedings may, at any time within one year after the return of service, move to intervene in the general adjudication, if his motion to intervene contains all matters required of claimants and an affidavit that the intervenor had no actual knowledge or notice of the pendency of the proceedings. Such motion to intervene shall be granted upon such terms as are equitable, and the movant thereafter shall have the rights of a claimant in the general adjudication.

F. The fee for filing a statement of claimant by an individual is twenty dollars and by a corporation, municipal corporation, the state or any political subdivision, an association or partnership is two cents for every acre-foot of water claimed, or twenty dollars, whichever is greater. The commission DIRECTOR shall review the statements of claimant and the
amount of fees paid as to each and report to the court or master the
sufficiency of the fees paid with respect to each statement of claimant. A
claim shall not be considered by the court or the master unless all fees
with respect to such claim have been fully paid in accordance with the
provisions of this article. Fees shall not be imposed upon any Indian
tribe, community or allottee personally appearing in the general
adjudication to assert claims to water.
Sec. 68. Section 45-255, Arizona Revised Statutes, is amended to
read:

45-255. Appointment of master; compensation
A. After the time for filing all statements of claimant has
expired, the supreme court may, and in any case where there are more than
one hundred potential claimants shall, appoint a master under rule 53 of
the Arizona rules of civil procedure to report on all legal and factual
issues. If a master is to be appointed, the supreme court may select the
master from a list of persons which shall be expeditiously submitted by the
commission DIRECTOR.
B. The master's compensation and expenses shall be fixed by the
court and paid out of the fund of fees paid by the claimants pursuant to
section 45-254, subsection F. In the event such fund of fees is
insufficient, the master's compensation and expenses shall be paid from
funds equitably assessed by the court in its discretion against the
claimants.
Sec. 69. Section 45-256, Arizona Revised Statutes, is amended to
read:

45-256. Technical assistance of director; report
A. The court or the master shall request technical assistance from
the commission DIRECTOR in all aspects of the general adjudication with
respect to which the commission DIRECTOR possesses hydrological or other
expertise. In rendering such technical assistance, the commission shall
direct the state water engineer, with the assistance of the commission
staff, DIRECTOR SHALL expeditiously:
1. Identify the hydrological boundaries of the river system and
source and the names and addresses of all reasonably identifiable
potential claimants. In identifying potential claimants, the commission
DIRECTOR shall, at a minimum, identify as far as reasonably possible the
current record owners of all real property within the geographical scope of
the adjudication.
2. Locate, procure and make available all public and other records
relevant to determination of any factual or legal issues.
3. Conduct a general investigation or examination of the river
system and source.
4. Investigate or examine the facts pertaining to the claim or
claims asserted by each claimant.
5. Make a map or plat on a scale not less than one inch to the mile
adequate to show with substantial accuracy the course of the river system
and source, the location of the ditch or canal diverting water from such
river system and source, and the legal subdivisions of lands which have
been irrigated or are susceptible to irrigation from the ditches and canals already constructed.

6. Take such other steps and gather such other information as may be necessary or desirable for a proper determination of the relative rights of the parties.

B. The technical assistance rendered by the commission DIRECTOR shall be set forth in summary form on a claim by claim basis in a report prepared by the state water engineer DIRECTOR and filed with the court or the master, which shall then be available for inspection by any claimant. Any claimant may file with the court or the master written objections to the report or any part of the report within one hundred eighty days of the date on which the report was filed. Those parts of the report with respect to which no written objections have been timely filed may be summarily admitted into evidence. Those parts of the report with respect to which written objections have been timely filed shall not be admitted into evidence until such time as each claimant who has filed written objections in a timely manner shall have had a fair and reasonable opportunity to contest the validity or admissibility of those parts of the report to which his objections were directed. Each claimant who has filed written objections in a timely manner shall also have a fair and reasonable opportunity to present evidence in support of or in opposition to those parts of the report to which his objections were directed, to present evidence in support of his claim and to make objections to any other claim.

C. Prior to filing the report with the court or the master as provided in subsection B, the state water engineer DIRECTOR shall prepare a preliminary report. The state water engineer DIRECTOR shall give notice to each water claimant that the preliminary report is available for inspection and comment. Upon expiration of the period provided for timely comment, the state water engineer DIRECTOR shall revise the preliminary report as may be appropriate and shall file the report with the court or the master in accordance with subsection B. The commission DIRECTOR shall adopt such rules and regulations as may be necessary to ensure that adequate notice is given, that the preliminary report is sufficiently available for inspection by the water claimants and that provisions are made for adequate time and procedure for comment on the preliminary report.

Sec. 70. Section 45-257, Arizona Revised Statutes, is amended to read:

45-257. Hearings, report of master; final judgment by court; administration and enforcement of decree

A. The master shall:

1. After due notice, conduct such hearings and take such testimony as shall be necessary to determine the relative water rights of each claimant.

2. Prepare and file with the court a report in accordance with rule 53(g) of the Arizona rules of civil procedure, which shall contain findings of fact and conclusions of law. Each claimant shall have the right to file
with the court written objections to the master's report within one hundred eighty days of the date on which the master's report was filed with the court.

3. Maintain under his control all records and documents at such locations as may be designated by the court.

B. The court, upon review of the master's report and in accordance with rule 53 of the Arizona rules of civil procedure, shall:

1. Determine the extent and priority date of and adjudicate any interest in or right to use the water of the river system and source, provided when rights to the use of water or dates of appropriation have previously been determined in a judgment or decree of a court, THE COURT SHALL accept the determination of such rights and dates of appropriation as found in the judgment or decree unless such rights have been abandoned.

2. Establish, in whatever form determined to be most appropriate by the court, one or more tabulations or lists of all water rights and their relative priorities on the river system and source.

3. Refer the final judgment or decree to the commission DIRECTOR for administration and enforcement under the continuing jurisdiction of the court.

4. Make appropriate orders to ensure that the entire record of the general adjudication is preserved in an accessible and usable form.

5. Record a certified copy of the final judgment or decree in each county within the geographical scope of the general adjudication which shall constitute constructive notice of the contents of the judgment or decree.

Sec. 71. Repeal
Section 45-258, Arizona Revised Statutes, is repealed.

Sec. 72. Section 45-260, Arizona Revised Statutes, is amended to read:

45-260. General adjudication fund
A. The state treasurer shall maintain a fund known as the general adjudication fund. All money appropriated to effect service of process and notices on potential claimants pursuant to section 45-253, subsection A, paragraphs 2 and 3, and all reimbursements to the commission DIRECTOR pursuant to section 45-253, subsection A, paragraph 4 shall be deposited in such fund.

B. Monies in the general adjudication fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

Sec. 73. Repeal
Title 45, chapter 1, article 7, Arizona Revised Statutes, is repealed.

Sec. 74. Renumber
Title 45, chapter 1, article 8, Arizona Revised Statutes, is renumbered as a new article 7 and the sections previously included in title 45, chapter 1, article 8 are renumbered for placement in title 45, chapter 1, article 7, the first number being replaced by the second number as follows: 45-401 as 45-271, 45-402 as 45-272, 45-403 as 45-273, 45-404 as 45-274, 45-405 as 45-275 and 45-406 as 45-276.
Sec. 75. Section 45-272, Arizona Revised Statutes, as renumbered by section 74 of this act, is amended to read:

45-272. Water rights in stockponds; priority
A. The owner of any stockpond constructed after June 12, 1919 and prior to August 27, 1977, the capacity of which is not in excess of fifteen acre feet and concerning which water rights litigation or protest to the state land department was not a matter of record prior to August 27, 1977, shall have a valid water right in such stockpond with priority as of the date of construction and shall be eligible for such evidence of validity as the state land department may prescribe.

B. All water rights issued pursuant to a permit or certificate previously issued by the state land department or its predecessors, rights to the use of the mainstream waters of the Colorado river, rights previously acquired or validated by contract with the United States, court decree or other adjudication or rights acquired prior to June 12, 1919 and registered pursuant to article 4.1 of this chapter shall have priority over any water right claimed pursuant to this article.

C. Any person claiming a water right pursuant to this article who fails to file a claim of water right prior to June 30, 1979 shall have a water right priority as of the date of filing.

D. Subsequent to August 27, 1977, no person may construct or cause to be constructed a stockpond of any size unless the Arizona water commission DIRECTOR OF WATER RESOURCES OR HIS PREDECESSORS has approved an application for permit to appropriate such water filed pursuant to section 45-142.

Sec. 76. Section 45-273, Arizona Revised Statutes, as renumbered by section 74 of this act, is amended to read:

45-273. Claim of water right; penalty; fee
A. A claim of water right for a stockpond and application for certification of such right shall be typewritten or legibly written in ink and filed in duplicate with the commission DIRECTOR upon a printed form furnished by the commission DIRECTOR. Each blank in the form shall be completed with the required information pursuant to instructions furnished by the commission DIRECTOR.

B. A claim which does not contain the required information or which is not accompanied by the required filing fee shall not be accepted, but shall be returned to the sender.

C. A separate claim shall be filed for each stockpond.

D. All claims shall be certified as true under penalty of perjury.

E. Each claim shall be accompanied by a filing fee of ten dollars.

Sec. 77. Section 45-274, Arizona Revised Statutes, as renumbered by section 74 of this act, is amended to read:

45-274. Notice of claims; protest; grounds; contents
A. The commission DIRECTOR shall issue and deliver a notice of each claim to water users who, in the judgment of the commission DIRECTOR, might be affected by the use of water as set forth in the claim.
S.B. 1001

B. Any person affected may, within the time allowed in the notice or such further time as the commission DIRECTOR may allow, file a written protest to the claim. The protesting party shall send a copy of the protest to the claimant.

C. A protest shall state:
   1. The name and address of the protesting party.
   2. The location of the protesting party's point of diversion of water with respect to the claimant's stockpond.
   3. The grounds for protest.
   4. That a copy of the protest has been mailed or delivered to the claimant.

D. The grounds for protest are that the claim contains a misstatement of one or more of the following material facts:
   1. The date of construction of the stockpond.
   3. The sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish.
   4. The pond is not used primarily for fishing or culturing of fish.
   5. That the stockpond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977.

Sec. 78. Section 45-275, Arizona Revised Statutes, as renumbered by section 74 of this act, is amended to read:

45-275. Investigation, hearing and certification of claims
   A. Upon receipt of a claim, the commission DIRECTOR shall conduct such investigation as in its judgment is necessary to certify the water right. Such investigation may include an inspection of the stockpond.
   B. When requested by a claimant or the protesting party, the commission DIRECTOR shall hold a hearing to determine any material fact which is in dispute. A hearing may be held on the commission's DIRECTOR'S own motion.
   C. The commission DIRECTOR shall issue a certification of the water right if it appears that the material facts stated in the claim are true and entitle the claimant to a water right for the stockpond. The water right shall be subject to all prior rights and the certification shall so state.

Sec. 79. Section 45-276, Arizona Revised Statutes, as renumbered by section 74 of this act, is amended to read:

45-276. Statement of continuing use; revocation of certification
   A. Once every five years, and at such other times as the commission DIRECTOR deems appropriate, the commission DIRECTOR shall require certificate holders to furnish a statement, under penalty of perjury, that the stockpond water is continuing to be used solely for watering livestock or wildlife, that the pond is not used primarily for fishing or the culturing of fish, and has not been increased in capacity.
B. The commission DIRECTOR shall, after notice to the certificate holder and opportunity for hearing, revoke any certification upon a finding that the water has ceased to be used solely for watering livestock or wildlife, that the pond is used primarily for fishing or the culturing of fish, or that the stockpond has been increased in capacity.

Sec. 80. Repeal
Sections 45-501 and 45-505 through 45-511, Arizona Revised Statutes, are repealed.

Sec. 81. Heading changes
A. The headings of title 45, chapter 2 and title 45, chapter 2, article 1, Arizona Revised Statutes, are repealed.
B. The heading of title 45, chapter 3, Arizona Revised Statutes, is changed from "DAMS AND RESERVOIRS" to "INTERSTATE STREAMS, DAMS AND RESERVOIRS".

Sec. 82. Transfer and renumber
Title 45, chapter 2, article 2, Arizona Revised Statutes, is transferred for placement in title 45, chapter 3, Arizona Revised Statutes, as article 2 and section 45-561, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 3, article 2, Arizona Revised Statutes, as section 45-731.

Sec. 83. Transfer and renumber
Title 45, chapter 2, article 3, Arizona Revised Statutes, is transferred for placement in title 45, chapter 3, Arizona Revised Statutes, as article 3 and section 45-571, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 3, article 3, Arizona Revised Statutes, as section 45-741.

Sec. 84. Transfer and renumber
Title 45, chapter 2, article 4, Arizona Revised Statutes, is transferred for placement in title 45, chapter 3, Arizona Revised Statutes, as article 4 and section 45-581, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 3, article 4, Arizona Revised Statutes, as section 45-751.

Sec. 85. Transfer and renumber
Title 45, chapter 2, article 5, Arizona Revised Statutes, is transferred for placement in title 45, chapter 3, Arizona Revised Statutes, as article 5 and section 45-601, Arizona Revised Statutes, is transferred and renumbered for placement in title 45, chapter 3, article 5, Arizona Revised Statutes, as section 45-761.

Sec. 86. Title 45, Arizona Revised Statutes, is amended by adding a new chapter 2, to read:

CHAPTER 2
GROUNDWATER CODE
ARTICLE 1. ADMINISTRATION
45-401. Declaration of policy
A. The legislature finds that the people of Arizona are dependent in whole or in part upon groundwater basins for their water supply and that in many basins and sub-basins withdrawal of groundwater is greatly in excess of the safe annual yield and that this is threatening to destroy the
ECONOMY OF CERTAIN AREAS OF THIS STATE AND IS THREATENING TO DO SUBSTANTIAL
INJURY TO THE GENERAL ECONOMY AND WELFARE OF THIS STATE AND ITS CITIZENS.
THE LEGISLATURE FURTHER FINDS THAT IT IS IN THE BEST INTEREST OF THE
GENERAL ECONOMY AND WELFARE OF THIS STATE AND ITS CITIZENS THAT THE
LEGISLATURE EVOKE ITS POLICE POWER TO PRESCRIBE WHICH USES OF GROUNDWATER
ARE MOST BENEFICIAL AND ECONOMICALLY EFFECTIVE.
B. IT IS THEREFORE DECLARED TO BE THE PUBLIC POLICY OF THIS STATE
THAT IN THE INTEREST OF PROTECTING AND STABILIZING THE GENERAL ECONOMY AND
WELFARE OF THIS STATE AND ITS CITIZENS IT IS NECESSARY TO CONSERVE, PROTECT
AND ALLOCATE THE USE OF GROUNDWATER RESOURCES OF THE STATE AND TO PROVIDE A
FRAMEWORK FOR THE COMPREHENSIVE MANAGEMENT AND REGULATION OF THE
WITHDRAWAL, TRANSPORTATION, USE, CONSERVATION AND CONVEYANCE OF RIGHTS TO
USE THE GROUNDWATER IN THIS STATE.
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 UPON 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 WHICH HAS
BEEN DESIGNATED PURSUANT TO ARTICLE 2 OF THIS CHAPTER AS REQUIRING ACTIVE
MANAGEMENT OF GROUNDWATER.
3. "CITY" OR "TOWN" MEANS A CITY OR TOWN INCORPORATED OR CHARTERED
UNDER THE CONSTITUTION AND LAWS OF THIS STATE.
4. "CONVEY" MEANS TO TRANSFER THE OWNERSHIP OF A GRANDFATHERED
RIGHT FROM ONE PERSON TO ANOTHER.
5. "EFFLUENT" MEANS WATER WHICH, AFTER BEING WITHDRAWN AS
GROUNDWATER OR DIVERTED AS SURFACE WATER, HAS BEEN USED FOR DOMESTIC,
MUNICIPAL OR INDUSTRIAL PURPOSES AND WHICH IS AVAILABLE FOR REUSE FOR ANY
PURPOSE, WHETHER OR NOT THE WATER HAS BEEN TREATED TO IMPROVE ITS
QUALITY.
6. "EXEMPT WELL" MEANS A WELL HAVING A PUMP WITH A MAXIMUM CAPACITY
OF NOT MORE THAN THIRTY-FIVE GALLONS PER MINUTE WHICH IS USED TO WITHDRAW
GROUNDWATER FOR DOMESTIC PURPOSES, INCLUDING THE NON-COMMERCIAL IRRIGATION
OF NOT MORE THAN ONE ACRE OF LAND.
7. "FARM" MEANS AN AREA OF IRRIGATED LAND UNDER THE SAME OWNERSHIP
WHICH IS SERVED BY A WATER DISTRIBUTION SYSTEM COMMON TO THE IRRIGATED LAND
AND TO WHICH CAN BE APPLIED COMMON CONSERVATION, WATER MEASUREMENT AND
WATER ACCOUNTING PROCEDURES.
8. "FARM UNIT" MEANS ONE OR MORE FARMS IRRIGATED WITH GROUNDWATER
WHICH ARE CONTIGUOUS OR IN PROXIMITY TO EACH OTHER WITH SIMILAR SOIL
CONDITIONS, CROPS AND CROPPING PATTERNS.
9. "GRANDFATHERED RIGHT" MEANS A RIGHT TO WITHDRAW AND USE
GROUNDWATER PURSUANT TO ARTICLE 5 OF THIS CHAPTER BASED ON THE FACT OF
LAWFUL WITHDRAWALS AND USE OF GROUNDWATER PRIOR TO THE DATE OF THE
DESIGNATION OF AN ACTIVE MANAGEMENT AREA.
10. "GROUNDWATER BASIN" MEANS AN AREA WHICH, AS NEARLY AS KNOWN
FACTS PERMIT AS DETERMINED BY THE DIRECTOR PURSUANT TO THIS CHAPTER, MAY BE
DESIGNATED SO AS TO ENCLOSE A RELATIVELY HYDROLOGICALLY DISTINCT BODY OR
RELATED BODIES OF GROUNDWATER, WHICH SHALL BE DESCRIBED HORIZONTALLY BY
SURFACE DESCRIPTION.
-65-
11. "INITIAL ACTIVE MANAGEMENT AREA" MEANS THE TUCSON, PHOENIX,
PRESCOTT OR PINAL ACTIVE MANAGEMENT AREA ESTABLISHED BY SECTION 45-411.
12. "IRRIGATE" MEANS TO APPLY WATER TO LAND FOR THE PURPOSE OF
COMMERCIAL AGRICULTURAL PRODUCTION.
13. "IRRIGATION ACRE" MEANS AN ACRE OF LAND, AS DETERMINED IN
SECTION 45-465, SUBSECTION B, TO WHICH AN IRRIGATION GRANDFATHERED RIGHT
IS APPURTENANT.
14. "IRRIGATION DISTRICT" MEANS A POLITICAL SUBDIVISION, HOWEVER
DESIGNATED, ESTABLISHED PURSUANT TO CHAPTER 4 OR 6 OF THIS TITLE.
15. "IRRIGATION GRANDFATHERED RIGHT" MEANS A GRANDFATHERED RIGHT
DETERMINED PURSUANT TO SECTION 45-465.
16. "IRRIGATION NON-EXPANSION AREA" MEANS A GEOGRAPHICAL AREA WHICH
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.
17. "IRRIGATION USE" MEANS THE USE OF GROUNDWATER FOR COMMERCIAL
AGRICULTURAL IRRIGATION.
18. "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.
19. "NON-IRRIGATION GRANDFATHERED RIGHT" MEANS A GRANDFATHERED RIGHT
DETERMINED PURSUANT TO SECTION 45-463, 45-464, 45-469 OR 45-472.
20. "NON-IRRIGATION USE" MEANS A USE OF GROUNDWATER OTHER THAN FOR
COMMERCIAL AGRICULTURAL IRRIGATION.
21. "PERSON" MEANS AN INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,
COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, SOCIETY, ESTATE, TRUST, ANY OTHER
PRIVATE ORGANIZATION OR ENTERPRISE, THE UNITED STATES, ANY STATE,
TERRITORY OR COUNTRY OR A GOVERNMENTAL ENTITY, POLITICAL SUBDIVISION OR
MUNICIPAL CORPORATION ORGANIZED UNDER OR SUBJECT TO THE CONSTITUTION AND
LAWS OF THIS STATE.
22. "PRIVATE WATER COMPANY" MEANS ANY ENTITY WHICH DISTRIBUTES OR
SELLS GROUNDWATER, EXCEPT A POLITICAL SUBDIVISION OR AN ENTITY ESTABLISHED
PURSUANT TO THIS TITLE WHICH IS NOT REGULATED AS A PUBLIC SERVICE
CORPORATION BY THE ARIZONA CORPORATION COMMISSION UNDER A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY. A CITY OR TOWN IS NOT A PRIVATE WATER
COMPANY.
23. "SERVICE AREA" MEANS:
(a) WITH RESPECT TO A CITY OR TOWN, THE AREA OF LAND ACTUALLY BEING
SERVED WATER BY THE CITY OR TOWN PLUS:
(i) ADDITIONS TO SUCH AREA WHICH CONTAIN AN OPERATING DISTRIBUTION
SYSTEM OWNED BY THE CITY OR TOWN PRIMARILY FOR THE DELIVERY OF
NON-IRRIGATION WATER.
(ii) THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY THAT
OBTAINS ITS WATER FROM THE CITY PURSUANT TO A CONTRACT ENTERED INTO PRIOR
TO THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA.
(b) WITH RESPECT TO A PRIVATE WATER COMPANY, THE AREA OF LAND OF THE
PRIVATE WATER COMPANY ACTUALLY BEING SERVED WATER BY THE PRIVATE WATER
COMPANY PLUS ADDITIONS TO SUCH AREA WHICH CONTAIN AN OPERATING DISTRIBUTION SYSTEM OWNED BY THE PRIVATE WATER COMPANY PRIMARILY FOR THE DELIVERY OF NON-IRRIGATION WATER.

24. "SERVICE AREA OF AN IRRIGATION DISTRICT" MEANS:
   (b) WITH RESPECT TO AN IRRIGATION DISTRICT WHICH WAS NOT ENGAGED IN THE WITHDRAWAL, DELIVERY AND DISTRIBUTION OF GROUNDWATER AS OF THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA:
      (i) THE ACRES OF MEMBER LANDS WITHIN THE BOUNDARIES OF THE IRRIGATION DISTRICT WHICH WERE LEGALLY IRRIGATED AT ANY TIME FROM JANUARY 1, 1975 THROUGH JANUARY 1, 1980 FOR INITIAL ACTIVE MANAGEMENT AREAS OR DURING THE FIVE YEARS PRECEDING THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA FOR SUBSEQUENT ACTIVE MANAGEMENT AREAS.
      (ii) ANY AREAS AS OF THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA WITHIN THE BOUNDARIES OF THE IRRIGATION DISTRICT WHICH CONTAIN AN OPERATING SYSTEM OF CANALS, FLUMES, DITCHES AND OTHER WORKS FOR THE WITHDRAWAL, DELIVERY AND DISTRIBUTION OF WATER.

25. "SUB-BASIN" MEANS AN AREA WHICH, AS NEARLY AS KNOWN FACTS PERMIT AS DETERMINED BY THE DIRECTOR PURSUANT TO THIS CHAPTER, MAY BE DESIGNATED SO AS TO ENCLOSE A RELATIVELY HYDROLOGICALLY DISTINCT BODY OF GROUNDWATER WITHIN A GROUNDWATER BASIN, WHICH SHALL BE DESCRIBED HORIZONTALLY BY SURFACE DESCRIPTION.

26. "SUBSEQUENT ACTIVE MANAGEMENT AREA" MEANS AN ACTIVE MANAGEMENT AREA ESTABLISHED AFTER THE EFFECTIVE DATE OF THIS CHAPTER PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

27. "SUBSIDENCE" MEANS THE SETTLING OR LOWERING OF THE SURFACE OF LAND WHICH RESULTS FROM THE WITHDRAWAL OF GROUNDWATER.

28. "TRANSPORTATION" MEANS THE MOVEMENT OF GROUNDWATER FROM THE POINT OF WITHDRAWAL TO THE POINT OF USE.

29. "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.

30. "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.

31. "WELL" MEANS A MAN-MADE OPENING IN THE EARTH THROUGH WHICH WATER MAY BE WITHDRAWn OR OBTAINED FROM BENEATH THE SURFACE OF THE EARTH.

45-403. Designation of groundwater basins and sub-basins; hearing
A. Within eighteen months of the effective date of this section, the director shall propose boundaries for all groundwater basins and sub-basins of groundwater basins in this state not included within initial active management areas established pursuant to section 45-411.

B. Within twenty-four months of the effective date of this section, the director shall hold public hearings to consider the final boundaries of groundwater basins and sub-basins in this state not included within initial active management areas established pursuant to section 45-411.

C. The hearings shall be held at the county seat of the county in which the major portion of the land in the proposed groundwater basin is located as soon as practicable but no less than thirty days and no more than sixty days after the first publication of the notice of the hearing. At the hearing, the director shall present the factual data in his possession in support of the proposed action. Any person may appear at the hearing, either in person or by representative, and submit oral or documentary evidence for or against the proposed action. In making his determination, the director shall give full consideration to public comment and to recommendations made by local political subdivisions.

45-404. Findings upon hearing; maps; order for boundaries of groundwater basin; review and modification of boundaries

A. Within sixty days after the hearing, the director shall make and file in his office written findings with respect to matters considered during the hearing. For each groundwater basin, the director shall prepare and file in his office:

1. A map clearly identifying all lands included within the groundwater basin and its sub-basins.

2. Factual data justifying the boundaries of the groundwater basin and its sub-basins.

3. An order designating the boundaries of each groundwater basin and its sub-basins.

B. The findings and order shall be published in the manner and for the length of time prescribed for the publication of notice of the public hearing and the order is effective when published for the final time. The materials required by subsection A of this section and a transcript of the hearing are public records of the department and shall be available for examination by the public during regular business hours.

C. The director shall file a true copy of the map in the office of the county recorder of the county or counties in which the groundwater basin is located.
D. THE DIRECTOR MAY, AS CONDITIONS REQUIRE AND FACTUAL DATA
JUSTIFY, REVIEW AND MODIFY THE BOUNDARIES OF ANY GROUNDWATER BASIN OR ANY
SUB-BASIN OF A GROUNDWATER BASIN EXCEPT FOR GROUNDWATER BASINS AND
SUB-BASINS OF A GROUNDWATER BASIN THAT ARE INCLUDED WITHIN AN INITIAL
ACTIVE MANAGEMENT AREA. THE REVIEW AND MODIFICATION OF BOUNDARIES OF A
GROUNDWATER BASIN OR SUB-BASIN INCLUDED WITHIN A SUBSEQUENT ACTIVE
MANAGEMENT AREA OR IRRIGATION NON-EXPANSION AREA SHALL FOLLOW PROCEDURES
SET FORTH IN SECTIONS 45-417 AND 45-438. ANY MODIFICATION OF BOUNDARIES
DESIGNATED PURSUANT TO THIS ARTICLE SHALL FOLLOW AS CLOSELY AS PRACTICABLE
THE PROCEDURAL REQUIREMENTS OF SECTION 45-403 AND THIS SECTION.

45-405. Rehearing; appeals from decisions of the director;
assignment of appeals

A. THE DIRECTOR SHALL, BY REGULATION, PROVIDE AN OPPORTUNITY FOR
REHEARING OR REVIEW OF ANY DECISION OF THE DIRECTOR.
B. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, APPEALS FROM A
DECISION OF THE DIRECTOR SHALL BE CONDUCTED PURSUANT TO TITLE 12, CHAPTER
7, ARTICLE 6 AND SHALL EXTEND TO ALL QUESTIONS OF LAW AND FACT PRESENTED BY
THE RECORD.
C. A HEARING HELD BY THE DIRECTOR OR HEARING OFFICER SHALL BE
STENOGRAPHICALLY REPORTED. IF THE PERSON APPEALS A DECISION OF THE
DIRECTOR OR HEARING OFFICER, A TRANSCRIPT SHALL BE MADE.
D. IF NO HEARING WAS HELD, THE COURT SHALL REMAND TO THE DIRECTOR
FOR PURPOSES OF CONDUCTING A HEARING, UNLESS THE PARTY APPEALING WAIVES
SUCH REMAND AND CONSENTS THAT THE MATTER BE DECIDED BY THE COURT ON THE
RECORD BEFORE IT.
E. NO NEW OR ADDITIONAL EVIDENCE IN SUPPORT OF OR IN OPPOSITION TO A
FINDING, ORDER, DETERMINATION OR DECISION OF THE DIRECTOR SHALL BE HEARD BY
THE COURT EXCEPT IF, IN THE DISCRETION OF THE COURT, JUSTICE DEMANDS THE
ADMISSION OF SUCH EVIDENCE.
F. EACH APPEAL UNDER THIS SECTION SHALL BE ASSIGNED TO A JUDGE WHOM
THE CHIEF JUSTICE OF THE SUPREME COURT HAS SPECIFICALLY DESIGNATED,
PURSUANT TO SECTION 45-406, TO HEAR APPEALS UNDER THIS SECTION.

45-406. Designation of judges; publication of designated judges
A. THE CHIEF JUSTICE OF THE SUPREME COURT, WITHIN SIXTY DAYS AFTER
THE EFFECTIVE DATE OF THIS SECTION, SHALL DESIGNATE AT LEAST ONE JUDGE, BUT
NOT MORE THAN FIVE JUDGES, OF THE SUPERIOR COURT TO HEAR APPEALS PERFECTED
UNDER SECTION 45-405. THE CHIEF JUSTICE OF THE SUPREME COURT SHALL ALSO
SPECIFY THE PARTICULAR COUNTY OR COUNTIES FOR WHICH EACH DESIGNATED JUDGE
WILL BE AVAILABLE FOR ASSIGNMENT.
B. THE SUPREME COURT SHALL PUBLISH IN THE RULES OF THE SUPREME COURT
THE NAME OF EACH DESIGNATED JUDGE AND THE COUNTY OR COUNTIES IN WHICH EACH
DESIGNATED JUDGE WILL BE AVAILABLE FOR ASSIGNMENT.
C. THE PRESIDING JUDGE FOR THE COUNTY IN WHICH AN APPEAL HAS BEEN
PERFECTED UNDER SECTION 45-405 SHALL ASSIGN THE APPEAL TO THE APPROPRIATE
JUDGE DESIGNATED BY THE CHIEF JUSTICE OF THE SUPREME COURT AND SHALL ADVISE
IN WRITING THE PRESIDING JUDGE AND CLERK OF THE SUPERIOR COURT IN THE
COUNTY IN WHICH THE DESIGNATED JUDGE ORDINARILY SITS ABOUT THE ASSIGNMENT.
45-407. Stay of director's decision; precedence of appeals; review by the court of appeals

A. THE DECISION OF THE DIRECTOR SHALL NOT BE STAYED PENDING APPEAL, EXCEPT THAT THE JUDGE TO WHOM THE APPEAL HAS BEEN ASSIGNED MAY STAY THE DECISION OF THE DIRECTOR WITH OR WITHOUT BOND UPON A SHOWING OF GOOD CAUSE. IN DETERMINING WHETHER GOOD CAUSE EXISTS UNDER THE CIRCUMSTANCES, THE COURT MAY CONSIDER:

1. THE PUBLIC INTEREST WILL NOT BE ADVERSELY AFFECTED BY A STAY.
2. THE STAY WILL NOT HARM OTHERS.
3. THERE IS A HIGH PROBABILITY THAT THE APPELLANT WILL SUCCEED ON THE MERITS.
4. THE APPELLANT WILL SUFFER IRREPARABLE HARM BEFORE A DECISION ON THE MERITS CAN BE RENDERED.

B. FOR THE BENEFIT OF THE PEOPLE OF THIS STATE, APPEALS PERFECTED UNDER SECTION 45-405 HAVE PRECEDENCE, IN EVERY COURT, OVER ALL OTHER CIVIL PROCEEDINGS.

C. THE FINAL DECISION OF THE SUPERIOR COURT IS APPEALABLE IN THE SAME MANNER AS IN CIVIL ACTIONS GENERALLY AND SHALL BE GOVERNED BY THE RULES OF APPELLATE PROCEDURE.

ARTICLE 2. ACTIVE MANAGEMENT AREAS

45-411. Initial active management areas; maps

A. FOUR INITIAL ACTIVE MANAGEMENT AREAS ARE ESTABLISHED ON THE EFFECTIVE DATE OF THIS SECTION. THE FOUR INITIAL ACTIVE MANAGEMENT AREAS ARE:

1. THE TUCSON ACTIVE MANAGEMENT AREA WHICH INCLUDES THE UPPER SANTA CRUZ AND AVRA VALLEY SUB-BASINS.
2. THE PHOENIX ACTIVE MANAGEMENT AREA WHICH INCLUDES THE EAST SALT RIVER VALLEY, WEST SALT RIVER VALLEY, FOUNTAIN HILLS, CAREFREE, LAKE PLEASANT, RAINBOW VALLEY AND HASSAYAMPA SUB-BASINS.
3. THE PRESCOTT ACTIVE MANAGEMENT AREA WHICH INCLUDES THE LITTLE CHINO AND UPPER AGUA FRIA SUB-BASINS.
4. THE PINAL ACTIVE MANAGEMENT AREA WHICH INCLUDES THE MARICOPA-STANFIELD, ELOY, AGUIRRE VALLEY, SANTA ROSA VALLEY AND VEKOL VALLEY SUB-BASINS.

B. THE BOUNDARIES OF THE INITIAL ACTIVE MANAGEMENT AREAS ARE SHOWN ON THE MAPS FILED IN THE OFFICE OF THE SECRETARY OF STATE ON THE EFFECTIVE DATE OF THIS CHAPTER.

C. A TRUE COPY OF THE MAPS IDENTIFYING THE INITIAL ACTIVE MANAGEMENT AREAS SHALL BE ON FILE IN THE DEPARTMENT AND SHALL BE AVAILABLE FOR EXAMINATION BY THE PUBLIC DURING REGULAR BUSINESS HOURS. A TRUE COPY OF THE MAP OF EACH INITIAL ACTIVE MANAGEMENT AREA SHALL ALSO BE FILED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE ACTIVE MANAGEMENT AREA IS LOCATED.

45-412. Subsequent active management areas; criteria; review of groundwater basins not subject to active management

A. THE DIRECTOR MAY DESIGNATE AN AREA WHICH IS NOT INCLUDED WITHIN AN INITIAL ACTIVE MANAGEMENT AREA, PURSUANT TO SECTION 45-411, AS A
S.B. 1001

SUBSEQUENT ACTIVE MANAGEMENT AREA IF THE DIRECTOR DETERMINES THAT ANY OF
THE FOLLOWING EXISTS:

1. ACTIVE MANAGEMENT PRACTICES ARE NECESSARY TO PRESERVE THE
EXISTING SUPPLY OF GROUNDWATER FOR FUTURE NEEDS.
2. LAND SUBSIDENCE OR FISSURING IS ENDANGERING PROPERTY OR
POTENTIAL GROUNDWATER STORAGE CAPACITY.
3. USE OF GROUNDWATER IS RESULTING IN ACTUAL OR THREATENED WATER
QUALITY DEGRADATION.

B. AN ACTIVE MANAGEMENT AREA DESIGNATED PURSUANT TO THIS SECTION
MAY INCLUDE MORE THAN ONE GROUNDWATER BASIN BUT SHALL NOT BE SMALLER THAN A
GROUNDWATER BASIN OR INCLUDE ONLY A PORTION OF A GROUNDWATER BASIN, EXCEPT
FOR THE REGIONAL AQUIFER SYSTEMS OF NORTHERN ARIZONA.

C. THE DIRECTOR SHALL PERIODICALLY REVIEW ALL AREAS WHICH ARE NOT
INCLUDED WITHIN AN ACTIVE MANAGEMENT AREA TO DETERMINE WHETHER SUCH AREAS
MAY MEET ANY OF THE CRITERIA FOR ACTIVE MANAGEMENT AREAS AS PRESCRIBED IN THIS
SECTION.

45-413. Hearing on designation of subsequent active management
areas and boundaries; notice; procedures

A. IF THE DIRECTOR PROPOSES TO DESIGNATE A SUBSEQUENT ACTIVE
MANAGEMENT AREA PURSUANT TO SECTION 45-412, SUBSECTION A, THE DIRECTOR
SHALL HOLD A PUBLIC HEARING TO CONSIDER:
1. WHETHER TO ISSUE AN ORDER DECLARING THE AREA AN ACTIVE
MANAGEMENT AREA.
2. THE BOUNDARIES AND ANY SUB-BASINS OF THE PROPOSED ACTIVE
MANAGEMENT AREA.

B. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE HEARING UNDER
THE CIRCUMSTANCES WHICH SHALL INCLUDE PUBLICATION ONCE EACH WEEK FOR TWO
CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN
WHICH THE PROPOSED ACTIVE MANAGEMENT AREA IS LOCATED. ANY NOTICE SHALL
CONTAIN THE TIME AND PLACE OF THE HEARING, THE LEGAL DESCRIPTION AND A MAP
CLEARLY IDENTIFYING AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE PROPOSED
ACTIVE MANAGEMENT AREA AND ANY SUB-BASINS AND ANY OTHER INFORMATION THE
DIRECTOR DEEMS NECESSARY.

C. THE HEARING SHALL BE HELD AT A LOCATION WITHIN THE PROPOSED ACTIVE
MANAGEMENT AREA AS SOON AS PRACTICABLE BUT NO LESS THAN THIRTY DAYS AND NO
MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE OF HEARING.
AT THE HEARING, THE DIRECTOR SHALL PRESENT THE FACTUAL DATA IN HIS
POSSESSION IN SUPPORT OF THE PROPOSED ACTION. ANY PERSON MAY APPEAR AT THE
HEARING, EITHER IN PERSON OR BY REPRESENTATIVE, AND SUBMIT ORAL OR
DOCUMENTARY EVIDENCE FOR OR AGAINST THE PROPOSED ACTION. IN MAKING HIS
DETERMINATION, THE DIRECTOR SHALL GIVE FULL CONSIDERATION TO PUBLIC
COMMENT AND TO RECOMMENDATIONS MADE BY LOCAL POLITICAL SUBDIVISIONS.

45-414. Findings upon hearing; order for active management
area; publication

A. WITHIN THIRTY DAYS AFTER THE HEARING, THE DIRECTOR SHALL MAKE
AND FILE IN HIS OFFICE WRITTEN FINDINGS WITH RESPECT TO MATTERS CONSIDERED
DURING THE HEARING. IF THE DIRECTOR DECIDES TO DECLARE AN AREA AN ACTIVE
MANAGEMENT AREA, THE DIRECTOR SHALL MAKE AND FILE AN ORDER DESIGNATING THE
ACTIVE MANAGEMENT AREA.

C. THE DIRECTOR SHALL FILE A TRUE COPY OF THE MAP IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE ACTIVE MANAGEMENT AREA IS LOCATED.

45-415. Local initiation for active management area; procedures


D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, ALL ELECTION EXPENSES INCURRED PURSUANT TO THIS SECTION ARE THE RESPONSIBILITY OF THE COUNTY INVOLVED.

E. IF A GROUNDWATER BASIN IS LOCATED IN TWO OR MORE COUNTIES, THE FOLLOWING PROCEDURES APPLY:
1. The petition shall be filed with the clerk of the board of supervisors or county election officer of the county in which the plurality of the registered voters in the groundwater basin resides.

2. The number of registered voters required to sign the petition shall be ten per cent of the registered voters residing within the boundaries of the proposed active management area, as of the most recent report compiled by the county recorder in compliance with section 16-168, subsection G, within the county in which the plurality of the registered voters in the groundwater basin resides.

3. The election shall be called by the board of supervisors of the county in which the petition is filed, and the board shall immediately notify the board of supervisors of any other county included in the groundwater basin of the date of the election. The election shall be held not less than sixty days or more than ninety days from the date of call. The board of supervisors so notified shall then call the election in their county for the same date and follow the procedures for conducting the general elections in this state.

4. All election expenses incurred pursuant to this subsection are the responsibilities of the counties involved on a proportional basis considering the number of registered voters of each county that are residents of the groundwater basin.

F. The ballot shall be worded, "Should the (insert name of basin) groundwater basin be designated an active management area?" followed by the words "yes" and "no". Opposite each such word there shall be a square in which the voter may make a cross indicating his preference.

45-416. Limitation on number of irrigated acres

A. If the director initiates the procedure for designating a subsequent active management area or the board of supervisors calls an election to establish an active management area, an irrigation user may not increase the number of his irrigated acres within the proposed active management area in excess of the highest number of acres he has irrigated within the proposed active management area at one time in one year in the five years preceding the initiation of designation procedures by the director or the call for the election by the board of supervisors.

B. The limitation on the number of irrigated acres shall continue in effect until the director makes a final determination pursuant to section 45-414 or the final results of an election to establish an active management area pursuant to section 45-415 are certified by the board of supervisors of the county or counties in which the proposed subsequent active management area is located.

45-417. Review and modification of boundaries of subsequent active management area

A. The director may review and modify the boundaries of a subsequent active management area or any of its sub-basins as conditions require and factual data justify.

B. The director shall review the boundaries of a subsequent active management area or any of its sub-basins upon receipt of a petition signed by persons who together withdraw not less than one-fourth of the
GROUNDWATER WITHDRAWN IN THE ACTIVE MANAGEMENT AREA OR BY REQUEST OF THE GROUNDWATER USERS ADVISORY COUNCIL IN THE ACTIVE MANAGEMENT AREA.

C. BEFORE MODIFYING THE BOUNDARIES OF A Subsequent Active Management Area OR ANY OF ITS SUB-BASINS THE DIRECTOR SHALL GIVE NOTICE OF AND HOLD A HEARING ON THE PROPOSED MODIFICATIONS PURSUANT TO THE PROCEDURES PRESCRIBED BY SECTION 45-413. AFTER THE HEARING, THE DIRECTOR SHALL PREPARE WRITTEN FINDINGS PURSUANT TO SECTION 45-414.

45-418. Area director; appointment; term; qualifications; compensation
A. THE DIRECTOR SHALL APPOINT AN AREA DIRECTOR FOR EACH ACTIVE MANAGEMENT AREA. FOR REASONS OF ECONOMY AND EFFICIENCY IN ADMINISTRATION, ONE PERSON MAY BE THE AREA DIRECTOR FOR MORE THAN ONE ACTIVE MANAGEMENT AREA. THE AREA DIRECTOR SHALL SERVE AT THE PLEASURE OF THE DIRECTOR.
B. THE AREA DIRECTOR IS EXEMPT FROM THE STATE PERSONNEL SYSTEM AND IS ENTITLED TO RECEIVE COMPENSATION AS DETERMINED PURSUANT TO SECTION 38-611.

45-419. Duties of area director
THE AREA DIRECTOR SHALL:
1. ASSIST THE DIRECTOR IN THE DEVELOPMENT OF THE MANAGEMENT PLAN FOR THE ACTIVE MANAGEMENT AREA AND IMPLEMENT THE PLAN UNDER THE DIRECTOR'S SUPERVISION.
2. HAVE SUCH OTHER DUTIES AS THE DIRECTOR MAY ASSIGN AND SHALL BE RESPONSIBLE TO THE DIRECTOR FOR THE PERFORMANCE OF SUCH DUTIES.
3. FURNISH TECHNICAL AND CLERICAL SERVICES AND SUCH OTHER ASSISTANCE TO THE GROUNDWATER USERS ADVISORY COUNCIL AS IS REQUIRED, TO THE EXTENT FUNDS ARE MADE AVAILABLE FOR SUCH ASSISTANCE.

45-420. Groundwater users advisory councils; appointment; representation of water users; term; compensation
A. THERE SHALL BE A GROUNDWATER USERS ADVISORY COUNCIL IN EACH ACTIVE MANAGEMENT AREA CONSISTING OF FIVE MEMBERS. MEMBERS OF THE COUNCIL SHALL BE APPOINTED BY THE GOVERNOR TO REPRESENT THE USERS OF GROUNDWATER IN THE ACTIVE MANAGEMENT AREA AND ON THE BASIS OF THEIR KNOWLEDGE OF, INTEREST IN AND EXPERIENCE WITH PROBLEMS RELATING TO THE DEVELOPMENT, USE AND CONSERVATION OF WATER.
B. THE TERM OF OFFICE OF EACH MEMBER IS SIX YEARS. THE TERMS OF TWO MEMBERS SHALL EXPIRE ON THE THIRD MONDAY OF JANUARY EACH EVEN NUMBERED YEAR EXCEPT THAT EACH THIRD EVEN NUMBERED YEAR THE TERM OF ONE MEMBER SHALL EXPIRE.
C. MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION, EXCEPT THAT EACH MEMBER SHALL BE REIMBURSED FOR TRAVEL AND SUBSISTENCE WHILE ENGAGED IN BUSINESS OF THE COUNCIL IN THE SAME MANNER AS IS PROVIDED BY LAW FOR STATE OFFICERS.

45-421. Administrative duties of the groundwater users advisory councils
THE GROUNDWATER USERS ADVISORY COUNCIL SHALL:
1. ADVISE THE AREA DIRECTOR FOR THE ACTIVE MANAGEMENT AREA, MAKE RECOMMENDATIONS ON GROUNDWATER MANAGEMENT PROGRAMS AND POLICIES FOR THE ACTIVE MANAGEMENT AREA AND COMMENT ON PROPOSED MANAGEMENT PLANS FOR THE ACTIVE MANAGEMENT AREA BEFORE THEY ARE ADOPTED BY THE DIRECTOR.
2. KEEP THE MINUTES OF ITS MEETINGS AND ALL RECORDS, REPORTS AND OTHER INFORMATION RELATIVE TO ITS WORK AND PROGRAMS IN PERMANENT FORM INDEXED AND SYSTEMATICALLY FILED.

3. ELECT FROM ITS MEMBERS A CHAIRMAN AND VICE-CHAIRMAN FOR TERMS OF TWO YEARS EXPIRING ON THE THIRD MONDAY OF JANUARY OF EACH EVEN NUMBERED YEAR.

4. DESIGNATE THE PERSON OR PERSONS WHO SHALL EXECUTE ALL DOCUMENTS AND INSTRUMENTS ON BEHALF OF THE COUNCIL.

5. MANIFEST AND RECORD ITS ACTIONS BY MOTION, RESOLUTION OR OTHER APPROPRIATE MEANS.

6. MAKE A COMPLETE RECORD OF ITS PROCEEDINGS WHICH SHALL BE OPEN TO PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS IN THE BRANCH OFFICE OF THE DEPARTMENT IN THE ACTIVE MANAGEMENT AREA.

ARTICLE 3. IRRIGATION NON-EXPANSION AREAS

45-431. Initial irrigation non-expansion areas

THE DOUGLAS CRITICAL GROUNDWATER AREA AND THE JOSEPH CITY CRITICAL GROUNDWATER AREA, DELINEATED IN THE ORDERS OF THE STATE LAND COMMISSIONER DATED MAY 5, 1965 AND DECEMBER 16, 1974, RESPECTIVELY, ARE DESIGNATED AS INITIAL IRRIGATION NON-EXPANSION AREAS ON THE EFFECTIVE DATE OF THIS CHAPTER AND ARE GOVERNED BY THE PROVISIONS OF THIS ARTICLE.

45-432. Subsequent irrigation non-expansion areas; designation; review

A. THE DIRECTOR MAY DESIGNATE AN AREA WHICH IS NOT INCLUDED WITHIN AN ACTIVE MANAGEMENT AREA AS A SUBSEQUENT IRRIGATION NON-EXPANSION AREA IF THE DIRECTOR DETERMINES THAT BOTH OF THE FOLLOWING APPLY:

1. THERE IS INSUFFICIENT GROUNDWATER TO PROVIDE A REASONABLY SAFE SUPPLY FOR IRRIGATION OF THE CULTIVATED LANDS IN THE AREA AT THE CURRENT RATES OF WITHDRAWAL.

2. THE ESTABLISHMENT OF AN ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-412 IS NOT NECESSARY.

B. AN IRRIGATION NON-EXPANSION AREA ESTABLISHED PURSUANT TO THIS SECTION MAY INCLUDE MORE THAN ONE GROUNDWATER SUB-BASIN BUT SHALL NOT BE SMALLER THAN A GROUNDWATER SUB-BASIN OR INCLUDE ONLY A PORTION OF A GROUNDWATER SUB-BASIN.

45-433. Local initiation for designation; procedures

A. THE DESIGNATION OF A SUBSEQUENT IRRIGATION NON-EXPANSION AREA MAY BE INITIATED BY THE DIRECTOR OR BY PETITION TO THE DIRECTOR SIGNED BY EITHER:

1. NOT LESS THAN TWENTY-FIVE IRRIGATION USERS OF GROUNDWATER, OR ONE-FOURTH OF THE IRRIGATION USERS OF GROUNDWATER WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUB-BASIN SPECIFIED IN THE PETITION.

VOTERS REQUIRED TO SIGN THE PETITION SHALL BE TEN PER CENT OF THE
REGISTERED VOTERS RESIDING WITHIN THE BOUNDARIES OF THE GROUNDWATER BASIN
OR SUB-BASIN, AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER
IN COMPLIANCE WITH SECTION 16-168, SUBSECTION G, WITHIN THE COUNTY IN WHICH
THE PLURALITY OF THE REGISTERED VOTERS IN THE GROUNDWATER BASIN OR
SUB-BASIN RESIDES.

B. UPON RECEIPT OF A PETITION 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 GROUNDWATER BASIN OR SUB-BASIN IS
LOCATED FOR VERIFICATION OF SIGNATURES. IN ADDITION, THE DIRECTOR SHALL
TRANSMIT A MAP OF THE GROUNDWATER BASIN OR SUB-BASIN TO THE COUNTY RECORDER
OF EACH SUCH COUNTY INCLUDED. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW
WITH SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE GROUNDWATER BASIN OR
SUB-BASIN CROSS THE BOUNDARIES OF COUNTY VOTING PRECINCTS. THE DIRECTOR
SHALL ALSO TRANSMIT TO THE COUNTY RECORDER ALL OTHER FACTUAL DATA
CONCERNING THE BOUNDARIES OF THE GROUNDWATER BASIN OR SUB-BASIN THAT MAY
AID THE COUNTY RECORDER IN THE DETERMINATION OF WHICH REGISTERED VOTERS OF
THE COUNTY ARE RESIDENTS OF THE GROUNDWATER BASIN OR SUB-BASIN.

45-434. Limitation on number of irrigated acres

A. IF PROCEDURES ARE INITIATED, WHETHER BY THE DIRECTOR OR BY
PETITION, FOR DESIGNATING AN IRRIGATION NON-EXPANSION AREA, AN IRRIGATION
USER MAY NOT INCREASE THE NUMBER OF HIS IRRIGATED ACRES WITHIN THE PROPOSED
IRRIGATION NON-EXPANSION AREA IN EXCESS OF THE HIGHEST NUMBER OF ACRES HE
HAS IRRIGATED WITHIN THE PROPOSED IRRIGATION NON-EXPANSION AREA AT ONE
TIME IN ONE YEAR IN THE FIVE YEARS PRECEDING THE NOTICE OF THE INITIATION
OF DESIGNATION PROCEDURES BY THE DIRECTOR OR THE FILING OF THE PETITION BY
THE REGISTERED VOTERS.

B. THE LIMITATION ON THE NUMBER OF IRRIGATED ACRES SHALL CONTINUE
IN EFFECT UNTIL THE DIRECTOR MAKES A FINAL DETERMINATION PURSUANT TO
SECTION 45-436.

45-435. Hearing on designation of subsequent irrigation
non-expansion areas and boundaries; notice;
procedures

A. IF THE DIRECTOR FINDS THAT AN AREA WHICH IS NOT INCLUDED WITHIN
AN ACTIVE MANAGEMENT AREA MEETS THE CRITERIA SPECIFIED IN SECTION 45-432,
OR A PETITION IS FILED PURSUANT TO SECTION 45-433, THE DIRECTOR SHALL HOLD
A PUBLIC HEARING TO CONSIDER:
1. WHETHER TO ISSUE AN ORDER DECLARING THE AREA AN IRRIGATION
NON-EXPANSION AREA.
2. THE BOUNDARIES OF THE PROPOSED IRRIGATION NON-EXPANSION AREA.
B. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE HEARING UNDER
THE CIRCUMSTANCES WHICH SHALL INCLUDE THE PUBLICATION ONCE EACH WEEK FOR
TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY
IN WHICH THE PROPOSED IRRIGATION NON-EXPANSION AREA IS LOCATED. ANY NOTICE
SHALL CONTAIN THE TIME AND PLACE OF THE HEARING, THE LEGAL DESCRIPTION AND
A MAP CLEARLY IDENTIFYING AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE
PROPOSED IRRIGATION NON-EXPANSION AREA AND ANY OTHER INFORMATION THE
DIRECTOR DEEMS NECESSARY.
C. The hearing shall be held at a location in the county in which the major portion of the proposed irrigation non-expansion area is located no less than thirty days but no more than sixty days after the first publication of the notice of the hearing. At the hearing, the director shall present the factual data in his possession in support of or in opposition to the proposed action. Any person may appear at the hearing, either in person or by representative, and submit oral or documentary evidence for or against the proposed action. In making his determination, the director shall give full consideration to public comment and to recommendations made by local political subdivisions.

45-436. Findings upon hearing; order for irrigation
non-expansion area; publication

A. Within thirty days after the hearing, the director shall make and file in his office written findings with respect to matters considered during the hearing. If the director decides to declare an area an irrigation non-expansion area, the director shall make and file an order designating the irrigation non-expansion area.

B. The findings and order shall be published in the manner and for the length of time prescribed for the publication of notice of the public hearing, and the order is effective when published for the final time. All factual data compiled by the director, a transcript of the hearing, a copy of the findings and a map identifying the lands included in the irrigation non-expansion area are public records of the department and shall be available for examination by the public during regular business hours.

C. The director shall file a true copy of the map in the office of the county recorder of the county or counties in which the irrigation non-expansion area is located.

45-437. Irrigated acreage; water measuring device; transportation

A. In an initial irrigation non-expansion area established pursuant to section 45-431, only acres of land which were legally irrigated at any time between January 1, 1975 and January 1, 1980 may be irrigated, and an irrigation user or his successor may irrigate in any one year only the highest number of acres the user irrigated in any one year in the five years between January 1, 1975 and January 1, 1980.

B. In a subsequent irrigation non-expansion area established pursuant to section 45-432, only acres of land which were irrigated at any time during the five years preceding the notice of the initiation of the procedures to designate the irrigation non-expansion area may be irrigated, and an irrigation user or his successor may irrigate in any one year only the highest number of acres the user has irrigated in any one year in the five years preceding the notice of the initiation of the procedures to designate the irrigation non-expansion area.

C. In an irrigation non-expansion area:

1. Each person withdrawing groundwater from a non-exempt well shall use a water measuring device approved by the director and shall file a report on a calendar year basis with the director on a form provided by the director no later than March 31 of the following year.

2. Transportations of groundwater are subject to the provisions of article 8 of this chapter.
45-438. Review and modification of boundaries of irrigation non-expansion areas

A. THE DIRECTOR MAY REVIEW AND MODIFY THE BOUNDARIES OF AN IRRIGATION NON-EXPANSION AREA AS CONDITIONS REQUIRE AND FACTUAL DATA JUSTIFY.

B. THE DIRECTOR SHALL REVIEW THE BOUNDARIES OF AN IRRIGATION NON-EXPANSION AREA UPON RECEIPT OF A PETITION SIGNED BY PERSONS WHO TOGETHER WITHDRAW NOT LESS THAN ONE-FOURTH OF THE GROUNDWATER WITHDRAWN IN THE IRRIGATION NON-EXPANSION AREA.


45-439. Conversion from irrigation non-expansion area to active management area; director; local initiation; procedures

A. THE DIRECTOR MAY DESIGNATE AN IRRIGATION NON-EXPANSION AREA AS AN ACTIVE MANAGEMENT AREA IF THE DIRECTOR DETERMINES THAT THE IRRIGATION NON-EXPANSION AREA MEETS ANY OF THE CRITERIA FOR DESIGNATING AN ACTIVE MANAGEMENT AREA SPECIFIED IN SECTION 45-412, SUBSECTION A.

B. ANY ACTION TAKEN UNDER THIS SECTION IS SUBJECT TO THE PROCEDURES FOR NOTICE AND HEARING PRESCRIBED BY SECTIONS 45-413 AND 45-414.

C. AN IRRIGATION NON-EXPANSION AREA MAY BE DESIGNATED AN ACTIVE MANAGEMENT AREA UPON PETITION AND ELECTION PURSUANT TO SECTION 45-415 BY THE REGISTERED VOTERS RESIDING IN THE GROUNDWATER BASIN WHICH IS OR INCLUDES THE IRRIGATION NON-EXPANSION AREA.

ARTICLE 4. GROUNDWATER RIGHTS AND USES IN GENERAL

45-451. Groundwater rights and uses in active management areas

A. IN AN ACTIVE MANAGEMENT AREA, A PERSON MAY WITHDRAW AND USE GROUNDWATER ONLY IN ACCORDANCE WITH THE PROVISIONS OF ARTICLES 5 THROUGH 12 OF THIS CHAPTER.

B. THIS CHAPTER SHALL NOT BE CONSTRUED TO AFFECT DECREED AND APPROPRIATIVE WATER RIGHTS.

45-452. No new irrigated acreage in active management areas; central Arizona project water

A. IN AN INITIAL ACTIVE MANAGEMENT AREA, EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, ONLY ACRES OF LAND WHICH WERE LEGALLY IRRIGATED AT ANY TIME FROM JANUARY 1, 1975 THROUGH JANUARY 1, 1980, WHICH ARE CAPABLE OF BEING IRRIGATED, WHICH HAVE NOT BEEN RETIRED FROM IRRIGATION FOR A NON-IRRIGATION USE PURSUANT TO SECTION 45-463 OR 45-469 AND FOR WHICH THE IRRIGATION GRANDFATHERED RIGHT HAS NOT BEEN CONVEYED FOR A NON-IRRIGATION USE, MAY BE IRRIGATED WITH ANY WATER. IN AREAS OF AN INITIAL ACTIVE MANAGEMENT AREA NOT DESIGNATED AS CRITICAL GROUNDWATER AREAS UNDER PRIOR STATUTORY LAW PRIOR TO THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA, LAND IS DEEMED TO HAVE BEEN IN IRRIGATION IF SUBSTANTIAL CAPITAL INVESTMENT HAS BEEN MADE FOR THE SUBJUGATION OF SUCH LAND AND THE DRILLING OF IRRIGATION WELLS HAS BEEN COMMENCED PRIOR TO THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA.
B. In an initial active management area, a person who owns acres of land which may be irrigated pursuant to subsection A of this section may apply to the director during the Central Arizona Project contracting period, but no later than January 1, 1985, to permanently retire all or a portion of such acres from irrigation and to irrigate conjunctively with Central Arizona Project water the same number of substitute acres. The director may approve the substitution of acres if the director determines that all of the following exist:

1. The substitute acres were legally irrigated during the period of September 30, 1958 to September 30, 1968, or such other period as the United States Secretary of the Interior may designate.

2. The acres to be retired from irrigation and the substitute acres are located outside of the exterior boundaries of the service area of a city, town or private water company and such acres are located within the same irrigation district and the same sub-basin.

3. The substitution of acres is necessary to enable the irrigation district within which the acres are located to contract for and deliver Central Arizona Project water.

4. Central Arizona Project water available to the irrigation district within which the acres are located will be adequate to supply the substitute acres.

5. The substitution of acres will benefit the management of the active management area in which the acres are located.

C. The director shall give notice of an application to substitute acres pursuant to subsection B of this section once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in the active management area in which the irrigation district is located. The notice shall state that written objections to the substitution of acres may be filed by persons residing in the active management area in writing with the director within thirty days after the last publication of notice and that objections are limited to whether the application meets the criteria for substitution of acres as set forth in subsection B of this section. An objection shall state the name and mailing address of the objector, be signed by the objector, his agent or attorney and clearly set forth reasons why the substitution should not be allowed. In appropriate cases, including cases where a proper written objection has been filed, the director may hold a hearing. The director shall, thirty days prior to the date of the hearing, give notice in the manner described in this section. A hearing shall be conducted as provided in section 45-480, subsection B.

D. Any acres permanently retired from irrigation pursuant to subsection B of this section relinquish their irrigation grandfathered rights and such rights are deemed to be appurtenant to the substitute acres. Groundwater withdrawn or received for the irrigation of the substitute acres pursuant to an irrigation grandfathered right shall be reduced by the amount of Central Arizona Project water received for such acres.

E. The service area of the irrigation district in which the acres are located shall be modified to permanently delete the acres permanently retired from irrigation and include the substitute acres.
F. If a person retires land from irrigation pursuant to subsection B of this section, groundwater shall not be withdrawn from such retired land for any purpose unless pursuant to a groundwater withdrawal permit or unless withdrawn by a city, town or private water company within the service area of such city, town or private water company.

G. In a subsequent active management area, only acres of land which were legally irrigated at any time during the five years preceding the date of the designation of the active management area, which are capable of being irrigated, which have not been retired from irrigation for a non-irrigation use pursuant to section 45-463 or 45-469 and for which the irrigation grandfathered right has not been conveyed for a non-irrigation use, may be irrigated with any water.

45-453. Groundwater rights and uses in areas outside active non-expansion areas

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

1. Withdraw and use groundwater for reasonable and beneficial use.
2. Transport groundwater pursuant to article 8 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.

45-454. Exemption of small domestic wells

Withdrawals of groundwater for domestic purposes including the non-commercial irrigation of not more than one acre of land from wells having a pump with a maximum capacity of not more than thirty-five gallons per minute are exempt from the provisions of this chapter except that:

1. A person withdrawing groundwater from an exempt well shall register the well with the director pursuant to section 45-593.
2. A person shall file 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 and an exempt well shall comply with the well construction standards prescribed pursuant to section 45-594.

45-455. Application to state lands

This chapter applies to all lands owned by the state of Arizona and any of its political subdivisions.

ARTICLE 5. GRANDFATHERED GROUNDWATER RIGHTS IN ACTIVE MANAGEMENT AREAS

45-461. Definitions

In this article, unless the context otherwise requires:

1. "Certificate of exemption" means a certificate which was issued by the state land department or arizona water commission under prior statutory law for the purpose of describing specific uses and amounts of water which could not be enjoined if found to constitute the transfer or transportation of groundwater.
2. "Development plan" means a plan for the non-irrigation use of land in connection with which land has been or will be retired from irrigation for the bona fide purpose of conserving or using water for such non-irrigation use which would otherwise be used to irrigate the retired land.
3. "OWNER" MEANS:
   (a) WITH RESPECT TO AN IRRIGATION GRANDFATHERED RIGHT OR A TYPE 1
       NON-IRRIGATION GRANDFATHERED RIGHT, THE OWNER OF THE LAND TO WHICH THE
       RIGHT IS APPURTENANT.
   (b) WITH RESPECT TO A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT,
       THE OWNER OF THE LAND FROM WHICH GROUNDWATER IS WITHDRAWN PURSUANT TO THE
       RIGHT.

4. "SAME OWNERSHIP" MEANS OWNERSHIP BY THE SAME PERSON OR ENTITY OR
   BY SUCCESSOR PERSONS OR ENTITIES AS A RESULT OF SUCCESSION TO HEIRS AND
   PERSONAL REPRESENTATIVES, CORPORATE AND PARTNERSHIP REORGANIZATIONS,
   Mergers, Dissolutions, Divestitures, Partnerships, Partitions, Joint
   Ventures, Foreclosures, Receivership or Bankruptcy, Purchase of Capital
   Stock, Sale Pursuant to United States Code, Title 11, or Similar
   Succession, but not by outright sale to a bona fide purchaser for value
   where no portion of or beneficial interest in the successor in interest is
   retained by the original owner, its shareholders, partners, limited
   partners or beneficiaries.

5. "WATER DUTY ACRES" MEANS THE ACRES OF LAND IN A FARM, AS
   DETERMINED PURSUANT TO SECTION 45-465, SUBSECTION B, WHICH ARE USED IN
   CALCULATING THE MAXIMUM AMOUNT OF GROUNDWATER WHICH MAY BE USED PURSUANT TO
   AN IRRIGATION GRANDFATHERED RIGHT.

45-462. Grandfathered groundwater rights; persons included;
       certificate of exemption amount is legal use
  A. IN AN ACTIVE MANAGEMENT AREA, A PERSON WHO WAS LEGALLY
     WITHDRAWING AND USING GROUNDWATER AS OF THE DATE OF THE DESIGNATION OF THE
     ACTIVE MANAGEMENT AREA OR WHO OWNS LAND LEGALLY ENTITLED TO BE IRRIGATED
     WITH GROUNDWATER AS DETERMINED PURSUANT TO THIS ARTICLE HAS THE RIGHT TO
     WITHDRAW OR RECEIVE AND USE GROUNDWATER AS DETERMINED BY THE DIRECTOR
     PURSUANT TO THIS ARTICLE.
  B. FOR PURPOSES OF DETERMINING GRANDFATHERED RIGHTS PURSUANT TO
     THIS ARTICLE, A GROUNDWATER USE SHALL NOT BE DETERMINED TO BE ILLEGAL
     MERELY BECAUSE THE GROUNDWATER LEGALLY WITHDRAWN IS OR HAS BEEN
     TRANSPORTED.
  C. THE AMOUNT OF GROUNDWATER USE DESCRIBED BY AN APPLICATION FOR A
     CERTIFICATE OF EXEMPTION IS RECOGNIZED AS A LEGAL USE FOR PURPOSES OF
     DETERMINING GRANDFATHERED RIGHTS PURSUANT TO SECTION 45-464, SUBJECT TO
     ANY MODIFICATION AS A RESULT OF A FINDING ON APPEAL OF A FACTUAL MISTAKE BY
     THE STATE LAND DEPARTMENT OR ARIZONA WATER COMMISSION IN COMPUTING THE
     AMOUNT OF THE AUTHORIZED WITHDRAWAL.
  D. THE RIGHT TO WITHDRAW OR RECEIVE AND USE GROUNDWATER PURSUANT TO
     THIS ARTICLE IS A GRANDFATHERED RIGHT. THERE ARE THREE CATEGORIES OF
     GRANDFATHERED RIGHTS AS FOLLOWS:
     1. NON-IRRIGATION GRANDFATHERED RIGHTS ASSOCIATED WITH RETIRED
        IRRIGATED LAND AS DETERMINED PURSUANT TO SECTIONS 45-463, 45-469 AND
        45-472.
     2. NON-IRRIGATION GRANDFATHERED RIGHTS NOT ASSOCIATED WITH RETIRED
        IRRIGATED LAND AS DETERMINED PURSUANT TO SECTION 45-464.
     3. IRRIGATION GRANDFATHERED RIGHTS AS DETERMINED PURSUANT TO
        SECTION 45-465.
45-463. Type 1 non-irrigation grandfathered right associated with retired irrigated land; appurtenancy; ownership

A. In an initial active management area, a person who owns land which was legally entitled to be irrigated with groundwater and who retired such land from irrigation after January 1, 1965 but prior to the date of the designation of the active management area in anticipation of a non-irrigation use has the right to withdraw from or receive for such land three acre-feet of groundwater per acre per year upon showing that:

1. The land has been held under the same ownership since it was retired.

2. A development plan for the proposed non-irrigation use existed at the time the land was retired.

B. In a subsequent active management area, a person who owns land which was legally entitled to be irrigated with groundwater and retires such land from irrigation prior to the date of the designation of the active management area in anticipation of a non-irrigation use has the right to withdraw from or receive for such land the lesser of three acre-feet of groundwater per acre per year or the average annual amount of groundwater which was used per acre during the five years preceding the time the land was retired upon showing that:

1. The land has been held under the same ownership since it was retired.

2. A development plan for the proposed non-irrigation use existed at the time the land was retired and is filed with the director within ninety days after the active management area is designated.

C. The development plan requirements of this section are deemed fulfilled if the land retired from irrigation has been described in an application for a certificate of exemption or if the land retired from irrigation is owned in conjunction with non-irrigation uses existing or for which substantial capital commitments have been incurred for the non-irrigation development of such land as of the date of the designation of the active management area.

D. The right to withdraw or receive groundwater pursuant to this section is a non-irrigation grandfathered right associated with retired irrigated land, or a type 1 non-irrigation grandfathered right.

E. A type 1 non-irrigation grandfathered right is appurtenant to the acre of retired irrigated land associated with the right, is owned by the owner of the land to which the right is appurtenant and may be leased with the land.

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

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

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

-82-
(a) The amount of groundwater established in proceedings on the application for certificate of exemption, subject to any modification as a result of a finding on appeal of a factual mistake by the State Land Department or Arizona Water Commission in computing the amount of the authorized withdrawal, less the amount of any right obtained by the person pursuant to section 45-463.

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

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

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

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

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

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

3. Any other non-irrigation user.

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

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

F. A type 2 non-irrigation grandfathered right is owned by the owner of the land from which the groundwater is withdrawn and may be leased with such land.

G. If the user of a type 2 non-irrigation grandfathered right is different from the owner of the right, either the owner, or the user of the right on behalf of the owner, may apply for a certificate of grandfathered right pursuant to section 45-476.

45-465. Irrigation grandfathered right; determination of acres entitled to and amount; appurtenancy
A. IN AN ACTIVE MANAGEMENT AREA, A PERSON WHO OWNS LAND WHICH WAS
LEGALLY IRRIGATED AT ANY TIME DURING THE FIVE YEARS PRECEDING JANUARY 1,
1980 FOR INITIAL ACTIVE MANAGEMENT AREAS OR THE DATE OF THE DESIGNATION OF
THE ACTIVE MANAGEMENT AREA FOR SUBSEQUENT ACTIVE MANAGEMENT AREAS, WHICH
IS CAPABLE OF BEING IRRIGATED AND WHICH HAS NOT BEEN RETIRED FROM
IRRIGATION FOR A NON-IRRIGATION USE PURSUANT TO SECTION 45-463 OR 45-469,
HAS THE RIGHT TO USE GROUNDWATER FOR THE IRRIGATION OF SUCH LAND AS
DETERMINED PURSUANT TO SUBSECTION B OF THIS SECTION.

B. THE DIRECTOR SHALL COMPUTE THE MAXIMUM AMOUNT OF GROUNDWATER
WHICH MAY BE USED PURSUANT TO THIS SECTION AS FOLLOWS:
1. DETERMINE THE FARM UNITS, AS DEFINED IN SECTION 45-402, WITHIN
   THE ACTIVE MANAGEMENT AREA.
2. DETERMINE THE IRRIGATION WATER DUTY, AS DEFINED IN SECTION
   45-402, FOR EACH FARM UNIT IN AN ACTIVE MANAGEMENT AREA, PURSUANT TO
   SECTIONS 45-564 THROUGH 45-568.
3. DETERMINE THE WATER DUTY ACRES FOR EACH FARM WITHIN THE FARM
   UNIT. THE WATER DUTY ACRES ARE THE HIGHEST NUMBER OF ACRES IN THE FARM,
   TAKING LAND ROTATION INTO ACCOUNT, WHICH WERE LEGALLY IRRIGATED DURING ANY
   ONE YEAR IN THE FIVE YEARS PRECEDING JANUARY 1, 1980 FOR INITIAL ACTIVE
   MANAGEMENT AREAS OR THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT
   AREA FOR SUBSEQUENT ACTIVE MANAGEMENT AREAS.
4. DETERMINE THE IRRIGATION ACRES FOR EACH FARM WITHIN THE FARM
   UNIT. THE IRRIGATION ACRES ARE THE ACRES IN THE FARM WHICH WERE LEGALLY
   IRRIGATED AT ANY TIME DURING THE FIVE YEARS PRECEDING JANUARY 1, 1980 FOR
   INITIAL ACTIVE MANAGEMENT AREAS OR THE DATE OF THE DESIGNATION OF THE
   ACTIVE MANAGEMENT AREA FOR SUBSEQUENT ACTIVE MANAGEMENT AREAS, WHICH ARE
   CAPABLE OF BEING IRRIGATED AND WHICH HAVE NOT BEEN RETIRED FROM IRRIGATION
   FOR A NON-IRRIGATION USE PURSUANT TO SECTION 45-463 OR 45-469.
5. MULTIPLY THE WATER DUTY ACRES FOR EACH FARM WITHIN THE FARM UNIT
   BY THE IRRIGATION WATER DUTY FOR THE FARM UNIT AND DIVIDE THAT AMOUNT BY
   THE NUMBER OF IRRIGATION ACRES IN THE FARM. THE RESULT SHALL BE THE
   MAXIMUM AMOUNT OF GROUNDWATER WHICH MAY BE USED PER YEAR FOR THE IRRIGATION
   OF EACH IRRIGATION ACRE IN THE FARM. IF THE FARM IS IRRIGATED SOLELY WITH
   GROUNDWATER, THE AMOUNT OF GROUNDWATER USED BY THE FARM FOR IRRIGATION
   SHALL BE ACCOUNTED FOR PURSUANT TO SECTION 45-467, SUBSECTION C. IF A FARM
   IS IRRIGATED WITH A COMBINATION OF SURFACE WATER AND GROUNDWATER, THE
   AMOUNT OF GROUNDWATER USED BY THE FARM FOR IRRIGATION SHALL BE ACCOUNTED
   FOR PURSUANT TO SECTION 45-467, SUBSECTIONS D AND E.

C. THE RIGHT TO USE GROUNDWATER PURSUANT TO THIS SECTION FOR THE
   IRRIGATION OF AN IRRIGATION ACRE IS AN IRRIGATION GRANDFATHERED RIGHT AND
   IS APPURTEINT TO THAT ACRE. AN IRRIGATION GRANDFATHERED RIGHT IS OWNED BY
   THE OWNER OF THE LAND TO WHICH IT IS APPURTEINT AND MAY BE LEASED FOR AN
   IRRIGATION USE WITH THE LAND TO WHICH IT IS APPURTEINT.

D. A PERSON WHO OWNS OR LEASES IRRIGATION ACRES MAY USE THE TOTAL
   AMOUNT OF GROUNDWATER ALLOWED BY THE IRRIGATION GRANDFATHERED RIGHT FOR
   SUCH ACRES FOR THE IRRIGATION OF ALL OR A PORTION OF SUCH ACRES.

E. IF THE IRRIGATION WATER DUTY FOR THE FARM UNIT IN WHICH AN
   IRRIGATION ACRE IS LOCATED IS REDUCED BY THE DIRECTOR PURSUANT TO ARTICLE 9
OF THIS CHAPTER, THE AMOUNT OF GROUNDWATER WHICH MAY BE USED FOR THE
IRRIGATION OF SUCH ACRE PURSUANT TO THE IRRIGATION GRANDFATHERED RIGHT
UNDER THIS SECTION IS REDUCED ACCORDINGLY.
F. FOR PURPOSES OF THIS CHAPTER, THE AMOUNT OF GROUNDWATER WHICH
MAY BE USED OR IS USED IS THE AMOUNT OF GROUNDWATER WITHDRAWN BY THE
GROUNDWATER USER, MEASURED AT THE POINT OF WITHDRAWAL, AND THE AMOUNT OF
GROUNDWATER RECEIVED BY THE GROUNDWATER USER FROM AN IRRIGATION DISTRICT
OR OTHER SOURCE.

45-466. Limitations on use of irrigation water duty; deliveries of water in excess of irrigation
water duty
THE IRRIGATION WATER DUTY SHALL BE USED TO DETERMINE THE MAXIMUM
AMOUNT OF GROUNDWATER WHICH MAY BE USED PURSUANT TO SECTION 45-465 AND
DEBITS AND CREDITS TO THE OPERATING FLEXIBILITY ACCOUNT AS SET FORTH IN
SECTION 45-467. THE IRRIGATION WATER DUTY SHALL NOT BE APPLIED TO DIMINISH
SURFACE WATER DELIVERED TO LANDS PURSUANT TO APPROPRIATE SURFACE WATER
RIGHTS OR DECREED SURFACE WATER RIGHTS.

45-467. Withdrawals in excess of irrigation grandfathered right; withdrawals less than irrigation
grandfathered right; operating flexibility account; conveyances; variance
A. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO AN
IRRIGATION GRANDFATHERED RIGHT MAY:
1. USE GROUNDWATER IN EXCESS OF THE AMOUNT ALLOWED BY THE RIGHT IN
AN AMOUNT DETERMINED PURSUANT TO SUBSECTION F OF THIS SECTION.
2. USE LESS THAN THE AMOUNT ALLOWED BY THE RIGHT IN ONE ACCOUNTING
PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE RIGHT IN A SUCCEEDING
ACCOUNTING PERIOD OR PERIODS.
B. THE DIRECTOR SHALL ESTABLISH RULES AND REGULATIONS FOR THE
MAINTENANCE OF AN OPERATING FLEXIBILITY ACCOUNT FOR EACH FARM IN AN ACTIVE
MANAGEMENT AREA.
C. IF A FARM IS IRRIGATED SOLELY WITH GROUNDWATER, THE DIRECTOR
SHALL:
1. REGISTER A DEBIT TO THE ACCOUNT IN ANY ACCOUNTING PERIOD IN WHICH
THE AMOUNT OF GROUNDWATER USED FOR THE IRRIGATION OF THE IRRIGATION ACRES
IN THE FARM IS GREATER THAN THE CURRENT IRRIGATION WATER DUTY FOR THE FARM
MULTIPLIED BY THE WATER DUTY ACRES IN THE FARM.
2. REGISTER A CREDIT TO THE ACCOUNT IN ANY ACCOUNTING PERIOD IN
WHICH THE AMOUNT OF GROUNDWATER USED FOR THE IRRIGATION OF THE IRRIGATION
ACRES IN THE FARM IS LESS THAN CURRENT IRRIGATION WATER DUTY FOR THE FARM
MULTIPLIED BY THE WATER DUTY ACRES IN THE FARM.
D. IF A FARM IS IRRIGATED WITH SURFACE WATER AND GROUNDWATER, AND
USES OF WATER BY THE FARM FROM ALL SOURCES FOR IRRIGATION PURPOSES IN THE
ACCOUNTING PERIOD:
1. EXCEED THE AMOUNT OF THE CURRENT IRRIGATION WATER DUTY FOR THE
FARM MULTIPLIED BY THE WATER DUTY ACRES IN THE FARM, THE AMOUNT OF
GROUNDWATER USED UP TO THE AMOUNT OF THE EXCESS SHALL BE REGISTERED AS A
DEBIT TO THE ACCOUNT.
2. ARE LESS THAN THE AMOUNT OF THE CURRENT IRRIGATION WATER DUTY FOR
THE FARM MULTIPLIED BY THE WATER DUTY ACRES IN THE FARM, THE AMOUNT OF
WATER NOT USED WHICH WOULD HAVE BEEN GROUNDWATER SHALL BE REGISTERED AS A
CREDIT TO THE ACCOUNT.

E. A PERSON WHO USES A COMBINATION OF SURFACE WATER AND GROUNDWATER
FOR IRRIGATION PURPOSES MAY CREDIT AGAINST HIS USE OF GROUNDWATER IN AN
ACCOUNTING PERIOD SURFACE WATER RELEASED FROM STORAGE FACILITIES INTO A
SURFACE WATER DISTRIBUTION SYSTEM TO AVOID SPILLING, IF SUCH SURFACE WATER
IS ACTUALLY APPLIED TO THE PERSON'S LAND AND WOULD CAUSE A DEBIT TO BE
INCURRED. THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE APPLIED ONLY
AGAINST THE PERSON'S OPERATING FLEXIBILITY ACCOUNT DEBITS WHICH OTHERWISE
WOULD HAVE BEEN INCURRED THAT YEAR AND SHALL NOT BE USED TO DISCHARGE
DEBITS FROM PRIOR YEARS OR ACCUMULATE CREDITS FOR FUTURE YEARS.

F. THE MAXIMUM EXCESS AMOUNT OF GROUNDWATER THAT MAY BE USED
PURSUANT TO THIS SECTION IS EQUAL TO FIFTY PER CENT OF THE CURRENT
IRRIGATION WATER DUTY FOR THE FARM MULTIPLIED BY THE WATER DUTY ACRES IN
THE FARM. THE OPERATING FLEXIBILITY ACCOUNT MAY NOT BE IN ARREARS AT ANY
TIME IN EXCESS OF THIS AMOUNT. GROUNDWATER EQUAL TO THE CREDIT BALANCE IN
THE OPERATING FLEXIBILITY ACCOUNT MAY BE USED AT ANY TIME.

G. IF AN IRRIGATION GRANDFATHERED RIGHT IS CONVEYED FOR AN
IRRIGATION USE PURSUANT TO SECTION 45-472, EACH ACRE CONVEYED SHALL CARRY
WITH IT A PROPORTIONAL SHARE OF ANY DEBITS OR CREDITS IN THE OPERATING
FLEXIBILITY ACCOUNT FOR THE FARM. IF AN IRRIGATION GRANDFATHERED RIGHT IS
CONVEYED FOR A NON-IRRIGATION USE PURSUANT TO SECTION 45-472, EACH ACRE
CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF ANY DEBITS IN THE
OPERATING FLEXIBILITY ACCOUNT FOR THE FARM.

H. A PERSON USING GROUNDWATER PURSUANT TO AN IRRIGATION
GRANDFATHERED RIGHT WHO IS OPERATING UNDER A VARIANCE TO THE IRRIGATION
WATER DUTY PURSUANT TO SECTION 45-574:

1. MAY ACCUMULATE A MAXIMUM DEBIT IN AN AMOUNT EQUAL TO FIFTY PER
CENT OF THE CURRENT IRRIGATION WATER DUTY FOR THE FARM MULTIPLIED BY THE
WATER DUTY ACRES IN THE FARM.

2. SHALL ACCUMULATE CREDITS PURSUANT TO SUBSECTION C, D OR E OF THIS
SECTION.

I. A PERSON USING GROUNDWATER PURSUANT TO AN IRRIGATION
GRANDFATHERED RIGHT SHALL FILE A REPORT WITH THE DIRECTOR EACH YEAR WHICH
SHALL INCLUDE THE AMOUNT OF GROUNDWATER USED PURSUANT TO THE IRRIGATION
GRANDFATHERED RIGHT AND SUCH OTHER INFORMATION AS THE DIRECTOR SHALL
REQUIRE. THE DIRECTOR MAY CONSOLIDATE THE REPORTING REQUIREMENTS OF THIS
SECTION WITH THE REPORTING REQUIREMENTS OF SECTION 45-632.

45-468. Accounting of water by persons delivering a
combination of surface water and groundwater
for irrigation uses

A. A PERSON DELIVERING A COMBINATION OF SURFACE WATER AND
GROUNDWATER FOR IRRIGATION USES SHALL PRIOR TO THE BEGINNING OF EACH
ACCOUNTING PERIOD ESTIMATE THE AMOUNT OF GROUNDWATER THAT WILL BE
WITHDRAWN AND DELIVERED DURING THE NEXT ACCOUNTING PERIOD AND SHALL MAKE
SUCH ESTIMATE AVAILABLE TO THE DIRECTOR. THE ESTIMATE MAY BE MODIFIED FROM
TIME TO TIME AS CONDITIONS WARRANT.
B. WITHIN NINETY DAYS FOLLOWING THE END OF EACH ACCOUNTING PERIOD A PERSON WHO DELIVERS A COMBINATION OF SURFACE WATER AND GROUNDWATER FOR USES BY CITIES, TOWNS, PRIVATE WATER COMPANIES, INDUSTRIES, FARMS OR OTHER USERS SHALL PROVIDE THE DIRECTOR WITH AN ACCOUNTING FOR WATER DURING THE PAST ACCOUNTING PERIOD WHICH SHOWS THE FOLLOWING:

1. ALL SURFACE WATER PROVIDED TO EACH CLASS OF USER AND EACH FARM.
2. ALL GROUNDWATER PROVIDED TO EACH CLASS OF USER AND EACH FARM.
C. IF A PERSON DELIVERS A COMBINATION OF SURFACE WATER AND GROUNDWATER TO USERS, THE AMOUNT OF GROUNDWATER CHARGED TO EACH USER PURSUANT TO THE ACCOUNTING IN SUBSECTION B IS THE AMOUNT DELIVERED DIRECTLY TO EACH USER AND A PRO RATA AMOUNT OF ANY ADDITIONAL AMOUNT OF GROUNDWATER WHICH IS COMMINGLED WITH SURFACE WATER AND DELIVERED TO ALL CLASSES OF USERS.

45-469. Right to retire irrigation grandfathered right for non-irrigation use; development plan approval; amendment of plan; approval of plan prior to retirement; amount which may be withdrawn; service area determined

A. A PERSON WHO OWNS LAND LEGALLY ENTITLED TO BE IRRIGATED WITH GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT WHICH IS LOCATED WITHIN AN ACTIVE MANAGEMENT AREA AND OUTSIDE OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY HAS THE RIGHT TO RETIRE SUCH LAND FROM IRRIGATION IN ANTICIPATION OF A FUTURE NON-IRRIGATION USE AND SHALL NOT FORFEIT OR ABANDON THE RIGHT TO WITHDRAW FROM OR RECEIVE FOR SUCH LAND THE AMOUNT OF GROUNDWATER CALCULATED PURSUANT TO SUBSECTION F OF THIS SECTION FOR A NON-IRRIGATION USE IF:

1. THE LAND IS HELD IN THE SAME OWNERSHIP.
2. A DEVELOPMENT PLAN FOR THE PROPOSED NON-IRRIGATION USE EXISTS AND IS APPROVED BY THE DIRECTOR WITHIN A REASONABLE TIME BEFORE OR AFTER THE LAND IS RETIRED.
B. THE DIRECTOR SHALL APPROVE THE DEVELOPMENT PLAN REQUIRED BY SUBSECTION A OF THIS SECTION IF IT APPEARS THAT THE LAND:

1. HAS BEEN OR WILL BE RETIRED FOR THE BONA FIDE PURPOSE OF CONSERVING OR USING WATER FOR A NON-IRRIGATION USE WHICH WOULD OTHERWISE CONTINUE TO BE USED FOR IRRIGATION OF SUCH LAND.
2. HAS NOT BEEN SOLD OR TAKEN OUT OF PRODUCTION PRIMARILY BECAUSE IT WOULD HAVE BEEN UNECONOMICAL TO CONTINUE TO WITHDRAW WATER FOR IRRIGATION.
C. THE DIRECTOR SHALL NOT INVESTIGATE THE LEGALITY, OTHER THAN PURSUANT TO THIS CHAPTER, FEASIBILITY OR OTHER FACTORS INVOLVED IN THE PROPOSED DEVELOPMENT PLAN AND SHALL NOT DISAPPROVE A DEVELOPMENT PLAN ON SUCH GROUNDS.
D. A DEVELOPMENT PLAN MAY BE AMENDED AND THE DIRECTOR SHALL APPROVE AMENDMENTS IF THE CRITERIA OF THIS SECTION ARE MET.
E. A PERSON PROPOSING TO RETIRE IRRIGATED LAND WHICH IS LOCATED INSIDE OR OUTSIDE OF AN ACTIVE MANAGEMENT AREA MAY APPLY TO THE DIRECTOR FOR APPROVAL OF A PROPOSED DEVELOPMENT PLAN PRIOR TO THE RETIREMENT OF SUCH LAND.
F. THE AMOUNT OF GROUNDWATER WHICH MAY BE WITHDRAWN OR RECEIVED ANNUALLY PER ACRE PURSUANT TO THIS SECTION IS THE LESSER OF:

1. THE CURRENT MAXIMUM AMOUNT OF GROUNDWATER WHICH MAY BE USED PURSUANT TO THE IRRIGATION GRANDFATHERED RIGHT FOR THE ACRE AT THE TIME IT IS RETIRED, AS CALCULATED PURSUANT TO SECTION 45-465, SUBSECTION B.

2. THREE ACRE-FEET MULTIPLIED BY THE WATER DUTY ACRES IN THE FARM IN WHICH THE ACRE TO WHICH THE RIGHT IS APPURtenant IS LOCATED DIVIDED BY THE NUMBER OF IRRIGATION ACRES IN THE FARM.

G. THE RIGHT TO WITHDRAW OR RECEIVE GROUNDWATER PURSUANT TO THIS SECTION IS A NON-IRRIGATION GRANDFATHERED RIGHT ASSOCIATED WITH RETIRED IRRIGATED LAND, OR A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT AS DESCRIBED IN SECTION 45-463.

H. WHETHER THE LAND TO WHICH AN IRRIGATION GRANDFATHERED RIGHT IS APPURtenant IS WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY SHALL BE DETERMINED AS OF THE DATE THE DEVELOPMENT PLAN IS FILED WITH THE DIRECTOR ACCORDING TO THE MOST CURRENT MAP OF THE SERVICE AREA OF THE CITY, TOWN OR PRIVATE WATER COMPANY AVAILABLE FOR PUBLIC INSPECTION ON THAT DATE AS REQUIRED BY SECTION 45-498:

1. IN THE CITY CLERK'S OFFICE FOR A CITY.

2. IN THE TOWN CLERK'S OFFICE FOR A TOWN.

3. IN THE APPROPRIATE COUNTY RECORDER'S OFFICE FOR A PRIVATE WATER COMPANY.

45-470. Use of type 1 non-irrigation grandfathered right by original owner

A. THE ORIGINAL OWNER OF A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT PURSUANT TO SECTION 45-463 OR 45-469 MAY:

1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE RIGHT FOR ANY NON-IRRIGATION USE:

(a) ON THE LAND TO WHICH THE RIGHT IS APPURtenant.

(b) ON ANY OTHER LAND, SUBJECT TO THE PROVISIONS GOVERNING TRANSPORTATION OF GROUNDWATER IN ARTICLE 8 OF THIS CHAPTER, EXCEPT THAT, IF THE LAND TO WHICH THE RIGHT IS APPURtenant IS INCLUDED WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY, USE GROUNDWATER ON OTHER LAND ONLY IF THE USE ON OTHER LAND WAS COMMENCED PRIOR TO THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA OR IS PURSUANT TO A DEVELOPMENT PLAN FILED WITH THE DIRECTOR PRIOR TO THE INCLUSION OF THE LAND WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF THE CITY, TOWN OR PRIVATE WATER COMPANY.

2. PURSUANT TO SECTION 45-473, CONVEY RETIRED IRRIGATED LAND WITH THE APPURtenant TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT. ANY LAND NOT CONVEYED SHALL RETAIN ITS APPURtenant TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT.

B. FOR THE PURPOSES OF THIS SECTION, "ORIGINAL OWNER" MEANS:

1. THE PERSON WHO ACQUIRED AND RETIRED LAND FROM IRRIGATION PRIOR TO THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-463 AND ANY PERSON OR ENTITY WHO HOLDS SUCH LAND UNDER THE SAME OWNERSHIP AS DEFINED BY SECTION 45-461.
2. THE PERSON WHO RETIRES LEGALLY IRRIGATED LAND AFTER THE DATE OF
THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-469
AND ANY PERSON OR ENTITY WHO HOLDS SUCH LAND UNDER THE SAME OWNERSHIP AS
DEFINED BY SECTION 45-461.

45-471. Use of type 2 non-irrigation grandfathered
right by owner

A. THE OWNER OF A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT
PURSUANT TO SECTION 45-464 MAY USE GROUNDWATER WITHDRAWN PURSUANT TO THE
RIGHT FOR ANY NON-IRRIGATION PURPOSE AT ANY LOCATION, SUBJECT TO THE
PROVISIONS GOVERNING TRANSPORTATION OF GROUNDWATER IN ARTICLE 8 OF THIS
CHAPTER, EXCEPT THAT, IF THE RIGHT IS BASED ON WITHDRAWALS OF
GROUNDWATER:

1. FOR THE EXTRACTION OR PROCESSING OF MINERALS, THE OWNER MAY USE
GROUNDWATER WITHDRAWN PURSUANT TO THE RIGHT ONLY FOR THE PURPOSE OF MINERAL
EXTRACTION OR PROCESSING.

2. FOR THE GENERATION OF ELECTRICAL ENERGY, THE OWNER MAY USE
GROUNDWATER WITHDRAWN PURSUANT TO THE RIGHT ONLY FOR ELECTRICAL ENERGY
GENERATION.

B. IF A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT IS LEASED, THE
LESSEE MAY USE GROUNDWATER WITHDRAWN PURSUANT TO THE RIGHT SUBJECT TO THE
PROVISIONS OF SUBSECTION A OF THIS SECTION.

45-472. Conveyance of irrigation grandfathered right;
within service area; outside service area;
change to non-irrigation grandfathered right;
forfeiture of right to convey to non-irrigation use

A. THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT MAY CONVEY THE
RIGHT ONLY WITH THE LAND TO WHICH THE RIGHT IS APPURTENANT.

B. IF THE LAND TO WHICH AN IRRIGATION GRANDFATHERED RIGHT IS
APPURTENANT IS WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A

1. THE IRRIGATION GRANDFATHERED RIGHT MAY BE CONVEYED ONLY FOR AN
IRRIGATION USE, EXCEPT AS PROVIDED IN PARAGRAPHS 2 AND 3 OF THIS
SUBSECTION. IF AN IRRIGATION GRANDFATHERED RIGHT IS CONVEYED FOR AN
IRRIGATION USE, THE FULL AMOUNT OF THE RIGHT IS CONVEYED. THE AMOUNT OF
GROUNDWATER CONVEYED PURSUANT TO THE RIGHT MAY BE WITHDRAWN BY THE NEW
OWNER OF THE RIGHT ONLY FROM THE LAND TO WHICH THE RIGHT IS APPURTENANT AND
USED ON THAT LAND OR ON CONTIGUOUS IRRIGATION ACRES UNDER COMMON OWNERSHIP
WITHIN THE SERVICE AREA OF THE CITY, TOWN OR PRIVATE WATER COMPANY, EXCEPT
THAT, IF THE GROUNDWATER WAS DELIVERED BY AN IRRIGATION DISTRICT TO THE
PREVIOUS OWNER OF THE RIGHT, THE IRRIGATION DISTRICT MAY CONTINUE TO
DELIVER GROUNDWATER TO THE NEW OWNER PURSUANT TO THE RIGHT FOR USE ON THE
LAND TO WHICH THE RIGHT IS APPURTENANT OR ON CONTIGUOUS IRRIGATION ACRES
UNDER COMMON OWNERSHIP WITHIN THE SERVICE AREA OF THE CITY, TOWN OR PRIVATE
WATER COMPANY. FOR PURPOSES OF THIS SECTION, IRRIGATION ACRES WHICH ARE
SEPARATED BY A ROAD, HIGHWAY, EASEMENT OR RIGHT-OF-WAY FROM THE LAND TO
WHICH THE IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT ARE DEEMED TO BE
CONTIGUOUS.

2. THE IRRIGATION GRANDFATHERED RIGHT MAY BE CONVEYED TO AN
INDUSTRY ENGAGED IN THE GENERATION OF ELECTRICAL ENERGY FOR THE PURPOSE OF
ELECTRICAL ENERGY GENERATION, EXCEPT THAT, IF THE FACILITY FOR THE
GENERATION OF ELECTRICAL ENERGY IS NOT SUBJECT TO TITLE 40, CHAPTER 2, 
ARTICLE 6.2, THE CONVEYANCE IS SUBJECT TO THE APPROVAL OF:

(a) THE APPROPRIATE CITY OR TOWN, IF THE IRRIGATION GRANDFATHERED 
RIGHT TO BE CONVEYED IS APPURTENANT TO LAND WITHIN THE EXTERIOR BOUNDARIES 
OF THE SERVICE AREA OF A CITY OR TOWN.

(b) THE DIRECTOR, IF THE IRRIGATION GRANDFATHERED RIGHT TO BE 
CONVEYED IS APPURTENANT TO LAND WITHIN THE CORPORATE LIMITS OF A CITY OR 
TOWN AND WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A PRIVATE 
WATER COMPANY.

3. IF AN IRRIGATION GRANDFATHERED RIGHT IS CONVEYED FOR A 
NON-IRRIGATION USE PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION, THE AMOUNT 
OF THE RIGHT THAT IS CONVEYED IS THE LESSER OF:

(a) THE CURRENT MAXIMUM AMOUNT OF GROUNDWATER WHICH MAY BE USED 
PURSUANT TO THE RIGHT, AS CALCULATED PURSUANT TO SECTION 45-465, 
SUBSECTION B.

(b) THREE ACRE-FEET PER YEAR MULTIPLIED BY THE NUMBER OF WATER DUTY 
ACRES IN THE FARM IN WHICH THE ACRE TO WHICH THE RIGHT IS APPURTENANT IS 
LOCATED DIVIDED BY THE NUMBER OF IRRIGATION ACRES IN THE FARM.

4. THE NEW OWNER OF AN IRRIGATION GRANDFATHERED RIGHT CONVEYED 
PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION MAY WITHDRAW THE AMOUNT OF 
GROUNDWATER CONVEYED PURSUANT TO THAT RIGHT, AS DETERMINED IN PARAGRAPH 3 
OF THIS SUBSECTION, ONLY FROM THE LAND TO WHICH THE RIGHT IS APPURTENANT 
AND USE THE GROUNDWATER ON THAT LAND, BUT MAY NOT USE THE GROUNDWATER ON 
OTHER LAND, EXCEPT THAT, IF THE GROUNDWATER WAS DELIVERED BY AN IRRIGATION 
DISTRICT TO THE PREVIOUS OWNER OF THE RIGHT, THE IRRIGATION DISTRICT MAY 
CONTINUE TO DELIVER GROUNDWATER TO THE NEW OWNER PURSUANT TO THE RIGHT FOR 
USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT.

C. IF THE LAND TO WHICH AN IRRIGATION GRANDFATHERED RIGHT IS 
APPURTENANT IS INCLUDED WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA 
OF A CITY, TOWN OR PRIVATE WATER COMPANY SUBSEQUENT TO THE DATE OF THE 
DESIGNATION OF AN ACTIVE MANAGEMENT AREA, THE OWNER OF THE RIGHT MAY, WITH 
THE APPROVAL OF THE DIRECTOR AND CONSISTENT WITH THE PROVISIONS OF THIS 
CHAPTER, CONVEY THE GRANDFATHERED RIGHT FOR A NON-IRRIGATION USE ON THE 
LAND TO WHICH THE RIGHT IS APPURTENANT, UPON A SHOWING THAT ADEQUATE WATER 
SERVICE IS UNAVAILABLE AT RATES COMPARABLE TO RATES CHARGED SIMILAR 
CLASSES OF WATER USERS WITHIN SUCH SERVICE AREA. THE AMOUNT OF THE RIGHT 
CONVEYED IS DETERMINED PURSUANT TO SUBSECTION B, PARAGRAPH 3 OF THIS 
SECTION.

D. IF THE LAND TO WHICH AN IRRIGATION GRANDFATHERED RIGHT IS 
APPURTENANT IS OUTSIDE OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A 
CITY, TOWN OR PRIVATE WATER COMPANY:

1. THE IRRIGATION GRANDFATHERED RIGHT MAY BE CONVEYED FOR AN 
IRRIGATION USE OR A NON-IRRIGATION USE. IF AN IRRIGATION GRANDFATHERED 
RIGHT IS CONVEYED FOR AN IRRIGATION USE, THE FULL AMOUNT OF THE RIGHT IS 
CONVEYED. IF AN IRRIGATION GRANDFATHERED RIGHT IS CONVEYED FOR A 
NON-IRRIGATION USE, THE AMOUNT OF THE RIGHT THAT IS CONVEYED IS THE LESSER 
of:

(a) THE CURRENT MAXIMUM AMOUNT OF GROUNDWATER WHICH MAY BE USED 
PURSUANT TO THE RIGHT AS CALCULATED PURSUANT TO SECTION 45-465, 
SUBSECTION B.
(b) THREE ACRE-FEET PER YEAR MULTIPLIED BY THE NUMBER OF WATER DUTY ACRES IN THE FARM IN WHICH THE ACRE TO WHICH THE RIGHT IS APPURTENANT IS LOCATED DIVIDED BY THE NUMBER OF IRRIGATION ACRES IN THE FARM.

2. THE AMOUNT OF GROUNDWATER CONVEYED PURSUANT TO THE RIGHT, AS DETERMINED IN PARAGRAPH 1 OF THIS SUBSECTION, MAY BE WITHDRAWN BY THE NEW OWNER OF THE RIGHT ONLY FROM THE LAND TO WHICH THE RIGHT IS APPURTENANT AND USED ON THAT LAND OR ON ANY OTHER LAND, SUBJECT TO THE PROVISIONS OF ARTICLE 8 OF THIS CHAPTER RELATING TO TRANSPORTATION OF GROUNDWATER, EXCEPT THAT, IF THE GROUNDWATER WAS DELIVERED BY AN IRRIGATION DISTRICT TO THE PREVIOUS OWNER OF THE RIGHT, THE IRRIGATION DISTRICT MAY CONTINUE TO DELIVER GROUNDWATER TO THE NEW OWNER PURSUANT TO THE RIGHT. IF ANY PORTION OF THE AMOUNT OF GROUNDWATER CONVEYED IS WITHDRAWN BY THE NEW OWNER AND USED ON OTHER LAND, NO ADDITIONAL GROUNDWATER MAY BE WITHDRAWN FOR USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT, EXCEPT THAT, IF THE NEW OWNER IS AN INDUSTRY, IT MAY WITHDRAW A PORTION OF THE AMOUNT OF GROUNDWATER CONVEYED FOR USE ON OTHER LAND AND WITHDRAW THE REMAINDER OF THE AMOUNT OF GROUNDWATER CONVEYED FOR MUNICIPAL AND INDUSTRIAL USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT FOR PURPOSES DIRECTLY RELATED TO THE INDUSTRY'S INDUSTRIAL OPERATION.

E. FOR PURPOSES OF THIS SECTION, "LAND TO WHICH THE RIGHT IS APPURTENANT" MEANS THE ACRE OR GROUP OF CONTIGUOUS ACRES CONVEYED WITH AN IRRIGATION GRANDFATHERED RIGHT.

F. IF AN IRRIGATION GRANDFATHERED RIGHT IS CONVEYED FOR A NON-IRRIGATION USE, THE NEW OWNER'S RIGHT TO WITHDRAW OR RECEIVE GROUNDWATER IS A NON-IRRIGATION GRANDFATHERED RIGHT ASSOCIATED WITH RETIRED IRRIGATED LAND, OR A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT. ALL SUBSEQUENT CONVEYANCES OF THAT RIGHT ARE GOVERNED BY SECTION 45-473.

G. THE AMOUNT OF A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT SHALL BE DETERMINED AT THE TIME IT IS ESTABLISHED AND SHALL REMAIN FIXED AT THAT AMOUNT.

H. IF AN IRRIGATION GRANDFATHERED RIGHT HAS NOT BEEN RETIRED IN ANTICIPATION OF A FUTURE NON-IRRIGATION USE AND HAS NOT BEEN EXERCISED FOR FIVE CONSECUTIVE YEARS, THE RIGHT MAY NOT BE CONVEYED FOR A NON-IRRIGATION USE.

45-472.01. Certificate of environmental compatibility; availability of groundwater and impact on groundwater management plan

FOR FACILITIES SUBJECT TO THE REQUIREMENTS OF TITLE 40, CHAPTER 2, ARTICLE 6.2 WITHIN THE SERVICE AREA OF A CITY OR TOWN IN AN ACTIVE MANAGEMENT AREA, AS SUCH TERMS ARE USED AND DEFINED IN THIS CHAPTER, THE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE SHALL CONSIDER, AS A CRITERION FOR ISSUING A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY, THE AVAILABILITY OF GROUNDWATER AND THE IMPACT OF THE PROPOSED USE OF GROUNDWATER ON THE MANAGEMENT PLAN ESTABLISHED UNDER ARTICLE 9 OF THIS CHAPTER FOR THE ACTIVE MANAGEMENT AREA.

45-473. Conveyance of type 1 non-irrigation grandfathered right; use by new owner; appurtenancy; within service area; outside service area
B. 1001

A. THE OWNER OF A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT MAY CONVEY THE RIGHT ONLY FOR A NON-IRRIGATION USE AND ONLY WITH THE LAND TO WHICH IT IS APPURTENANT. FOR PURPOSES OF THIS SECTION, A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT MEANS A NON-IRRIGATION GRANDFATHERED RIGHT ASSOCIATED WITH RETIRED IRRIGATED LAND PURSUANT TO SECTION 45-463 OR 45-469 OR AN IRRIGATION GRANDFATHERED RIGHT WHICH WAS CONVEYED FOR A NON-IRRIGATION USE PURSUANT TO SECTION 45-472.

B. IF A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT IS CONVEYED, THE FULL AMOUNT OF THE RIGHT IS CONVEYED.


D. IF THE LAND TO WHICH THE TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT IS APPURTENANT IS OUTSIDE OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY, THE AMOUNT OF GROUNDWATER CONVEYED PURSUANT TO THE RIGHT MAY BE WITHDRAWN BY THE NEW OWNER OF THE RIGHT ONLY FROM THE LAND TO WHICH THE RIGHT IS APPURTENANT AND USED ON THAT LAND OR ON ANY OTHER LAND, SUBJECT TO THE PROVISIONS OF ARTICLE 8 OF THIS CHAPTER RELATING TO TRANSPORTATION OF GROUNDWATER. IF ANY PORTION OF THE AMOUNT OF GROUNDWATER CONVEYED IS WITHDRAWN BY THE NEW OWNER AND USED ON OTHER LAND, NO ADDITIONAL GROUNDWATER MAY BE WITHDRAWN FOR USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT, EXCEPT THAT, IF THE NEW OWNER IS AN INDUSTRY, IT MAY WITHDRAW A PORTION OF THE AMOUNT OF GROUNDWATER CONVEYED FOR USE ON OTHER LAND AND WITHDRAW THE REMAINDER OF THE AMOUNT OF GROUNDWATER CONVEYED FOR MUNICIPAL AND INDUSTRIAL USE ON THE LAND TO WHICH THE RIGHT IS APPURTENANT FOR PURPOSES DIRECTLY RELATED TO THE INDUSTRY’S INDUSTRIAL OPERATION.

E. FOR PURPOSES OF THIS SECTION, "LAND TO WHICH THE RIGHT IS APPURTENANT" MEANS THE ACRE OR GROUP OF CONTIGUOUS ACRES CONVEYED WITH A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT.

F. IF GROUNDWATER WAS DELIVERED BY AN IRRIGATION DISTRICT TO THE PREVIOUS OWNER OF A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT, THE IRRIGATION DISTRICT MAY CONTINUE TO DELIVER GROUNDWATER PURSUANT TO THE RIGHT TO THE NEW OWNER OF THE RIGHT.

45-474. Conveyance of type 2 non-irrigation grandfathered right; amount

A. THE OWNER OF A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT MAY CONVEY THE RIGHT FOR ANY NON-IRRIGATION USE EXCEPT THAT:

1. A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT THAT IS USED FOR PURPOSES OF MINERAL EXTRACTION OR PROCESSING MAY BE CONVEYED ONLY FOR A MINERAL EXTRACTION OR PROCESSING USE.
2. A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT THAT IS USED FOR
PURPOSES OF ELECTRICAL ENERGY GENERATION MAY BE CONVEYED ONLY FOR AN
ELECTRICAL ENERGY GENERATION USE.
B. A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT MAY NOT BE CONVEYED
FOR AN IRRIGATION USE.
C. IF A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT IS CONVEYED, THE
FULL AMOUNT OF THE RIGHT IS CONVEYED.

45-475. Determination of exterior boundaries of service
area for purposes of conveyances

FOR PURPOSES OF CONVEYANCES OF IRRIGATION GRANDFATHERED RIGHTS AND
TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHTS, WHETHER LAND TO WHICH THE
RIGHT IS APPURTENANT IS WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA
OF A CITY, TOWN OR PRIVATE WATER COMPANY SHALL BE DETERMINED AS OF THE DATE
OF THE CLOSING OF THE CONVEYANCE TRANSACTION ACCORDING TO THE MOST CURRENT
MAP OF THE SERVICE AREA OF THE CITY, TOWN OR PRIVATE WATER COMPANY
AVAILABLE FOR PUBLIC INSPECTION ON THAT DATE AS REQUIRED BY SECTION
45-498:
1. IN THE CITY CLERK'S OFFICE FOR A CITY.
2. IN THE TOWN CLERK'S OFFICE FOR A TOWN.
3. IN THE APPROPRIATE COUNTY RECORDER'S OFFICE FOR A PRIVATE WATER
COMPANY.

45-476. Application for certificate of grandfathered right

A. A PERSON CLAIMING THE RIGHT TO WITHDRAW OR RECEIVE AND USE
GROUNDWATER PURSUANT TO A GRANDFATHERED RIGHT SHALL FILE AN APPLICATION
FOR A CERTIFICATE OF GRANDFATHERED RIGHT WITH THE DEPARTMENT NOT LATER THAN
FIFTEEN MONTHS AFTER THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT
AREA ON A FORM PROVIDED BY THE DEPARTMENT.
B. THE APPLICATION FOR A CERTIFICATE OF GRANDFATHERED RIGHT NOT
BASED UPON PRIOR PROCEEDINGS ON A CERTIFICATE OF EXEMPTION SHALL INCLUDE
THE FOLLOWING:
1. THE NAME AND MAILING ADDRESS OF THE APPLICANT.
2. THE NAME OF THE ACTIVE MANAGEMENT AREA WITHIN WHICH THE
WITHDRAWAL OF GROUNDWATER PURSUANT TO THE CLAIMED GRANDFATHERED RIGHT IS
BEING OR HAS BEEN MADE.
3. IF THE APPLICATION IS FOR A TYPE 1 NON-IRRIGATION GRANDFATHERED
RIGHT:
   (a) THE LEGAL DESCRIPTION AND A MAP OF THE RETIRED IRRIGATED LAND IN
   RESPECT OF WHICH THE RIGHT IS CLAIMED.
   (b) THE DATE WHEN THE IRRIGATED LAND WAS RETIRED.
   (c) SUCH EVIDENCE AS THE DIRECTOR SHALL REQUIRE THAT THE RETIRED
   IRRIGATED LAND HAS BEEN HELD UNDER THE SAME OWNERSHIP SINCE IT WAS RETIRED
   AND THAT A DEVELOPMENT PLAN FOR THE PROPOSED NON-IRRIGATION USE EXISTED AT
   THE TIME THE LAND WAS RETIRED.
   (d) IF IN A SUBSEQUENT ACTIVE MANAGEMENT AREA, THE AMOUNT OF
   GROUNDWATER USED PER ACRE FOR THE RETIRED IRRIGATED LAND EACH YEAR DURING
   THE FIVE YEARS PRECEDING THE TIME THE LAND WAS RETIRED.
4. IF THE APPLICATION IS FOR A TYPE 2 NON-IRRIGATION GRANDFATHERED
RIGHT:
(a) The maximum amount of groundwater legally withdrawn from land
owned by the applicant and used in any one year during the five years
preceding the date of the designation of the active management area.

(b) If the person withdrawing groundwater from the land owned by
the applicant has made application for a type 1 non-irrigation
grandfathered right, a copy of the application.

5. If the application is for an irrigation grandfathered right:
(a) The legal description and a map of all land owned by the
applicant which was legally irrigated at any time during the five years
preceding January 1, 1980 for initial active management areas or the date
of the designation of the active management area for subsequent active
management areas and the highest number of acres legally irrigated with
groundwater at one time in any one year during the five-year period.

(b) The type of crops grown on such land and the cropping patterns
used during the five-year period.

(c) The irrigation methods and devices currently being used in the
irrigation of such land.

6. The location of each well from which groundwater is being or has
been withdrawn by the applicant to irrigate such land.

7. The sworn statement that the information contained in the
application is true and correct to the best knowledge and belief of the
applicant.

8. Any other information the director may require.

C. A person or his successor claiming the right to use groundwater
pursuant to a grandfathered right, described in whole or in part by a
certificate of exemption, shall file an application for a certificate of
grandfathered right as provided in subsection D and shall automatically be
entitled to a certificate or certificates of grandfathered right for the
portion of the grandfathered right claimed which is evidenced by the
certificate of exemption or established by the proceedings on the
certificate of exemption. Notice of the application is not required and
hearings shall not be held. If the applicant claims grandfathered rights
in addition to the amount of use described in the certificate of exemption,
application for such additional amount shall be made pursuant to
subsection B, and such application is subject to the notice, objection and
hearing provisions applicable to applications made pursuant to that
subsection.

D. The application for a certificate of grandfathered right based
upon prior proceedings upon an application for a certificate of exemption
shall include the following:

1. The name and mailing address of the applicant.

2. The name of the active management area within which the
withdrawal of groundwater pursuant to the claimed grandfathered right is
being or has been made.

3. The total amount of groundwater to be withdrawn annually under
the certificate of exemption.

4. The number of retired irrigated acres described in the
application for a certificate of exemption.
5. SUCH EVIDENCE AS THE DIRECTOR SHALL REQUIRE THAT THE RETIRED
IRRIGATED LAND HAS BEEN HELD UNDER THE SAME OWNERSHIP SINCE IT WAS
RETIRED.

6. THE NUMBER OF THE CERTIFICATE OF EXEMPTION AND A COPY OF THE
CERTIFICATE OF EXEMPTION.

7. THE SWORN STATEMENT THAT THE INFORMATION CONTAINED IN THE
APPLICATION IS TRUE AND CORRECT TO THE BEST KNOWLEDGE AND BELIEF OF THE
APPLICANT.

8. ANY OTHER INFORMATION THE DIRECTOR MAY REQUIRE.

45-477. Waiver and relinquishment of grandfathered right
A PERSON WHO CLAIMS THE RIGHT TO WITHDRAW OR RECEIVE AND USE
GROUNDWATER PURSUANT TO A GRANDFATHERED RIGHT BUT WHO FAILS TO FILE AN
APPLICATION FOR A CERTIFICATE OF GRANDFATHERED RIGHT AS PROVIDED IN THIS
ARTICLE IS DEEMED TO WAIVE AND RELINQUISH ANY RIGHT TO WITHDRAW OR RECEIVE
AND USE GROUNDWATER PURSUANT TO THIS ARTICLE.

45-478. Notice of requirement to apply for certificate
A. WITHIN NINETY DAYS OF THE DATE OF THE DESIGNATION OF AN ACTIVE
MANAGEMENT AREA, THE DIRECTOR SHALL GIVE NOTICE OF THE REQUIREMENT TO APPLY
FOR A CERTIFICATE OF GRANDFATHERED RIGHT TO THE CLERK OF THE BOARD OF
SUPERVISORS OF THE COUNTY OR COUNTIES IN WHICH THE ACTIVE MANAGEMENT AREA
IS LOCATED AND TO THE MAYOR OF EACH CITY OR TOWN, TO EACH PRIVATE WATER
COMPANY AND TO THE PRESIDING OFFICER OF EACH POLITICAL SUBDIVISION
ESTABLISHED PURSUANT TO CHAPTER 4, 5, 6 OR 7 OF THIS TITLE LOCATED IN THE
ACTIVE MANAGEMENT AREA.

B. THE DIRECTOR SHALL MAIL BY JANUARY 1, FOLLOWING THE DATE OF THE
DESIGNATION OF THE ACTIVE MANAGEMENT AREA, A COPY OF A WRITTEN NOTICE OF
THE REQUIREMENT TO APPLY FOR A CERTIFICATE OF GRANDFATHERED RIGHT TO EACH
OWNER OF REAL PROPERTY WITHIN THE ACTIVE MANAGEMENT AREA LISTED ON THE TAX
ROLLS OF THE COUNTY, ALONG WITH A DECLARATION THAT IT IS THE DUTY OF THE
RECIPIENT TO FORWARD THE NOTICE TO THE BENEFICIAL OWNER OF THE PROPERTY.
THE NOTICE SHALL INCLUDE A STATEMENT THAT A PERSON WHO FAILS TO APPLY FOR A
CERTIFICATE OF GRANDFATHERED RIGHT WITHIN AN ACTIVE MANAGEMENT AREA WAIVES
AND RELINQUISHES ANY RIGHT TO WITHDRAW OR RECEIVE AND USE GROUNDWATER
PURSUANT TO A GRANDFATHERED RIGHT.

C. THE DIRECTOR MAY ALSO GIVE WRITTEN NOTICE IN ANY OTHER MANNER
WHICH WILL CARRY OUT THE PURPOSES OF THIS SECTION.

45-479. Registry of applications for certificates; written
objections; request for hearing
A. THE DIRECTOR SHALL ESTABLISH A REGISTRY OF ALL APPLICATIONS
RECEIVED FOR A CERTIFICATE OF GRANDFATHERED RIGHT FOR EACH ACTIVE
MANAGEMENT AREA. AFTER THE DEADLINE FOR THE FILING OF APPLICATIONS HAS
PASSED, THE DIRECTOR SHALL NOTIFY ALL APPLICANTS FOR A CERTIFICATE OF
GRANDFATHERED RIGHT THAT THE REGISTRY IS AVAILABLE IN THE OFFICES OF THE
DEPARTMENT FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS.

B. WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE OF THE NOTICE REQUIRED
BY SUBSECTION A, ANY PERSON RESIDING IN THE ACTIVE MANAGEMENT AREA MAY FILE
A WRITTEN OBJECTION TO ANY APPLICATION FOR A CERTIFICATE OF GRANDFATHERED
RIGHT AND MAY REQUEST A HEARING ON THE APPLICATION. OBJECTIONS MAY BE MADE
ONLY ON THE BASIS THAT THE INFORMATION IN THE APPLICATION IS INCORRECT OR
IS INSUFFICIENT TO ISSUE A CERTIFICATE.

45-480. Review of applications; investigations; hearings; final determination; appeal

A. THE DIRECTOR SHALL REVIEW EACH APPLICATION FOR A CERTIFICATE OF
GRANDFATHERED RIGHT AND MAY CONDUCT SUCH INVESTIGATIONS AS DEEMED
NECESSARY TO DETERMINE WHETHER THE INFORMATION CONTAINED IN THE
APPLICATION IS CORRECT AND SUFFICIENT TO ISSUE A CERTIFICATE. EXCEPT AS
PROVIDED IN SECTION 45-476, SUBSECTION C, THE DIRECTOR MAY IN APPROPRIATE
CASES, INCLUDING CASES IN WHICH A WRITTEN OBJECTION HAS BEEN FILED, HOLD A
HEARING TO DETERMINE WHETHER THE INFORMATION CONTAINED IN THE APPLICATION
IS CORRECT AND SUFFICIENT TO ISSUE A CERTIFICATE. THIRTY DAYS PRIOR TO THE
DATE OF THE HEARING, THE DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE
APPLICANT AND ANY PERSON WHO HAS FILED AN OBJECTION TO THE APPLICATION.

B. IF A HEARING IS HELD, IT SHALL BE CONDUCTED BY A DEPARTMENT
HEARING OFFICER IN THE ACTIVE MANAGEMENT AREA IN WHICH THE USE IS LOCATED.
THE PROCEEDINGS SHALL BE RECORDED MANUALLY OR ELECTRONICALLY AND SHALL BE
TRANSCRIPTED ON REQUEST AND AT THE EXPENSE OF THE REQUESTING PARTY. A
HEARING SHALL BE CONDUCTED IN AN INFORMAL MANNER WITHOUT ADHERING TO THE
RULES OF EVIDENCE REQUIRED IN JUDICIAL PROCEEDINGS. ALL PARTIES,
INCLUDING THE DEPARTMENT, SHALL HAVE AN OPPORTUNITY TO PRESENT EVIDENCE
AND ARGUMENT ON ALL ISSUES INVOLVED AND TO BE REPRESENTED BY COUNSEL. THE
HEARING OFFICER SHALL ISSUE FINDINGS AND RECOMMEND A DECISION TO THE
DIRECTOR. THE DIRECTOR SHALL ISSUE A DECISION AND AN ORDER EITHER
AFFIRMING OR MODIFYING THE HEARING OFFICER'S DETERMINATION WITHIN SIX
MONTHS OF THE FILING OF THE APPLICATION.

C. IF THE DIRECTOR DETERMINES THAT THE INFORMATION CONTAINED IN THE
APPLICATION IS CORRECT AND IS SUFFICIENT TO ISSUE A CERTIFICATE OF
GRANDFATHERED RIGHT, THE DIRECTOR SHALL ISSUE A CERTIFICATE OF
GRANDFATHERED RIGHT TO THE APPLICANT PURSUANT TO SECTION 45-481. IF THE
DIRECTOR DETERMINES THAT THE INFORMATION CONTAINED IN THE APPLICATION IS
INCORRECT OR IS INSUFFICIENT TO ISSUE A CERTIFICATE, THE DIRECTOR MAY
RETURN THE APPLICATION SPECIFICALLY STATING THE REASONS FOR ITS RETURN.
THE APPLICANT MAY REAPPLY WITHIN THIRTY DAYS OF RECEIPT OF THE RETURNED
APPLICATION. A REAPPLICATION RELATES BACK TO THE FILING OF THE ORIGINAL
APPLICATION BUT OTHERWISE SHALL BE TREATED AS A NEW APPLICATION.

D. IF THE DIRECTOR DETERMINES THAT THE APPLICANT IS NOT ENTITLED TO
A CERTIFICATE OF GRANDFATHERED RIGHT OR DETERMINES THAT THE AMOUNT OF A
TYPE 1 OR TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT IS LESS THAN THAT
REQUESTED IN THE APPLICATION, THE DIRECTOR SHALL HOLD A HEARING PURSUANT TO
SUBSECTION B OF THIS SECTION.

E. THE APPLICANT OR ANY PERSON ENTERING AN OBJECTION TO THE
APPLICATION MAY APPEAL TO THE SUPERIOR COURT IN THE COUNTY IN WHICH THE
IRRIGATED LAND OR THE NON-IRRIGATION USE IS LOCATED PURSUANT TO SECTION
45-405.

45-481. Issuance of certificates; contents; recordation

A CERTIFICATE OF GRANDFATHERED RIGHT SHALL BE ISSUED IN RECORDABLE
FORM AND SHALL CONTAIN:
1. THE NAME AND MAILING ADDRESS OF THE PERSON TO WHOM THE
CERTIFICATE IS ISSUED.
2. THE ACTIVE MANAGEMENT AREA IN WHICH THE WITHDRAWAL OF
GROUNDWATER IS BEING OR WILL BE MADE.
3. THE TYPE OF GRANDFATHERED RIGHT REPRESENTED BY THE CERTIFICATE.
4. IF THE CERTIFICATE IS FOR A TYPE 1 NON-IRRIGATION GRANDFATHERED
IRRIGATED LAND TO WHICH THE RIGHT IS APPURtenant.
5. IF THE CERTIFICATE IS FOR A TYPE 2 NON-IRRIGATION GRANDFATHERED
RIGHT, THE AMOUNT OF THE RIGHT.
6. IF THE CERTIFICATE IS FOR AN IRRIGATION GRANDFATHERED RIGHT, THE
LEGAL DESCRIPTION OF THE IRRIGABLE LAND TO WHICH THE RIGHT IS
APPURtenant.
7. WHERE APPLICABLE, THE LOCATION OF EACH WELL FROM WHICH
GROUNDWATER IS BEING WITHDRAWN PURSUANT TO THE RIGHT AT THE TIME THE
CERTIFICATE IS ISSUED.
8. SUCH OTHER PERTINENT INFORMATION AS THE DIRECTOR MAY DETERMINE.

ARTICLE 6. GROUNDWATER RIGHTS AND
USES WITHIN SERVICE AREAS

45-491. Scope of article
IN AN ACTIVE MANAGEMENT AREA, A CITY, TOWN, PRIVATE WATER COMPANY OR
IRRIGATION DISTRICT MAY WITHDRAW GROUNDWATER ONLY PURSUANT TO THIS
ARTICLE, EXCEPT AS PROVIDED BY A GRANDFATHERED RIGHT.

45-492. Withdrawals by cities, towns and private water
companies within service areas; contract to
supply groundwater
A. IN AN ACTIVE MANAGEMENT AREA, A CITY, TOWN OR PRIVATE WATER
COMPANY SHALL HAVE THE RIGHT TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN
ITS SERVICE AREA FOR THE BENEFIT OF LANDOWNERS AND RESIDENTS WITHIN ITS
SERVICE AREA, AND THE LANDOWNERS AND RESIDENTS ARE ENTITLED TO USE THE
GROUNDWATER DELIVERED, SUBJECT TO:

1. THE PROVISIONS OF ARTICLE 8 OF THIS CHAPTER RELATING TO
TRANSPORTATION OF GROUNDWATER.
2. CONSERVATION REQUIREMENTS DEVELOPED BY THE DIRECTOR PURSUANT TO
ARTICLE 9 OF THIS CHAPTER.

B. CLAIMS OF LANDOWNERS TO IRRIGATION GRANDFATHERED RIGHTS OR TYPE
1 OR 2 NON-IRRIGATION GRANDFATHERED RIGHTS SHALL BE SUBJECT TO THE
PROVISIONS OF ARTICLE 5 OF THIS CHAPTER.

C. A CITY OR TOWN MAY CONTRACT TO SUPPLY GROUNDWATER TO A CITY, TOWN
OR PRIVATE WATER COMPANY IN THE SAME ACTIVE MANAGEMENT AREA IF IT IS
CONSISTENT WITH THE MANAGEMENT PLAN FOR THE ACTIVE MANAGEMENT AREA AND IS
APPROVED BY THE DIRECTOR.

45-493. Limitations on extensions of service areas;
prohibition on formation of private water
company for irrigation purpose

A. IN AN ACTIVE MANAGEMENT AREA, THE SERVICE AREA OF A CITY, TOWN OR
PRIVATE WATER COMPANY MAY NOT BE EXTENDED PRIMARILY FOR ANY OF THE
FOLLOWING PURPOSES:

1. INCLUDING A WELL FIELD WITHIN THE SERVICE AREA.
2. FURNISHING DISPROPORTIONATELY LARGE AMOUNTS OF WATER TO AN
INDUSTRIAL OR ANY OTHER LARGE WATER USER UNLESS IT IS CONSISTENT WITH THE
MANAGEMENT PLAN FOR THE ACTIVE MANAGEMENT AREA AND IS APPROVED BY THE
DIRECTOR.
3. INCLUDING IRRIGATION ACRES WITHIN THE EXTERIOR BOUNDARIES OF THE
SERVICE AREA TO EXTINGUISH THE RIGHT TO CONVEY IRRIGATION GRANDFATHERED
RIGHTS TO A NON-IRRIGATION USE.

B. WITHIN AN ACTIVE MANAGEMENT AREA, A CITY, TOWN OR PRIVATE WATER
COMPANY MAY NOT EXTEND ITS SERVICE AREA FOR THE PURPOSE OF WITHDRAWING AND
DISTRIBUTING GROUNDWATER FOR IRRIGATION PURPOSES.

C. SUBSEQUENT TO THE DATE OF THE DESIGNATION OF THE ACTIVE
MANAGEMENT AREA, A PRIVATE WATER COMPANY MAY NOT BE FORMED WITHIN AN ACTIVE
MANAGEMENT AREA TO WITHDRAW AND DISTRIBUTE GROUNDWATER FOR IRRIGATION
PURPOSES.

45-494. Withdrawals by irrigation districts in initial
active management areas

IN AN INITIAL ACTIVE MANAGEMENT AREA ESTABLISHED PURSUANT TO SECTION
45-411:

1. AN IRRIGATION DISTRICT EXISTING AND ENGAGED IN THE WITHDRAWAL,
DELIVERY AND DISTRIBUTION OF GROUNDWATER AS OF JANUARY 1, 1977 SHALL HAVE
THE RIGHT, SUBJECT TO SECTION 45-496:
   (a) TO WITHDRAW AND TRANSPORT GROUNDWATER WITHIN ITS SERVICE AREA
FOR THE BENEFIT OF LANDOWNERS WITHIN ITS SERVICE AREA, AND THE LANDOWNERS
ARE ENTITLED TO USE THE GROUNDWATER DELIVERED, PROVIDED CLAIMS OF
LANDOWNERS TO IRRIGATION GRANDFATHERED RIGHTS OR TYPE 1 OR 2
NON-IRRIGATION GRANDFATHERED RIGHTS SHALL BE SUBJECT TO THE PROVISIONS OF
ARTICLE 5 OF THIS CHAPTER.
   (b) IF LEGALLY WITHDRAWING AND TRANSPORTING GROUNDWATER FROM
OUTSIDE ITS SERVICE AREA FOR USE WITHIN ITS SERVICE AREA AS OF JANUARY 1,
1. An irrigation district which was not engaged in the withdrawal, delivery and distribution of groundwater as of January 1, 1977 shall be limited to the right, subject to Section 45-496, to:

(a) Contract for surface water from a multi-county water conservation district and deliver and distribute such water within its service area for irrigation purposes.

(b) Contract to purchase, deliver and distribute effluent within its service area for irrigation purposes.

(c) Withdraw, deliver and distribute within its service area the amount of groundwater allowed by the current irrigation water duty of each member farm multiplied by the water duty acres in that farm less any portion of such amount withdrawn by individual members.

(d) Continue but not expand any non-irrigation water service being lawfully provided as of the date of the designation of the active management area, except as provided in Section 45-497, subsection B.

2. An irrigation district which was not engaged in the withdrawal, delivery and distribution of groundwater as of January 1, 1977 shall be limited to the right, subject to Section 45-496, to:

(a) Contract for surface water and deliver and distribute such water within its service area for irrigation purposes.

(b) Contract to purchase, deliver and distribute effluent within its service area for irrigation purposes.

(c) Withdraw, deliver and distribute within its service area the amount of groundwater allowed by the current irrigation water duty of each member farm multiplied by the water duty acres in that farm, less any portion of such amount withdrawn by individual members.
(d) CONTINUE BUT NOT EXPAND ANY NON-IRRIGATION WATER SERVICE BEING LAWFULLY PROVIDED AS OF THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA, EXCEPT AS PROVIDED IN SECTION 45-497, SUBSECTION B.

45-496. Applicability of general transportation provisions
and conservation requirements
WITHDRAWALS AND TRANSPORTATION OF GROUNDWATER BY AN IRRIGATION DISTRICT PURSUANT TO THIS ARTICLE ARE SUBJECT TO:
1. THE PROVISIONS OF ARTICLE 8 OF THIS CHAPTER RELATING TO TRANSPORTATION OF GROUNDWATER.
2. CONSERVATION REQUIREMENTS DEVELOPED BY THE DIRECTOR PURSUANT TO ARTICLE 9 OF THIS CHAPTER.

45-497. Withdrawal of groundwater by irrigation districts for municipal or industrial purposes
A. THIS ARTICLE SHALL NOT BE CONSTRUED TO ENLARGE THE AUTHORITY OF AN IRRIGATION DISTRICT TO WITHDRAW AND DISTRIBUTE GROUNDWATER FOR MUNICIPAL OR INDUSTRIAL PURPOSES.
B. AN INDUSTRIAL USER MAY NOT OBTAIN GROUNDWATER DELIVERY SERVICE FROM AN IRRIGATION DISTRICT IN EXCESS OF THE AMOUNT IT WAS ENTITLED TO RECEIVE ON THE DATE OF THE DESIGNATION OF THE ACTIVE MANAGEMENT AREA UNLESS THE INDUSTRIAL USER HAS ACQUIRED A GRANDFATHERED RIGHT OR HAS OBTAINED A GENERAL INDUSTRIAL USE PERMIT PURSUANT TO SECTION 45-515. AN INDUSTRIAL USER THAT HAS BEEN ISSUED A GENERAL INDUSTRIAL USE PERMIT PURSUANT TO SECTION 45-515 MAY, AT ANY TIME, ELECT TO RECEIVE GROUNDWATER FROM AN IRRIGATION DISTRICT IN THE AMOUNT SPECIFIED IN THE PERMIT IF:
1. THE DIRECTOR APPROVES THE DELIVERY OF SUCH GROUNDWATER.
2. THE IRRIGATION DISTRICT AGREES TO DELIVER SUCH GROUNDWATER.
3. THE INDUSTRIAL USE IS LOCATED WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF THE IRRIGATION DISTRICT.
4. THE TERMS OF THE PERMIT ARE MODIFIED PURSUANT TO SECTION 45-525.

45-498. Maps of service areas
A. EACH CITY, TOWN, PRIVATE WATER COMPANY AND IRRIGATION DISTRICT IN AN ACTIVE MANAGEMENT AREA SHALL MAINTAIN A CURRENT MAP CLEARLY DELINEATING ITS SERVICE AREA AND DISTRIBUTION SYSTEM IN THE DIRECTOR'S OFFICE AND SHALL FURNISH SUCH OTHER RELATED DATA AS THE DIRECTOR MAY REQUIRE. IN ADDITION:
1. EACH CITY AND TOWN SHALL MAINTAIN A CURRENT MAP OF ITS SERVICE AREA AND DISTRIBUTION SYSTEM IN ITS CITY OR TOWN CLERK'S OFFICE.
2. EACH PRIVATE WATER COMPANY AND IRRIGATION DISTRICT SHALL MAINTAIN A CURRENT MAP OF ITS SERVICE AREA AND DISTRIBUTION SYSTEM IN ITS OFFICES.
B. ALL MAPS REQUIRED BY THIS SECTION SHALL BE AVAILABLE FOR EXAMINATION BY THE PUBLIC AT REASONABLE TIMES.

ARTICLE 7. GROUNDWATER WITHDRAWAL PERMITS
45-511. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "GENERAL INDUSTRIAL USE" MEANS A NON-IRRIGATION USE OF GROUNDWATER EXCEPT THOSE SUBJECT TO PERMITS ISSUED PURSUANT TO SECTIONS
45-513 AND 45-514 AND THOSE FOR WHICH A CERTIFICATE OF ASSURED WATER SUPPLY IS REQUIRED PURSUANT TO SECTION 45-576.

2. "PERMIT" MEANS A PERMIT TO WITHDRAW GROUNDWATER WHICH IS ISSUED BY THE DIRECTOR PURSUANT TO THIS ARTICLE.

45-512. Categories of groundwater withdrawal permits

EXCEPT AS PROVIDED IN ARTICLES 5 AND 6 OF THIS CHAPTER, A PERSON MAY NOT WITHDRAW GROUNDWATER FROM A NONEXEMPT WELL IN AN ACTIVE MANAGEMENT AREA UNLESS THE PERSON OBTAINS A GROUNDWATER WITHDRAWAL PERMIT FROM THE DIRECTOR PURSUANT TO THIS ARTICLE. THE CATEGORIES OF GROUNDWATER WITHDRAWAL PERMITS ARE AS FOLLOWS:

1. DEWATERING PERMITS ISSUED PURSUANT TO SECTION 45-513.
2. MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMITS ISSUED PURSUANT TO SECTION 45-514.
3. GENERAL INDUSTRIAL USE PERMITS ISSUED PURSUANT TO SECTION 45-515.
4. POOR QUALITY GROUNDWATER PERMITS ISSUED PURSUANT TO SECTION 45-516.
5. TEMPORARY PERMITS ISSUED PURSUANT TO SECTIONS 45-517 AND 45-518.
6. DRAINAGE WATER PERMITS ISSUED PURSUANT TO SECTION 45-519.

45-513. Dewatering permit; priorities for use of groundwater; conditions on director; duration of permit

A. A PERSON WHO IS ENGAGED IN OR PROPOSES TO ENGAGE IN THE EXTRACTION AND PROCESSING OF MINERALS SHALL BE ISSUED A DEWATERING PERMIT FOR THE BENEFICIAL USE OF THE LAND FOR MINERAL EXTRACTION, METALLURGICAL PROCESSING AND FOR COMPLIANCE WITH APPLICABLE ENVIRONMENTAL CONTROLS. FOR PURPOSES OF THIS SECTION, "DEWATERING" MEANS THE WITHDRAWAL OF GROUNDWATER FROM PITS, FROM IN, UNDER AND AROUND ORE BODIES IN PROXIMITY TO PITS AND FROM UNDERGROUND WORKINGS. DEWATERING DOES NOT INCLUDE PROCESS WATER AND TAILING WATER RECOVERED FROM OR PUMPED FROM BENEATH TAILING PONDS, AND A PERMIT IS NOT REQUIRED THEREFOR IF SUCH WATER IS RECYCLED INTO THE EXTRACTION OR METALLURGICAL PROCESS.

B. GROUNDWATER WITHDRAWN PURSUANT TO A DEWATERING PERMIT SHALL BE USED IN THE FOLLOWING ORDER OF PRIORITY:

1. TO MEET MINERAL EXTRACTION, METALLURGICAL PROCESSING AND ENVIRONMENTAL CONTROL REQUIREMENTS OF THE PERMITTEE.
2. TO A CITY, TOWN, PRIVATE WATER COMPANY OR FARM AND ANY OTHER PERSON WHOSE RESPECTIVE ABILITY TO WITHDRAW GROUNDWATER HAS BEEN ADVERSELY AFFECTED BY A DEWATERING PERMIT. SUCH WATER SHALL BE EQUITABLY ALLOCATED BY THE DIRECTOR WITHOUT COSTS BUT SUBJECT TO THE CONDITIONS SET FORTH IN SUBSECTION C OF THIS SECTION AMONG SUCH PERSONS ADVERSELY AFFECTED BY SUCH DEWATERING. A PERSON WHO RECEIVES AN ALLOCATION OF WATER UNDER THIS PARAGRAPH SHALL REDUCE HIS GROUNDWATER WITHDRAWALS BY THE AMOUNT OF WATER HE RECEIVES UNDER THIS PARAGRAPH. A PERSON RECEIVING WATER UNDER THIS PARAGRAPH DOES NOT THEREBY FORFEIT OR ABANDON HIS RIGHT TO WITHDRAW GROUNDWATER.

3. FOR MUNICIPAL, COMMERCIAL, DOMESTIC AND INDUSTRIAL NEEDS OF COMMUNITIES AND RESIDENTIAL AREAS DIRECTLY RELATED TO THE MINERAL EXTRACTION AND METALLURGICAL PROCESSING OPERATION OF THE PERMITTEE.
4. To irrigate land owned or controlled by the permittee which is entitled to the use of groundwater for irrigation.

5. To the Director for such distribution as will best achieve the goals and purposes of the management plan for the active management area.

6. For such other legal purpose as the permittee elects.

C. Groundwater made available to the Director for distribution or allocation under this section is subject to the following conditions:

1. The permittee shall deliver the groundwater to the boundary of his property but shall not be obligated to deliver it further.

2. The permittee shall not be required to treat the chemical quality of the groundwater for distribution or allocation.

3. The permittee shall not be required to make the groundwater available if dewatering ceases, or if all or any portion of the groundwater is needed for a purpose having a higher priority as specified in subsection B of this section.

4. The person actually using the groundwater distributed or allocated by the Director shall be responsible for paying any withdrawal fees required under section 45-611.

5. If the Director sells water, proceeds shall be applied as follows:
   (a) To cover costs, if any, of the Director in delivering water to other users.
   (b) To cover the permittee's cost in transporting water to the boundary of his property.
   (c) To the active management area for general purposes as determined by the Director.

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

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

A. A person who is engaged in or proposes to engage in the extraction and processing of minerals shall be issued a permit to withdraw groundwater in the required amount, if all of the following apply:

1. The amount of groundwater available for mineral extraction, metallurgical processing and compliance with applicable environmental controls under a dewatering permit is insufficient.

2. Uncommitted municipal and industrial Central Arizona Project water is not available at the point where the operator's wellhead or distribution system would otherwise be, at a cost which does not exceed the current municipal and industrial Central Arizona Project delivery rates.

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

B. A permit issued pursuant to this section shall be granted for a period of up to fifty years, subject to renewal under the same criteria used in granting the original permit.
B. 1001

C. IF, DURING THE DURATION OF A MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMIT, THE DIRECTOR DETERMINES THAT UNCOMMITTED MUNICIPAL AND INDUSTRIAL CENTRAL ARIZONA PROJECT WATER IS AVAILABLE OR SURFACE WATER OF ADEQUATE QUALITY OR EFFLUENT OF ADEQUATE QUALITY IS AVAILABLE TO THE PERMITTEE AT A COST COMPARABLE TO GROUNDWATER, THE DIRECTOR MAY REQUIRE THE PERMITTEE TO USE SUCH WATER IN LIEU OF GROUNDWATER.

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

A. THE DIRECTOR SHALL ISSUE A PERMIT TO WITHDRAW GROUNDWATER FROM A POINT OUTSIDE OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY FOR A GENERAL INDUSTRIAL USE OUTSIDE OF THE EXTERIOR BOUNDARIES OF SUCH SERVICE AREA IF THE DIRECTOR DETERMINES THAT ALL OF THE FOLLOWING APPLY:

1. UNCOMMITTED MUNICIPAL AND INDUSTRIAL CENTRAL ARIZONA PROJECT WATER IS NOT AVAILABLE AT THE POINT WHERE THE OPERATOR'S WELLHEAD OR DISTRIBUTION SYSTEM WOULD OTHERWISE BE, AT A COST WHICH DOES NOT EXCEED THE CURRENT MUNICIPAL AND INDUSTRIAL CENTRAL ARIZONA PROJECT RATES.

2. OTHER SURFACE WATER OF ADEQUATE QUALITY OR EFFLUENT OF ADEQUATE QUALITY IS NOT AVAILABLE AT THE POINT WHERE THE OPERATOR'S WELLHEAD OR DISTRIBUTION SYSTEM WOULD OTHERWISE BE, AT A COST, INCLUDING TREATMENT COSTS, WHICH DOES NOT EXCEED BY TWENTY-FIVE PER CENT THE COST THE OPERATOR WOULD OTHERWISE INCUR IN WITHDRAWING GROUNDWATER.

3. IRRIGATION GRANDFATHERED RIGHTS ARE NOT AVAILABLE FOR PURCHASE AT A REASONABLE PRICE OR CANNOT BE ACQUIRED BY EMINENT DOMAIN.

4. THE INTENDED GENERAL INDUSTRIAL USE, IF LOCATED WITHIN THREE MILES OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN OR PRIVATE WATER COMPANY, HAS BEEN DENIED SERVICE BY THE CITY, TOWN OR PRIVATE WATER COMPANY AT THE CUSTOMARY RATE IN THE CUSTOMARY MANNER.

5. THE MANAGEMENT PLAN FOR THE ACTIVE MANAGEMENT AREA CAN BE ADJUSTED TO ACCOMMODATE THE INTENDED GENERAL INDUSTRIAL USE CONSISTENT WITH THE ACHIEVEMENT OF THE OVERALL MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA.

6. THERE IS AN ASSURED WATER SUPPLY FOR THE INTENDED USE AT THE INTENDED POINT OF WITHDRAWAL. FOR PURPOSES OF THIS SECTION, "ASSURED WATER SUPPLY" MEANS SUFFICIENT GROUNDWATER OF ADEQUATE QUALITY WILL BE AVAILABLE TO THE APPLICANT TO SATISFY THE PROJECTED GENERAL INDUSTRIAL USE FOR THE DURATION OF THE PERMIT.

B. A PERMIT ISSUED PURSUANT TO THIS SECTION SHALL BE GRANTED FOR A PERIOD OF UP TO FIFTY YEARS, SUBJECT TO RENEWAL UNDER THE SAME CRITERIA USED IN GRANTING THE ORIGINAL PERMIT.

C. IF, DURING THE LIFE OF THE PERMIT, THE DIRECTOR DETERMINES THAT UNCOMMITTED MUNICIPAL AND INDUSTRIAL CENTRAL ARIZONA PROJECT WATER IS AVAILABLE OR OTHER WATER OR EFFLUENT OF ADEQUATE QUALITY IS AVAILABLE AT A COST COMPARABLE TO GROUNDWATER, THE DIRECTOR MAY REQUIRE THE PERMITTEE TO USE SUCH WATER IN LIEU OF GROUNDWATER.

45-516. Poor quality groundwater withdrawal permit; conditions for issuance; duration of permit...
A. THE DIRECTOR MAY ISSUE A PERMIT TO A NON-IRRIGATION USER TO
WITHDRAW POOR QUALITY GROUNDWATER IF HE DETERMINES THAT THE GROUNDWATER TO
BE WITHDRAWN BECAUSE OF ITS QUALITY HAS NO OTHER BENEFICIAL USE AT THE
PRESENT TIME AND THAT THE WITHDRAWAL OF SUCH GROUNDWATER IS CONSISTENT WITH
THE MANAGEMENT PLAN.

B. A PERMIT ISSUED PURSUANT TO THIS SECTION MAY BE ISSUED FOR A
PERIOD OF UP TO THIRTY-FIVE YEARS, SUBJECT TO SUBSECTION C. THE DIRECTOR
SHALL DETERMINE THE DURATION OF THE PERMIT ON THE BASIS OF THE ESTIMATED
LIFE OF THE SOURCE OF POOR QUALITY GROUNDWATER.

C. THE DIRECTOR SHALL MONITOR WITHDRAWALS OF GROUNDWATER PURSUANT
TO POOR QUALITY GROUNDWATER WITHDRAWAL PERMIT AND SHALL TERMINATE THE
PERMIT IF THE CONDITIONS SPECIFIED IN SUBSECTION A NO LONGER APPLY.

45-517. Temporary permit for electrical energy generation; conditions for issuance

A. THE DIRECTOR SHALL, UPON AN ADEQUATE SHOWING THAT AN EMERGENCY
EXISTS, ISSUE A TEMPORARY PERMIT TO A PERSON ENGAGED IN THE GENERATION OF
ELECTRICAL ENERGY TO WITHDRAW GROUNDWATER IN EXCESS OF THE AMOUNT OF
GROUNDWATER THE PERSON IS LEGALLY ENTITLED TO WITHDRAW UNDER A
GRANDFATHERED RIGHT OR OTHER GROUNDWATER WITHDRAWAL PERMIT.

B. A PERSON MAY WITHDRAW GROUNDWATER IN EXCESS OF THE AMOUNT HE IS
LEGALLY ENTITLED TO WITHDRAW BEFORE A PERMIT IS ISSUED PURSUANT TO THIS
SECTION. SUCH PERSON, AS SOON AS REASONABLY PRACTICABLE AFTER SUCH
WITHDRAWALS OF GROUNDWATER COMMENCE, SHALL SUBMIT EVIDENCE TO THE DIRECTOR
THAT AN EMERGENCY EXISTS.

C. THE DIRECTOR SHALL MONITOR WITHDRAWALS OF GROUNDWATER PURSUANT
TO A TEMPORARY PERMIT AND SHALL TERMINATE THE PERMIT WHEN THE EMERGENCY
ENDS.

45-518. Temporary dewatering permit; conditions for issuance; duration of permit

A. THE DIRECTOR MAY ISSUE A TEMPORARY PERMIT TO A PERSON TO WITHDRAW
GROUNDWATER FOR Dewatering purposes if the director determines that:
1. Dewatering is necessary for the beneficial use of the land from
which the groundwater is proposed to be withdrawn.
2. Dewatering is consistent within the management plan for the
active management area.

B. A PERMIT ISSUED PURSUANT TO THIS SECTION MAY BE ISSUED FOR A
PERIOD OF UP TO ONE YEAR, SUBJECT TO SUBSECTION C.

C. THE DIRECTOR SHALL MONITOR WITHDRAWALS OF GROUNDWATER PURSUANT
TO A TEMPORARY Dewatering PERMIT AND SHALL TERMINATE THE PERMIT IF THE
CONDITIONS SPECIFIED IN SUBSECTION A NO LONGER APPLY.

45-519. Drainage water withdrawal permit; conditions for issuance

A. THE DIRECTOR MAY ISSUE A PERMIT TO A PERSON TO WITHDRAW
GROUNDWATER FOR DRAINAGE PURPOSES IF HE DETERMINES THAT DRAINAGE OF
IRRIGATED LANDS IS NECESSARY FOR A REASONABLE ECONOMIC RETURN FROM
AGRICULTURAL PRODUCTION IN RESPECT TO THOSE LANDS AND THE WITHDRAWAL OF
SUCH GROUNDWATER IS CONSISTENT WITH THE MANAGEMENT PLAN FOR THE ACTIVE
MANAGEMENT AREA.
B. THE DIRECTOR SHALL MONITOR WITHDRAWALS OF GROUNDWATER PURSUANT TO A DRAINAGE PERMIT AND SHALL TERMINATE THE PERMIT IF THE CONDITIONS FOR ISSUANCE SPECIFIED IN SUBSECTION A NO LONGER APPLY. A PERMIT ISSUED PURSUANT TO THIS SECTION MAY BE RENewed SUBJECT TO THE SAME CRITERIA USED IN GRANTING THE ORIGINAL PERMIT.

45-520. Point of withdrawal; location of use; conveyance
A. A PERSON WHO WITHDRAWS GROUNDWATER UNDER A PERMIT ISSUED PURSUANT TO THIS ARTICLE MAY CHANGE HIS POINT OR POINTS OF WITHDRAWAL ONLY PURSUANT TO SECTIONS 45-597 AND 45-598 AND MAY CHANGE HIS LOCATION OF USE ONLY WITH THE APPROVAL OF THE DIRECTOR AND BY APPLYING FOR A MODIFICATION OF THE PERMIT PURSUANT TO SECTION 45-527.
B. A TEMPORARY PERMIT ISSUED PURSUANT TO SECTION 45-517 OR 45-518 MAY NOT BE CONVEYED. ALL OTHER PERMITS ISSUED PURSUANT TO THIS ARTICLE MAY BE CONVEYED ONLY FOR THE SAME USE, SUBJECT TO THE APPROVAL OF THE DIRECTOR.

45-521. Permit application form; filing; contents
APPLICATION FOR A PERMIT TO WITHDRAW GROUNDWATER PURSUANT TO THIS ARTICLE SHALL BE MADE ON A FORM PROVIDED BY THE DIRECTOR WHICH SHALL INCLUDE THE FOLLOWING INFORMATION:
1. THE NAME AND MAILING ADDRESS OF THE APPLICANT.
2. THE NAME OF THE ACTIVE MANAGEMENT AREA AND SUB-BASIN, IF ANY, IN WHICH THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER.
3. THE NAME AND MAILING ADDRESS OF THE OWNER OF THE LAND FROM WHICH THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER.
4. THE LEGAL DESCRIPTION OF THE LAND ON WHICH THE APPLICANT PROPOSES TO USE GROUNDWATER AND THE NAME AND MAILING ADDRESS OF THE OWNER OF SUCH LAND.
5. THE CATEGORY OF PERMIT FOR WHICH APPLICATION IS MADE.
6. THE SPECIFIC PURPOSE FOR WHICH THE GROUNDWATER WILL BE WITHDRAWN.
7. THE ANNUAL AMOUNT OF GROUNDWATER, IN ACRE-FEET, FOR WHICH APPLICATION IS MADE.
8. IF THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER FROM AN EXISTING WELL OR WELLS, THE LOCATION OF EACH SUCH WELL AND THE DEPTH AND DIAMETER OF EACH WELL AND SUCH OTHER INFORMATION THE DIRECTOR REQUIRES.
9. IF THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER FROM A NEW WELL OR WELLS, THE PROPOSED LOCATION OF EACH SUCH WELL AND THE DEPTH AND DIAMETER PROPOSED FOR EACH WELL AND SUCH OTHER INFORMATION THE DIRECTOR REQUIRES.
10. IF APPLICATION IS MADE FOR A DEWATERING PERMIT PURSUANT TO SECTION 45-513:
   (a) THE ESTIMATED AMOUNT OF GROUNDWATER NECESSARY TO MEET MINERAL EXTRACTION AND METALLURGICAL PROCESSING REQUIREMENTS OF THE APPLICANT.
   (b) THE ESTIMATED AMOUNT OF GROUNDWATER NECESSARY FOR MUNICIPAL AND INDUSTRIAL NEEDS OF COMMUNITIES AND RESIDENTIAL AREAS DIRECTLY RELATED TO THE MINERAL EXTRACTION AND METALLURGICAL PROCESSING OPERATION OF THE APPLICANT.
   (c) THE LEGAL DESCRIPTION OF THE ACRES OF LAND OWNED OR CONTROLLED BY THE APPLICANT ENTITLED TO THE USE OF GROUNDWATER FOR IRRIGATION.
11. IF APPLICATION IS MADE FOR A MINERAL EXTRACTION AND METALLURGICAL PROCESSING PERMIT PURSUANT TO SECTION 45-514:
(a) THE AMOUNT OF GROUNDWATER AVAILABLE TO THE APPLICANT UNDER A DEWATERING PERMIT PREVIOUSLY OBTAINED BY THE APPLICANT.
(b) THE ESTIMATED COST THE APPLICANT WOULD INCUR IN WITHDRAWING GROUNDWATER AT A POINT WHERE HIS WELLHEAD OR DISTRIBUTION SYSTEM WOULD OTHERWISE BE.

12. IF APPLICATION IS MADE FOR A GENERAL INDUSTRIAL USE PERMIT PURSUANT TO SECTION 45-515:
(a) THE ESTIMATED COST THE APPLICANT WOULD INCUR IN WITHDRAWING GROUNDWATER AT THE POINT WHERE HIS WELLHEAD OR DISTRIBUTION SYSTEM WOULD OTHERWISE BE.
(b) PROOF OF DENIAL OF SERVICE OR INACTION ON A SERVICE REQUEST BY A CITY, TOWN OR PRIVATE WATER COMPANY IF THE LOCATION OF THE APPLICANT'S INTENDED USE IS WITHIN THREE MILES OF THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF SUCH CITY, TOWN OR PRIVATE WATER COMPANY.
(c) STUDIES SATISFACTORY TO THE DIRECTOR OF THE PROBABLE HYDROLOGIC IMPACT ON THE GROUNDWATER RESOURCES WHICH THE APPLICANT PROPOSES TO USE INCLUDING EVIDENCE OF THE AVAILABILITY OF AN ASSURED WATER SUPPLY FOR THE INTENDED USE.

13. IF APPLICATION IS MADE FOR A TEMPORARY DEWATERING PERMIT PURSUANT TO SECTION 45-518, EVIDENCE DEMONSTRATING THAT A TEMPORARY DEWATERING PERMIT IS NECESSARY FOR BENEFICIAL USE OF THE LAND FROM WHICH THE GROUNDWATER IS PROPOSED TO BE WITHDRAWN.

14. IF APPLICATION IS MADE FOR A DRAINAGE WATER PERMIT PURSUANT TO SECTION 45-519:
(a) EVIDENCE THAT DRAINAGE OF THE APPLICANT'S IRRIGATED LANDS IS NECESSARY FOR A REASONABLE ECONOMIC RETURN FROM AGRICULTURAL PRODUCTION ON SUCH LANDS.
(b) THE LEGAL DESCRIPTION OF THE ACRES OF LAND OWNED OR CONTROLLED BY THE APPLICANT ENTITLED TO THE USE OF GROUNDWATER FOR IRRIGATION.

15. A SWORN STATEMENT THAT THE INFORMATION CONTAINED IN THE APPLICATION IS TRUE AND CORRECT TO THE BEST BELIEF AND KNOWLEDGE OF THE APPLICANT.

16. ANY OTHER INFORMATION WHICH THE DIRECTOR MAY REQUIRE.

45-522. Correction of application

45-523. Notice; objections; hearing
A. WHEN THE PERMIT APPLICATION IS DETERMINED COMPLETE AND CORRECT, THE DIRECTOR SHALL, WITHIN THIRTY DAYS OF SUCH DETERMINATION, GIVE NOTICE OF THE APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE ACTIVE
MANAGEMENT AREA IN WHICH THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER IS
LOCATED.

B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT
OBJECTIONS TO THE ISSUANCE OF THE PERMIT MAY BE FILED, BY PERSONS RESIDING
IN THE ACTIVE MANAGEMENT AREA, IN WRITING, WITH THE DIRECTOR WITHIN THIRTY
DAYS AFTER THE LAST PUBLICATION OF NOTICE AND THAT OBJECTIONS ARE LIMITED
TO WHETHER THE PERMIT APPLICATION MEETS THE CRITERIA FOR ISSUANCE OF A
PERMIT AS SET FORTH IN THIS ARTICLE. AN OBJECTION SHALL STATE THE NAME AND
MAILING ADDRESS OF THE OBJECTOR, BE SIGNED BY THE OBJECTOR, HIS AGENT OR
ATTORNEY AND CLEARLY SET FORTH REASONS WHY THE PERMIT SHOULD NOT BE
ISSUED.

C. IN APPROPRIATE CASES, INCLUDING CASES WHERE A PROPER WRITTEN
OBJECTION TO THE PERMIT APPLICATION HAS BEEN FILED, THE DIRECTOR MAY HOLD A
HEARING ON THE APPLICATION. THE DIRECTOR SHALL, THIRTY DAYS PRIOR TO THE
DATE OF THE HEARING, GIVE NOTICE IN THE MANNER DESCRIBED IN SUBSECTION A OF
THIS SECTION. THE HEARING SHALL BE SCHEDULED FOR NOT LESS THAN SIXTY DAYS
OR MORE THAN NINETY DAYS AFTER THE EXPIRATION OF THE TIME IN WHICH TO FILE
OBJECTIONS. A HEARING SHALL BE CONDUCTED AS PROVIDED IN SECTION 45-480,
SUBSECTION B.

45-524. Approval or rejection of permit application
A. THE APPROVAL OR REJECTION OF AN APPLICATION FOR A PERMIT SHALL BE
ENDORSED ON THE APPLICATION AND DATED. IF THE PERMIT IS DENIED, THE
DIRECTOR SHALL RETURN THE APPLICATION TO THE APPLICANT SPECIFICALLY
STATING THE REASONS FOR DENIAL.

B. A PERMIT ISSUED BY THE DIRECTOR SHALL CONTAIN THE FOLLOWING
INFORMATION:
1. THE NAME AND MAILING ADDRESS OF THE PERSON TO WHOM THE PERMIT IS
ISSUED.
2. THE NAME OF THE ACTIVE MANAGEMENT AREA AND SUB-BASIN IN WHICH THE
GROUNDWATER MAY BE WITHDRAWN.
3. THE CATEGORY OF PERMIT ISSUED.
4. THE SPECIFIC PURPOSE FOR WHICH THE PERMIT IS ISSUED.
5. THE POINT OR POINTS OF WITHDRAWAL OF GROUNDWATER PURSUANT TO THE
PERMIT.
6. THE LEGAL DESCRIPTION OF THE LAND ON WHICH THE GROUNDWATER MAY BE
USED.
7. THE TOTAL ANNUAL AMOUNT OF GROUNDWATER THAT MAY BE WITHDRAWN.
8. IF GROUNDWATER IS TO BE WITHDRAWN FROM A NEW WELL OR WELLS, THE
DEPTH, DIAMETER AND GENERAL SPECIFICATIONS FOR EACH SUCH WELL.
9. THE DURATION OF THE PERMIT.
10. CONDITIONS ON THE PERMIT AUTHORIZED BY THIS CHAPTER OR RULES OR
REGULATIONS ADOPTED PURSUANT TO THIS CHAPTER AND SUCH OTHER INFORMATION AS
THE DIRECTOR MAY DETERMINE.

45-525. Registry of permits; reporting
A. THE DIRECTOR SHALL ESTABLISH AND MAINTAIN A REGISTRY OF PERMITS
FOR EACH ACTIVE MANAGEMENT AREA. THE REGISTRY SHALL INCLUDE A COPY OF EACH
PERMIT IN THE ACTIVE MANAGEMENT AREA AND SUCH OTHER PERTINENT INFORMATION
AS THE DIRECTOR DETERMINES IS NECESSARY.
B. A person to whom a permit is issued shall notify the director of a change in name or mailing address, a change in point of withdrawal or a conveyance of a permit pursuant to Section 45-520. A person to whom a permit is conveyed shall notify the director of the conveyance and shall furnish information as required by the director to keep the registry current and accurate. The director shall have continuing jurisdiction and shall issue revised permits as necessary.

C. The director may require holders of permits to file additional information with the annual report required by Section 45-632 as necessary to keep the registry current and accurate. For purposes of this article, "holder" means a person to whom a permit is issued or a person to whom a permit is conveyed.

45-526. Appeals
A person whose application is denied or a person who contested a permit by filing a proper objection pursuant to Section 45-523 may appeal the decision as provided in Section 45-405.

45-527. Modification of permit
A permittee may seek modification of an unexpired groundwater withdrawal permit and renewal of a permit within six months prior to the date of the expiration of the permit. All permit modifications or renewal applications shall be treated in the same manner as the initial permit application and are subject to the same criteria used in issuing the initial permit.

45-528. Revocation of permits
A. After a hearing in the manner provided in Section 45-480, Subsection B, the director may permanently, or temporarily, in whole or in part, revoke a groundwater withdrawal permit for any of the following reasons:

1. For a material false statement in an application to initiate, modify or renew a permit, or for a material false statement in any report required to be filed by a person withdrawing or using groundwater pursuant to the provisions of this chapter.

2. For violation of the terms of the permit.

3. For failure to exercise a permit for five or more consecutive years.

B. The director may revoke a groundwater withdrawal permit with the written consent of the permittee and in such case a hearing is not required.

ARTICLE 8. TRANSPORTATION OF GROUNDWATER

45-541. Transportation within a sub-basin
A. Groundwater which is withdrawn pursuant to a grandfathered right or a groundwater withdrawal permit may be transported without payment of damages within a sub-basin of an active management area, subject to the limitations on location of use in Sections 45-472 and 45-473.

B. Groundwater which is withdrawn by a city, town or private water company within its service area may be transported without payment of damages within its service area within a sub-basin of an active management area.
C. GROUNDWATER WHICH IS WITHDRAWN BY A CITY OR TOWN WITHIN ITS SERVICE AREA MAY BE TRANSPORTED PURSUANT TO A DELIVERY CONTRACT AUTHORIZED BY SECTION 45-492, SUBSECTION C, WITHOUT PAYMENT OF DAMAGES, WITHIN A SUB-BASIN OF AN ACTIVE MANAGEMENT AREA.

D. GROUNDWATER WHICH IS WITHDRAWN BY AN IRRIGATION DISTRICT WITHIN ITS SERVICE AREA MAY BE TRANSPORTED WITHOUT PAYMENT OF DAMAGES WITHIN ITS SERVICE AREA WITHIN A SUB-BASIN OF AN ACTIVE MANAGEMENT AREA.

45-542. Transportation between sub-basins or away from an active management area; irrigation grandfathered right; type 1 non-irrigation grandfathered right

A. GROUNDWATER WHICH IS WITHDRAWN PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT MAY BE TRANSPORTED BETWEEN SUB-BASINS OF AN ACTIVE MANAGEMENT AREA OR AWAY FROM AN ACTIVE MANAGEMENT AREA, SUBJECT TO THE LIMITATIONS ON LOCATION OF USE IN SECTION 45-472.

B. GROUNDWATER WHICH IS WITHDRAWN PURSUANT TO A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT MAY BE TRANSPORTED BETWEEN SUB-BASINS OF AN ACTIVE MANAGEMENT AREA OR AWAY FROM AN ACTIVE MANAGEMENT AREA, SUBJECT TO THE LIMITATIONS ON LOCATION OF USE IN SECTION 45-473.

C. TRANSPORTATIONS OF GROUNDWATER PURSUANT TO THIS SECTION ARE NOT SUBJECT TO PAYMENT OF DAMAGES IF THE AMOUNT TRANSPORTED DOES NOT EXCEED THREE ACRE-FEET PER ACRE PER YEAR WITHDRAWN FROM RETIRED IRRIGATED LAND. TRANSPORTATIONS OF GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT IN EXCESS OF THREE ACRE-FEET PER ACRE PER YEAR WITHDRAWN FROM RETIRED IRRIGATED LAND ARE SUBJECT TO PAYMENT OF DAMAGES.

45-543. Transportation between sub-basins or away from an active management area; damages; non-irrigation grandfathered right not associated with retired irrigated land; service area withdrawals; permit

A. GROUNDWATER MAY BE TRANSPORTED BETWEEN SUB-BASINS OF AN ACTIVE MANAGEMENT AREA OR AWAY FROM AN ACTIVE MANAGEMENT AREA, SUBJECT TO PAYMENT OF DAMAGES, IF THE GROUNDWATER IS WITHDRAWN:

1. PURSUANT TO A TYPE 2 NON-IRRIGATION GRANDFATHERED RIGHT.
2. BY A CITY, TOWN OR PRIVATE WATER COMPANY WITHIN ITS SERVICE AREA AND TRANSPORTED WITHIN ITS SERVICE AREA.
3. BY AN IRRIGATION DISTRICT WITHIN ITS SERVICE AREA AND TRANSPORTED WITHIN ITS SERVICE AREA.
4. PURSUANT TO A GROUNDWATER WITHDRAWAL PERMIT.

B. GROUNDWATER WHICH IS WITHDRAWN BY A CITY OR TOWN WITHIN ITS SERVICE AREA MAY BE TRANSPORTED PURSUANT TO A DELIVERY CONTRACT AUTHORIZED BY SECTION 45-492, SUBSECTION C BETWEEN SUB-BASINS OF AN ACTIVE MANAGEMENT AREA AND SHALL BE SUBJECT TO PAYMENT OF DAMAGES UNLESS THE GROUNDWATER IS WITHDRAWN PURSUANT TO A TYPE 1 NON-IRRIGATION GRANDFATHERED RIGHT.

45-544. Transportation in areas not subject to active management; damages

IN AREAS OUTSIDE OF ACTIVE MANAGEMENT AREAS, GROUNDWATER MAY BE TRANSPORTED:

1. WITHIN A SUB-BASIN OF A GROUNDWATER BASIN OR WITHIN A GROUNDWATER BASIN, IF THERE ARE NO SUB-BASINS, WITHOUT PAYMENT OF DAMAGES.
2. BETWEEN SUB-BASINS OF A GROUNDWATER BASIN OR AWAY FROM A
GROUNDWATER BASIN, SUBJECT TO PAYMENT OF DAMAGES.
45-545. Damage rules applicable to all
transportations of groundwater
A. IN ACTIVE MANAGEMENT AREAS AND IN AREAS OUTSIDE OF ACTIVE
MANAGEMENT AREAS, IN ANY ACTION TO RECOVER DAMAGES, NEITHER INJURY TO NOR
IMPAIRMENT OF THE WATER SUPPLY OF ANY LANDOWNER SHALL BE PRESUMED FROM THE
FACT OF TRANSPORTATION.
B. IN DETERMINING WHETHER THERE HAS BEEN INJURY AND THE EXTENT OF
ANY INJURY, THE COURT SHALL CONSIDER ALL ACTS OF THE PERSON TRANSPORTING
GROUNDWATER TOWARD THE MITIGATION OF INJURY INCLUDING:
1. RETIREMENT OF LAND FROM IRRIGATION.
2. DISCONTINUANCE OF OTHER PREEXISTING USES OF GROUNDWATER.
3. WATER CONSERVATION TECHNIQUES.
4. PROCUREMENT OF ADDITIONAL SOURCES OF WATER WHICH BENEFIT THE
ACTIVE MANAGEMENT AREA, SUB-BASIN OR LANDOWNERS WITHIN THE ACTIVE
MANAGEMENT AREA OR SUB-BASIN.
C. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, EXPERT WITNESS
EXPENSES AND FEES AND COURT COSTS TO THE PREVAILING PARTY.

ARTICLE 9. MANAGEMENT
45-561. Definitions
IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "AUGMENTATION" MEANS TO SUPPLEMENT THE WATER SUPPLY OF AN ACTIVE
MANAGEMENT AREA AND MAY INCLUDE THE IMPORTATION OF WATER INTO THE ACTIVE
MANAGEMENT AREA, STORAGE OF WATER OR ARTIFICIAL GROUNDWATER RECHARGE.
2. "INTERMEDIATE WATER DUTY" MEANS AN IRRIGATION WATER DUTY, AS
DEFINED IN SECTION 45-402, WHICH IS ESTABLISHED BY THE DIRECTOR DURING A
MANAGEMENT PERIOD TO APPLY FOR A SPECIFIC NUMBER OF YEARS DURING THE
MANAGEMENT PERIOD.
3. "MANAGEMENT PERIOD" MEANS A PERIOD OF YEARS PRESCRIBED BY
SECTIONS 45-564 THROUGH 45-568 DURING WHICH A PRESCRIBED MANAGEMENT PLAN
APPLIES.
4. "MUNICIPAL USE" MEANS ALL NON-IRRIGATION USES OF WATER SUPPLIED-
BY A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT.
5. "SAFE-YIELD" MEANS A GROUNDWATER MANAGEMENT GOAL WHICH ATTEMPTS
TO ACHIEVE AND THEREAFTER MAINTAIN A LONG-TERM BALANCE BETWEEN THE ANNUAL
AMOUNT OF GROUNDWATER WITHDRAWN IN AN ACTIVE MANAGEMENT AREA AND THE ANNUAL
AMOUNT OF NATURAL AND ARTIFICIAL GROUNDWATER RECHARGE IN THE ACTIVE
MANAGEMENT AREA.
45-562. Management goals for initial active management
areas
A. THE MANAGEMENT GOAL OF THE TUCSON, PHOENIX AND PRESCOTT ACTIVE
MANAGEMENT AREAS IS SAFE-YIELD BY JANUARY 1, 2025, OR SUCH EARLIER DATE AS
MAY BE DETERMINED BY THE DIRECTOR.
B. THE MANAGEMENT GOAL OF THE PINAL ACTIVE MANAGEMENT AREA IS TO
ALLOW DEVELOPMENT OF NON-IRRIGATION USES AS PROVIDED IN THIS CHAPTER AND TO
PREVENT EXISTING AGRICULTURAL ECONOMIES IN THE ACTIVE MANAGEMENT AREA FOR
AS LONG AS FEASIBLE, CONSISTENT WITH THE NECESSITY TO PRESERVE FUTURE WATER
SUPPLIES FOR NON-IRRIGATION USES.
C. ALL INITIAL ACTIVE MANAGEMENT AREAS ARE SUBJECT TO ALL
PROVISIONS OF THIS CHAPTER.

45-563. Management plans in initial active management areas;
management periods; general provisions
THE DIRECTOR SHALL DEVELOP A MANAGEMENT PLAN FOR EACH INITIAL ACTIVE
MANAGEMENT AREA FOR EACH OF FIVE MANAGEMENT PERIODS PURSUANT TO THE
GUIDELINES PRESCRIBED IN SECTIONS 45-564 THROUGH 45-568 AND SHALL ADOPT
THE PLANS ONLY AFTER PUBLIC HEARINGS PURSUANT TO SECTIONS 45-570 AND
45-571. THE PLANS SHALL INCLUDE A CONTINUING MANDATORY CONSERVATION
PROGRAM FOR ALL PERSONS WITHDRAWING, DISTRIBUTING OR RECEIVING GROUNDWATER
DESIGNED TO ACHIEVE REDUCTIONS IN WITHDRAWALS OF GROUNDWATER.

45-564. Management plan for first management period;
guidelines
A. FOR THE FIRST MANAGEMENT PERIOD, 1980 TO 1990, THE DIRECTOR
SHALL PROMULGATE MANAGEMENT PLANS FOR THE PHOENIX, TUCSON AND PRESCOTT
ACTIVE MANAGEMENT AREAS NOT LATER THAN JANUARY 1, 1983 AND FOR THE PINAL
ACTIVE MANAGEMENT AREA NOT LATER THAN JULY 1, 1985. IN EACH PLAN, THE
DIRECTOR SHALL ESTABLISH:
1. AN IRRIGATION WATER DUTY FOR EACH FARM UNIT IN THE ACTIVE
MANAGEMENT AREA. THE IRRIGATION WATER DUTY SHALL BE CALCULATED AS THE
QUANTITY OF WATER REASONABLY REQUIRED TO IRRIGATE THE CROPS HISTORICALLY
GROWN IN A FARM UNIT AND SHALL ASSUME CONSERVATION METHODS BEING USED IN
THE STATE WHICH WOULD BE REASONABLE FOR THE FARM UNIT INCLUDING LINED
DITCHES, PUMP-BACK SYSTEMS, LAND LEVELING AND EFFICIENT APPLICATION
PRACTICES, BUT NOT INCLUDING A CHANGE FROM FLOOD IRRIGATION TO DRIP
IRRIGATION OR SPRINKLER IRRIGATION.
2. A CONSERVATION PROGRAM FOR ALL NON-IRRIGATION USES OF
GROUNDWATER. FOR MUNICIPAL USES, THE PROGRAM SHALL REQUIRE REASONABLE
REDUCTIONS IN PER CAPITA USE AND SUCH OTHER CONSERVATION MEASURES AS MAY BE
APPROPRIATE FOR INDIVIDUAL USERS. FOR INDUSTRIAL USES INCLUDING
INDUSTRIAL USES WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A
CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT, THE PROGRAM
SHALL REQUIRE USE OF THE LATEST COMMERCIAL AVAILABLE CONSERVATION
TECHNOLOGY CONSISTENT WITH REASONABLE ECONOMIC RETURN.
3. ECONOMICALLY REASONABLE CONSERVATION REQUIREMENTS FOR THE
DISTRIBUTION OF GROUNDWATER BY CITIES, TOWNS, PRIVATE WATER COMPANIES AND
IRRIGATION DISTRICTS WITHIN THEIR SERVICE AREAS.
B. WITHIN THIRTY DAYS AFTER THE MANAGEMENT PLAN FOR THE FIRST
MANAGEMENT PERIOD IS ADOPTED, THE DIRECTOR SHALL GIVE WRITTEN NOTICE OF:
1. THE IRRIGATION WATER DUTY FOR THE FARM UNIT TO EACH PERSON IN THE
FARM UNIT WHO IS ENTITLED TO WITHDRAW OR RECEIVE GROUNDWATER PURSUANT TO AN
IRRIGATION GRANDFATHERED RIGHT AND TO EACH PERSON DISTRIBUTING GROUNDWATER
PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT.
2. THE MUNICIPAL CONSERVATION REQUIREMENTS INCLUDED IN THE
MANAGEMENT PLAN FOR REDUCTIONS IN PER CAPITA USE AND FOR THE USE OF
APPROPRIATE CONSERVATION MEASURES BY INDIVIDUAL USERS TO EACH PERSON WHO
IS ENTITLED TO WITHDRAW OR DISTRIBUTE GROUNDWATER FOR MUNICIPAL USE IN THE
ACTIVE MANAGEMENT AREA.
3. THE INDUSTRIAL CONSERVATION REQUIREMENTS INCLUDED IN THE MANAGEMENT PLAN FOR EACH PERSON WHO IS ENTITLED TO WITHDRAW OR RECEIVE GROUNDWATER FOR AN INDUSTRIAL USE IN THE ACTIVE MANAGEMENT AREA.

4. THE CONSERVATION REQUIREMENTS INCLUDED IN THE MANAGEMENT PLAN FOR THE DISTRIBUTION OF GROUNDWATER BY CITIES, TOWNS, PRIVATE WATER COMPANIES AND IRRIGATION DISTRICTS WITHIN THEIR SERVICE AREAS TO EACH CITY, TOWN, PRIVATE WATER COMPANY AND IRRIGATION DISTRICT IN THE ACTIVE MANAGEMENT AREA.

C. ALL PERSONS NOTIFIED PURSUANT TO SUBSECTION B OF THIS SECTION SHALL COMPLY WITH THE IRRIGATION WATER DUTY OR APPLICABLE CONSERVATION REQUIREMENTS WITHIN TWO YEARS FROM THE DATE OF THE NOTICE, UNLESS A PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574.

45-565. Management plan for second management period; guidelines

A. FOR THE SECOND MANAGEMENT PERIOD, 1990 TO 2000, THE DIRECTOR SHALL PROMULGATE A MANAGEMENT PLAN FOR EACH INITIAL ACTIVE MANAGEMENT AREA NOT LATER THAN JANUARY 1, 1988. IN EACH PLAN THE DIRECTOR SHALL:

1. ESTABLISH A NEW IRRIGATION WATER DUTY FOR EACH FARM UNIT TO BE REACHED BY THE END OF THE SECOND MANAGEMENT PERIOD AND MAY ESTABLISH ONE OR MORE INTERMEDIATE WATER DUTIES TO BE REACHED AT SPECIFIED INTERVALS DURING THE SECOND MANAGEMENT PERIOD. THE IRRIGATION WATER DUTY AND ANY INTERMEDIATE WATER DUTIES SHALL BE CALCULATED AS THE QUANTITY OF WATER REASONABLY REQUIRED TO IRRIGATE THE CROPS HISTORICALLY GROWN IN THE FARM UNIT AND SHALL ASSUME THE MAXIMUM CONSERVATION CONSISTENT WITH PRUDENT LONG-TERM FARM MANAGEMENT PRACTICES WITHIN AREAS OF SIMILAR FARMING CONDITIONS, CONSIDERING THE TIME REQUIRED TO AMORTIZE CONSERVATION INVESTMENTS AND FINANCING COSTS.

2. ESTABLISH ADDITIONAL CONSERVATION REQUIREMENTS FOR ALL NON-IRRIGATION USES OF GROUNDWATER AND A SCHEDULE FOR COMPLIANCE WITH THOSE REQUIREMENTS. FOR MUNICIPAL USES, THE PROGRAM SHALL REQUIRE ADDITIONAL REASONABLE REDUCTIONS IN PER CAPITA USE TO THOSE REQUIRED IN THE FIRST MANAGEMENT PERIOD AND USE OF SUCH OTHER CONSERVATION MEASURES AS MAY BE APPROPRIATE FOR INDIVIDUAL USERS. FOR INDUSTRIAL USES INCLUDING INDUSTRIAL USES WITHIN THE EXTERIOR BOUNDARIES OF THE SERVICE AREA OF A CITY, TOWN, PRIVATE WATER COMPANY OR IRRIGATION DISTRICT, THE PROGRAM SHALL REQUIRE USE OF THE LATEST COMMERCIALLY AVAILABLE CONSERVATION TECHNOLOGY CONSISTENT WITH REASONABLE ECONOMIC RETURN.

3. ESTABLISH ADDITIONAL ECONOMICALLY REASONABLE CONSERVATION REQUIREMENTS FOR THE DISTRIBUTION OF GROUNDWATER BY CITIES, TOWNS, PRIVATE WATER COMPANIES AND IRRIGATION DISTRICTS WITHIN THEIR SERVICE AREAS.

4. INCLUDE A PROGRAM FOR AUGMENTATION OF THE WATER SUPPLY OF THE ACTIVE MANAGEMENT AREA INCLUDING INCENTIVES FOR ARTIFICIAL GROUNDWATER RECHARGE.

5. IN COOPERATION WITH THE DEPARTMENT OF HEALTH SERVICES, INCLUDE AN ASSESSMENT OF GROUNDWATER QUALITY IN THE ACTIVE MANAGEMENT AREA AND ANY PROPOSED PROGRAM FOR GROUNDWATER QUALITY PROTECTION. ANY SUCH PROGRAM SHALL BE SUBMITTED TO THE LEGISLATURE FOR ANY NECESSARY ENABLING LEGISLATION OR COORDINATION WITH EXISTING PROGRAMS OF THE DEPARTMENT OF HEALTH SERVICES.
B. Within thirty days after the management plan for the second management period is adopted, the director shall give written notice in the manner and to the persons prescribed in section 45-564, subsection B.

C. All persons notified pursuant to subsection B of this section shall comply with the irrigation water duty or applicable conservation requirements for the second management period not later than January 1, 2000, unless the person obtains a variance pursuant to section 45-574. If an intermediate water duty has been established, a person who is entitled to withdraw or receive groundwater pursuant to an irrigation grandfathered right shall comply with the intermediate water duty not later than the compliance date specified in the management plan, unless the person obtains a variance pursuant to section 45-574.

45-566. Management plan for third management period:

A. For the third management period, 2000 to 2010, the director shall promulgate a management plan for each initial active management area not later than January 1, 1998. In each plan the director:

1. Shall establish a new irrigation water duty for each farm unit to be reached by the end of the third management period and may establish one or more intermediate water duties to be reached at specified intervals during the third management period. The irrigation water duty or intermediate water duties for the third management period shall be calculated as the quantity of water reasonably required to irrigate the crops historically grown in the farm unit and shall assume the maximum conservation consistent with prudent long-term farm management practices within areas of similar farming conditions, considering the time required to amortize conservation investments and financing costs. In setting the irrigation water duty or intermediate water duties for the third management period, the director may adjust the highest twenty-five percent of the water duties within the sub-basin to more clearly reflect the average of the middle fifty percent of the water duties within the sub-basin.

2. Shall establish additional conservation requirements for all non-irrigation uses of groundwater and a schedule for compliance with those requirements. For municipal uses, the program shall require additional reasonable reductions in per capita use to those required in the second management period and use of such other conservation measures as may be appropriate for individual users. For industrial uses including industrial uses within the exterior boundaries of the service area of a city, town, private water company or irrigation district, the program shall require use of the latest commercially available conservation technology consistent with reasonable economic return.

3. Shall establish additional economically reasonable conservation requirements for the distribution of groundwater by cities, towns, private water companies and irrigation districts within their service areas.

4. Shall include a program for additional augmentation of the water supply of the active management area, if feasible, including incentives for artificial groundwater recharge.
5. SHALL, IN COOPERATION WITH THE DEPARTMENT OF HEALTH SERVICES, INCLUDE AN ASSESSMENT OF GROUNDWATER QUALITY IN THE ACTIVE MANAGEMENT AREA AND ANY PROPOSED PROGRAM FOR GROUNDWATER QUALITY PROTECTION. ANY SUCH PROGRAM SHALL BE SUBMITTED TO THE LEGISLATURE FOR ANY NECESSARY ENABLING LEGISLATION OR COORDINATION WITH EXISTING PROGRAMS OF THE DEPARTMENT OF HEALTH SERVICES.

6. MAY INCLUDE A PROGRAM FOR THE PURCHASE AND RETIREMENT OF GRANDFATHERED RIGHTS BY THE DEPARTMENT TO BEGIN NO EARLIER THAN JANUARY 1, 2006.

B. WITHIN THIRTY DAYS AFTER THE MANAGEMENT PLAN FOR THE THIRD MANAGEMENT PERIOD IS ADOPTED, THE DIRECTOR SHALL GIVE WRITTEN NOTICE IN THE MANNER AND TO THE PERSONS PRESCRIBED IN SECTION 45-564, SUBSECTION B.

C. ALL PERSONS NOTIFIED PURSUANT TO SUBSECTION B OF THIS SECTION SHALL COMPLY WITH THE IRRIGATION WATER DUTY OR APPLICABLE CONSERVATION REQUIREMENTS FOR THE THIRD MANAGEMENT PERIOD NOT LATER THAN JANUARY 1, 2010, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574. IF AN INTERMEDIATE WATER DUTY HAS BEEN ESTABLISHED, A PERSON WHO IS ENTITLED TO WITHDRAW OR RECEIVE GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT SHALL COMPLY WITH THE INTERMEDIATE WATER DUTY NOT LATER THAN THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574.

45-567. Management plan for fourth management period;

A. FOR THE FOURTH MANAGEMENT PERIOD, 2010 TO 2020, THE DIRECTOR SHALL PROMULGATE A MANAGEMENT PLAN FOR EACH INITIAL ACTIVE MANAGEMENT AREA NOT LATER THAN JANUARY 1, 2008. THE PLANS MAY INCLUDE, WHERE FEASIBLE:

1. A NEW IRRIGATION WATER DUTY OR INTERMEDIATE WATER DUTIES.
2. ADDITIONAL CONSERVATION REQUIREMENTS FOR NON-IRRIGATION USES AND A SCHEDULE FOR COMPLIANCE WITH THOSE REQUIREMENTS.
3. ADDITIONAL ECONOMICALLY REASONABLE CONSERVATION REQUIREMENTS FOR THE DISTRIBUTION OF GROUNDWATER BY CITIES, TOWNS, PRIVATE WATER COMPANIES AND IRRIGATION DISTRICTS WITHIN THEIR SERVICE AREAS.
4. A PROGRAM FOR ADDITIONAL AUGMENTATION OF THE WATER SUPPLY OF THE ACTIVE MANAGEMENT AREA INCLUDING INCENTIVES FOR ARTIFICIAL GROUNDWATER RECHARGE.

5. IN COOPERATION WITH THE DEPARTMENT OF HEALTH SERVICES, AN ASSESSMENT OF GROUNDWATER QUALITY IN THE ACTIVE MANAGEMENT AREA AND ANY PROPOSED PROGRAM FOR GROUNDWATER QUALITY PROTECTION. ANY SUCH PROGRAM SHALL BE SUBMITTED TO THE LEGISLATURE FOR ANY NECESSARY ENABLING LEGISLATION OR COORDINATION WITH EXISTING PROGRAMS OF THE DEPARTMENT OF HEALTH SERVICES.

6. A PROGRAM FOR PURCHASE AND RETIREMENT OF GRANDFATHERED RIGHTS BY THE DEPARTMENT.

B. WITHIN THIRTY DAYS AFTER THE MANAGEMENT PLAN FOR THE FOURTH MANAGEMENT PERIOD IS ADOPTED, THE DIRECTOR SHALL GIVE WRITTEN NOTICE IN THE MANNER AND TO THE PERSONS PRESCRIBED IN SECTION 45-564, SUBSECTION B.

C. ALL PERSONS NOTIFIED PURSUANT TO SUBSECTION B OF THIS SECTION SHALL COMPLY WITH THE IRRIGATION WATER DUTY OR APPLICABLE CONSERVATION REQUIREMENTS FOR THE FOURTH MANAGEMENT PERIOD NOT LATER THAN JANUARY 1, 2016, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574. IF AN INTERMEDIATE WATER DUTY HAS BEEN ESTABLISHED, A PERSON WHO IS ENTITLED TO WITHDRAW OR RECEIVE GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT SHALL COMPLY WITH THE INTERMEDIATE WATER DUTY NOT LATER THAN THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574.
REQUIREMENTS FOR THE FOURTH MANAGEMENT PERIOD NOT LATER THAN JANUARY 1, 2020, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574. IF INTERMEDIATE WATER DUTIES HAVE BEEN ESTABLISHED, A PERSON WHO IS ENTITLED TO WITHDRAW OR RECEIVE GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT SHALL COMPLY WITH THOSE WATER DUTIES AS OF THE DATE SPECIFIED FOR COMPLIANCE IN THE MANAGEMENT PLAN, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574.

45-568. Management plan for fifth management period; guidelines

A. For the fifth management period, 2020 to 2025, the director shall promulgate a management plan for each initial active management area not later than January 1, 2019 pursuant to the guidelines prescribed in section 45-567, subsection A.

B. Within thirty days after the management plan for the fifth management period is adopted, the director shall give written notice in the manner and to the persons prescribed in section 45-564, subsection B.

C. All persons notified pursuant to subsection B of this section shall comply with the irrigation water duty or applicable conservation requirements for the fifth management period not later than January 1, 2025.

45-569. Management goals and management plans for subsequent active management areas

A. Within thirty days of the designation of a subsequent active management area pursuant to article 2 of this chapter, the director shall establish a management goal for the active management area and the number of years in which the goal is to be achieved.

B. Not later than two years after the designation of a subsequent active management area, the director shall promulgate an initial management plan for the active management area and may provide for subsequent management plans to be promulgated during the time set for achieving the management goal. If the director determines that active management is necessary to preserve the existing supply of groundwater for future needs or that land subsidence or fissuring is endangering property or potential groundwater storage capacity, the director, in developing the plan or plans, shall include measures for reducing groundwater withdrawals which follow as closely as practicable the program set forth in sections 45-564 through 45-568. If the director determines that active management is necessary because the use of groundwater is resulting in actual or threatened groundwater quality degradation, the director shall, in cooperation with the department of health services, include in the plan or plans a program for prevention or amelioration of groundwater quality problems and a schedule for implementation of the proposed solutions. The director shall submit such program to the legislature for any necessary enabling legislation or coordination with existing programs of the department of health services.

C. All management plans, including the management goal, for a subsequent active management area, shall be adopted only after public hearings pursuant to sections 45-570 and 45-571.
45-570. Hearing on management plans; notice; procedures
A. THE DIRECTOR SHALL HOLD A PUBLIC HEARING ON EACH PROPOSED
MANAGEMENT PLAN IN EACH ACTIVE MANAGEMENT AREA PRIOR TO FINAL ADOPTION OF
THE MANAGEMENT PLAN.
B. THE DIRECTOR SHALL GIVE NOTICE OF THE HEARING WITHIN THIRTY DAYS
AFTER THE PROPOSED MANAGEMENT PLAN IS COMPLETED. THE NOTICE SHALL INCLUDE
A SUMMARY OF THE MANAGEMENT PLAN, A MAP OR A DESCRIPTION OF THE BOUNDARIES
OF THE ACTIVE MANAGEMENT AREA, AND THE TIME AND PLACE OF THE HEARING. THE
NOTICE SHALL BE PUBLISHED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A
NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE ACTIVE
MANAGEMENT AREA IS LOCATED.
C. THE HEARING SHALL BE HELD AT A LOCATION WITHIN THE ACTIVE
MANAGEMENT AREA AS SOON AS PRACTICABLE BUT NO LESS THAN THIRTY DAYS AND NO
MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE OF THE
HEARING.
D. AT THE HEARING, THE DIRECTOR SHALL PRESENT DATA IN SUPPORT OF THE
ADOPTION OF THE PROPOSED MANAGEMENT PLAN. ANY PERSON MAY APPEAR AT THE
HEARING EITHER IN PERSON OR BY REPRESENTATIVE AND SUBMIT ORAL OR
DOCUMENTARY EVIDENCE FOR OR AGAINST THE ADOPTION OF THE MANAGEMENT PLAN.
45-571. Findings upon hearing; order for adoption of
management plan; publication
A. WITHIN THIRTY DAYS AFTER THE HEARING, THE DIRECTOR SHALL MAKE
AND FILE IN THE DEPARTMENT A WRITTEN SUMMARY AND FINDINGS WITH RESPECT TO
MATTERS CONSIDERED DURING THE HEARING.
B. IF IN THE FINDINGS THE DIRECTOR DECIDES TO ADOPT THE MANAGEMENT
PLAN, HE SHALL MAKE AND FILE AN ORDER ADOPTING THE PLAN PURSUANT TO THE
FINDINGS. IF THE DIRECTOR DETERMINES THAT MODIFICATIONS IN THE MANAGEMENT
PLAN ARE NECESSARY, HE SHALL MAKE SUCH MODIFICATIONS AND MAKE AND FILE AN
ORDER ADOPTING THE MODIFIED PLAN AND INCLUDE HIS REASONS FOR THE
MODIFICATIONS.
C. A SUMMARY OF THE MANAGEMENT PLAN, FINDINGS AND ORDER SHALL BE
PUBLISHED IN THE MANNER AND FOR THE LENGTH OF TIME PRESCRIBED FOR THE
PUBLICATION OF NOTICE OF THE PUBLIC HEARING, AND THE ORDER IS EFFECTIVE
WHEN PUBLISHED FOR THE FINAL TIME. THE FACTUAL DATA COMPILED BY THE
DIRECTOR, A TRANSCRIPT OF THE HEARING, A COPY OF THE FINDINGS AND A COPY OF
THE MANAGEMENT PLAN ARE PUBLIC RECORDS OF THE DEPARTMENT AND SHALL BE
AVAILABLE FOR EXAMINATION BY THE PUBLIC DURING REGULAR BUSINESS HOURS.
45-572. Modification of conservation program; notice
A. AFTER A MANAGEMENT PLAN IS ADOPTED, THE DIRECTOR MAY MODIFY THE
PLAN AFTER PUBLIC HEARING PURSUANT TO SECTIONS 45-570 AND 45-571, EXCEPT
THAT THE DIRECTOR MAY MODIFY AN IRRIGATION WATER DUTY OR CONSERVATION
REQUIREMENT ONLY IF THE DIRECTOR DETERMINES THAT EXTRAORDINARY
CIRCUMSTANCES JUSTIFY THE MODIFICATION.
B. WITHIN THIRTY DAYS AFTER A MODIFICATION OF AN IRRIGATION WATER
DUTY OR CONSERVATION REQUIREMENT IS ADOPTED, THE DIRECTOR SHALL GIVE
WRITTEN NOTICE OF THE MODIFICATION IN THE MANNER AND TO THE PERSONS
PRESCRIBED IN SECTION 45-564, SUBSECTION B. ANY AGGRIEVED PERSON MAY
REQUEST AN ADMINISTRATIVE REVIEW PURSUANT TO SECTION 45-575.
C. All persons notified pursuant to subsection B of this section shall comply with the modified irrigation water duty or modified conservation requirements not later than the compliance date specified in the modification notice, unless the person obtains a variance pursuant to section 45-574.

45-573. Water quality considerations; consultation with department of health services

The director shall consult with the department of health services on water quality considerations in developing and implementing management plans under this article.

45-574. Variances; application; notice; hearing; issuance

A. A person who requires additional time to comply with an irrigation water duty or conservation requirement may apply to the director for a variance from the water duty or requirement within ninety days from the date of notice of the water duty or requirement. The application shall include the following:

1. The name and mailing address of the applicant.
2. The name of the active management area in which the use is located.
3. The amount of groundwater currently being withdrawn annually by the person.
4. The irrigation water duty or conservation requirement from which the variance is sought.
5. A general description of the economic circumstances preventing timely compliance with the irrigation water duty or conservation requirement and any information relevant to such circumstances.
6. The sworn statement that the information contained in the application is true and correct to the best belief and knowledge of the applicant.

7. Such other information as the director may require.

B. Upon receipt and filing of the application, the director shall, within thirty days of the filing, give written notice to the applicant by certified mail of the hearing on the application. A hearing shall be conducted as provided in section 45-480, subsection B.

C. The director may grant a variance upon a showing of compelling economic circumstances. The variance shall specify:

1. The amount of groundwater which may be withdrawn by the person during the variance period, or a schedule of intermediate water duties or conservation requirements to be reached at specified intervals during the variance period.
2. The duration of the variance, which may not exceed five years from the date of the director's final determination of the variance.

D. A party aggrieved by the director's decision may appeal the final determination of the director within thirty days to the superior court in the county in which the irrigated land or non-irrigation use is located pursuant to section 45-405.

45-575. Administrative review of irrigation water duty and conservation requirements
A. Any aggrieved party may request an administrative review of the irrigation water duty or any conservation requirement not later than ninety days from the date of notice of such duty or requirement.

B. A hearing shall be conducted as provided in Section 45-480, subsection B. At least thirty days prior to the hearing, the Director shall give written notice to the aggrieved party by certified mail of the time and place for the hearing.

C. A party aggrieved by the Director's decision may appeal to the superior court in the county in which the irrigated land or the non-irrigation use is located within thirty days of the final decision pursuant to Section 45-405.

45-575. Certificate of assured water supply; issuance of building permits; designated areas; exemptions

A. A person who proposes to offer subdivided or unsubdivided lands, as these terms are defined in Section 32-2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the Director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the State Real Estate Commissioner a notice of intention to offer such lands for sale or lease, pursuant to Sections 32-2181 and 32-2195.01, unless the subdivision is located within an area designated as having an assured supply pursuant to subsection D or E of this section.

B. A city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the Director unless the subdivision is located within an area designated as having an assured water supply pursuant to subsection D or E of this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is located within an area designated as having an assured supply, pursuant to subsection D or E of this section.

C. The State Real Estate Commissioner may issue a public report authorizing the sale or lease of subdivided or unsubdivided lands only if the subdivider, owner or agent has obtained a certificate of assured water supply from the Director, unless the lands are located within an area designated as having an assured water supply pursuant to subsection D or E of this section.

D. The Director shall designate service areas of private water companies in active management areas where an assured water supply exists. An allocation for Central Arizona Project water by the United States Secretary of the Interior to a private water company is deemed a presumption of an assured water supply upon a finding by the Director that the private water company has made an unconditional offer to enter into a contract for Central Arizona Project water sufficient to supply the intended use and is proceeding to develop the necessary delivery system and treatment works. The presumption of an assured water supply for a private water company ceases if the private water company refuses to enter into a
E. The Director shall designate service areas of cities and towns in active management areas where an assured water supply exists. If a city or town has received an allocation from the United States Secretary of the Interior for Central Arizona Project water or has signed a letter of intent with the Director to contract for Central Arizona Project water, the service area and extensions of the service area of such city or town are deemed to have an assured water supply. If the city or town refuses to enter into a contract for Central Arizona Project water during the contract period, as determined by the Director, the determination that the city or town has an assured water supply is subject to review by the Director and the Director may determine that a city or town does not have an assured water supply within its service area. If a city or town enters into a contract for Central Arizona Project water, the service area and extensions of the service area of such city or town are deemed to continue to have an assured water supply until December 31, 2000. Commencing on January 1, 2001, the determination that the service area of a city or town has an assured water supply is subject to review by the Director and the Director may determine that a city or town does not have an assured water supply within its service area.

F. A map identifying and describing the designated service areas of cities, towns and private water companies where an assured water supply exists shall be on file in the Department and shall be available for examination by the public during regular business hours. The Director shall notify the mayors of all cities and towns in active management areas and the chairmen of the boards of supervisors of counties in which active management areas are located of the service areas where an assured water supply exists and any modification of such areas within thirty days of the designation or modification. Persons proposing to offer subdivided or unsubdivided lands located within such designated service areas for sale or lease are exempt from applying for and obtaining a certificate of assured water supply.

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

H. For purposes of this section, "assured water supply" means:
1. Sufficient groundwater or surface water of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years;
2. The projected water use is consistent with the management plan and achievement of the management goal for the active management area; and
3. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE DELIVERY SYSTEM AND ANY TREATMENT WORKS NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE PROPOSED USE.

45-577. Application; hydrological study; review of application

A. THE DIRECTOR SHALL PRESCRIBE THE FORM OF APPLICATION FOR A CERTIFICATE OF ASSURED WATER SUPPLY, TO INCLUDE, AS APPLICABLE:

1. THE LEGAL DESCRIPTION OF THE LAND.
2. THE PLATS, PLANS AND MAPS OF THE PROPOSED DEVELOPMENT.
3. INFORMATION ON THE NATURE AND MAGNITUDE OF THE PROPOSED DEVELOPMENT, INCLUDING THE NUMBER OF PARCELS, LOTS OR DWELLING UNITS AND THE ANNUAL AMOUNT OF WATER WHICH WILL BE REQUIRED.
4. EVIDENCE OF CONTRACTS FOR THE DELIVERY OF WATER AND INFORMATION RELATING TO THE TERMS OF THE CONTRACTS.
5. IF GROUNDWATER IS A PROPOSED SOURCE OF WATER:
   (a) EVIDENCE OF OWNERSHIP OF ANY GRANDFATHERED RIGHTS PURSUANT TO WHICH GROUNDWATER MAY BE WITHDRAWN FOR THE PROPOSED DEVELOPMENT.
   (b) THE LEGAL DESCRIPTION OF THE LOCATION OF ANY EXISTING WELLS FROM WHICH THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER OR THE PROPOSED LOCATION OF NEW WELLS.
6. EVIDENCE OF THE RIGHT TO USE SURFACE WATER PURSUANT TO CHAPTER 1, ARTICLE 2 OF THIS TITLE, PURSUANT TO A JUDICIAL DECREE OR PURSUANT TO A RIGHT ESTABLISHED PRIOR TO 1919.
7. FINANCING ARRANGEMENTS FOR THE DEVELOPMENT AND EVIDENCE OF FINANCIAL CAPABILITY TO CONSTRUCT THE DELIVERY SYSTEM AND ANY TREATMENT WORKS NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE PROPOSED USE.
8. A SWORN STATEMENT THAT THE INFORMATION CONTAINED IN THE APPLICATION IS TRUE AND CORRECT TO THE BEST KNOWLEDGE AND BELIEF OF THE APPLICANT.
9. ANY OTHER INFORMATION WHICH THE DIRECTOR MAY REQUIRE.

B. IF GROUNDWATER IS A PROPOSED SOURCE OF WATER, THE APPLICANT SHALL SUBMIT WITH THE APPLICATION FOR A CERTIFICATE OF ASSURED WATER SUPPLY A COPY OF A HYDROLOGICAL STUDY ON THE GROUNDWATER RESOURCES THAT DEMONSTRATES AN ASSURED SUPPLY FOR THE PROPOSED USE. THE DIRECTOR SHALL PRESCRIBE THE CONTENTS OF THE STUDY WHICH IS TO BE SUBMITTED WITH THE APPLICATION.

C. THE DIRECTOR SHALL REVIEW AND EVALUATE THE APPLICATION. THE DIRECTOR MAY REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT AND CONDUCT INDEPENDENT INVESTIGATIONS AS MAY BE NECESSARY TO DETERMINE WHETHER AN ASSURED WATER SUPPLY EXISTS.

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

A. WHEN THE APPLICATION FOR A CERTIFICATE OF ASSURED WATER SUPPLY IS DETERMINED COMPLETE AND CORRECT, THE DIRECTOR SHALL, WITHIN FOURTEEN DAYS OF SUCH DETERMINATION, GIVE NOTICE OF THE APPLICATION, ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE ACTIVE MANAGEMENT AREA IN WHICH THE APPLICANT PROPOSES TO WITHDRAW GROUNDWATER IS LOCATED.
B. NOTICE PURSUANT TO SUBSECTION A OF THIS SECTION SHALL STATE THAT
OBJECTIONS TO THE IssuANCE OF THE CERTIFICATE MAY BE FILED BY RESIDENTS OF
THE ACTIVE MANAGEMENT AREA, IN WRITING, WITH THE DIRECTOR WITHIN TEN DAYS
AFTER THE LAST PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME
AND MAILING ADDRESS OF THE OBJECTOR, BE SIGNED BY THE OBJECTOR, HIS AGENT
OR ATTORNEY AND CLEARLY SET FORTH REASONS WHY THE CERTIFICATE SHOULD NOT BE
ISSUED. THE GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE CERTIFICATE
APPLICATION MEETS THE CRITERIA FOR DETERMINING AN ASSURED WATER SUPPLY SET
FORTH IN SECTION 45-576, SUBSECTION H.

C. IN APPROPRIATE CASES, INCLUDING CASES WHERE A PROPER WRITTEN
OBJECTION TO THE CERTIFICATE APPLICATION HAS BEEN FILED, THE DIRECTOR MAY
HOLD A HEARING ON THE APPLICATION. THE DIRECTOR SHALL, THIRTY DAYS PRIOR
TO THE DATE OF THE HEARING, GIVE NOTICE IN THE MANNER DESCRIBED IN
SUBSECTION A OF THIS SECTION. THE HEARING SHALL BE SCHEDULED FOR NOT LESS
THAN THIRTY DAYS NOR MORE THAN SIXTY DAYS AFTER THE EXPIRATION OF THE TIME
IN WHICH TO FILE OBJECTIONS. A HEARING SHALL BE CONDUCTED AS PROVIDED IN
SECTION 45-480, SUBSECTION B, EXCEPT THAT THE DIRECTOR SHALL ISSUE A
DECISION AND ORDER EITHER AFFIRMING OR MODIFYING THE HEARING OFFICER'S
DETERMINATION WITHIN FOUR MONTHS OF THE FILING OF THE APPLICATION.

D. UPON FINDING THAT AN ASSURED WATER SUPPLY EXISTS FOR THE
PROPOSED USE, THE DIRECTOR SHALL ISSUE A CERTIFICATE OF ASSURED WATER
SUPPLY TO THE APPLICANT. UPON FINDING THAT AN ASSURED WATER SUPPLY DOES
NOT EXIST, THE DIRECTOR SHALL DENY THE APPLICATION AND RETURN IT TO THE
APPLICANT.

E. AN AGGRIEVED PARTY OR A PERSON WHO CONTESTED A CERTIFICATE BY
FILING A PROPER OBJECTION PURSUANT TO SUBSECTION B OF THIS SECTION MAY,
WITHIN THIRTY DAYS OF THE FINAL DECISION OF THE DIRECTOR, APPEAL THE
DECISION AS PROVIDED IN SECTION 45-405.

45-579. Value of certificated area

ANY PORTION OF THE CERTIFICATED AREA OF A PRIVATE WATER COMPANY WHICH
DOES NOT CONTAIN AN OPERATING DISTRIBUTION SYSTEM OWNED BY THE PRIVATE
WATER COMPANY PRIMARILY FOR THE DISTRIBUTION OF DOMESTIC WATER IS PRESUMED
TO HAVE DE MINIMIS VALUE FOR THE PURPOSES OF CONDEMNATION.

ARTICLE 10. WELLS

45-591. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "EXISTING WELL" MEANS A WELL WHICH WAS DRILLED PRIOR TO THE
EFFECTIVE DATE OF THIS CHAPTER AND WHICH IS NOT ABANDONED OR SEALED OR A
WELL WHICH WAS NOT COMPLETED ON THE EFFECTIVE DATE OF THIS ARTICLE BUT FOR
WHICH A NOTICE OF INTENTION TO DRILL WAS ON FILE WITH THE ARIZONA WATER
COMMISSION ON SUCH DATE.

2. "NEW WELL" MEANS A WELL FOR WHICH A NOTICE OF INTENTION TO DRILL
OR A PERMIT IS REQUIRED PURSUANT TO THIS ARTICLE.

45-592. Wells in general

A. A PERSON MAY CONSTRUCT, REPLACE OR DEEPEN A WELL IN THIS STATE
ONLY PURSUANT TO THIS ARTICLE. THE DRILLING OF A WELL MAY NOT BEGIN UNTIL
ALL REQUIREMENTS OF THIS ARTICLE ARE MET.
B. THE DIRECTOR MAY ADOPT TEMPORARY RULES TO ALLOW A PERSON TO
CONSTRUCT, REPLACE OR DEEPEN A WELL PRIOR TO THE ADOPTION OF FINAL RULES
AND REGULATIONS PURSUANT TO THIS ARTICLE.

45-593. Registration of existing wells; permanent
record of all wells
A. THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS ESTABLISHING
PROCEDURES FOR REGISTRATION OF ALL EXISTING WELLS IN THIS STATE. WITHIN
TWO YEARS OF THE EFFECTIVE DATE OF THIS CHAPTER, A PERSON WHO OWNS AN
EXISTING WELL SHALL REGISTER THE WELL PURSUANT TO THE RULES AND REGULATIONS
ADOPTED BY THE DIRECTOR ON A REGISTRATION FORM PROVIDED BY THE DIRECTOR.
THE REGISTRATION FORM SHALL INCLUDE:
1. THE REGISTRATION NUMBER OF ANY WELL PREVIOUSLY REQUIRED TO BE
REGISTERED IN THIS STATE PRIOR TO THE EFFECTIVE DATE OF THIS CHAPTER.
2. THE LEGAL DESCRIPTION OF THE LAND UPON WHICH THE WELL IS LOCATED,
THE LOCATION OF THE WELL ON THE LAND AND THE NAME AND MAILING ADDRESS OF
THE OWNER OF THE LAND.
3. THE DEPTH, DIAMETER AND TYPE OF CASING OF THE WELL.
4. SUCH LEGAL DESCRIPTION OF THE LAND UPON WHICH THE GROUNDWATER IS
BEING USED AS MAY BE REQUIRED BY THE DIRECTOR TO ADMINISTER THIS CHAPTER.
5. THE MAXIMUM PUMPING CAPACITY OF THE WELL.
6. ANY OTHER INFORMATION WHICH THE DIRECTOR MAY REQUIRE.
B. THE DIRECTOR SHALL ASSIGN A REGISTRATION NUMBER TO EACH WELL
REGISTERED PURSUANT TO THIS SECTION AND TO ALL OTHER WELLS DRILLED PURSUANT
TO THIS CHAPTER AND SHALL MAINTAIN A PERMANENT RECORD OF REGISTRATION
NUMBERS AND ALL OTHER INFORMATION ON NEW AND EXISTING WELLS PURSUANT TO
THIS CHAPTER AND PREVIOUS LAW.
C. THE PERSON TO WHOM A WELL IS REGISTERED SHALL NOTIFY THE DIRECTOR
OF A CHANGE IN OWNERSHIP OF THE WELL, AND THE NEW OWNER SHALL FURNISH
INFORMATION AS REQUIRED BY THE DIRECTOR TO KEEP THE DEPARTMENT'S WELL
REGISTRATION RECORDS CURRENT AND ACCURATE.
D. THIS ARTICLE SHALL NOT BE CONSTRUED TO LEGALIZE ANY WELL
EXISTING ON THE EFFECTIVE DATE OF THIS ARTICLE WHICH WAS NOT IN ACCORDANCE
WITH PRIOR STATUTORY LAW.

45-594. Well construction standards
THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS ESTABLISHING
CONSTRUCTION STANDARDS FOR NEW WELLS AND REPLACEMENT WELLS AND THE
DEEPENING AND ABANDONMENT OF EXISTING WELLS. ALL WELL CONSTRUCTION
OPERATIONS SHALL COMPLY WITH THE RULES AND REGULATIONS ADOPTED PURSUANT TO
THIS SECTION.

45-595. Well construction requirements; licensing
of well drillers and pump installation
contractors
A. NEW WELL CONSTRUCTION, INCLUDING MODIFICATIONS OF WELLs, SHALL
BE PERFORMED UNDER THE DIRECT AND PERSONAL SUPERVISION OF A WELL DRILLER
WHO HOLDS A CONTRACTOR'S LICENSE PURSUANT TO TITLE 32, CHAPTER 10, ARTICLE
2 AND A WELL DRILLER'S LICENSE PURSUANT TO SUBSECTION B.
B. A PERSON WHO INTENDS TO CONSTRUCT OR MODIFY ONE OR MORE WELLS IN
THIS STATE AND WHO POSSESSES A CONTRACTOR'S LICENSE PURSUANT TO TITLE 32,
CHAPTER 10, ARTICLE 2 SHALL FILE AN APPLICATION FOR A WELL DRILLER'S LICENSE WITH THE DIRECTOR. THE APPLICATION SHALL INCLUDE:

1. THE NAME, MAILING ADDRESS, PLACE OF BUSINESS AND CONTRACTOR'S LICENSE NUMBER OF THE APPLICANT.
2. THE APPLICANT'S EXPERIENCE AND QUALIFICATIONS.
3. SUCH OTHER INFORMATION AS THE DIRECTOR MAY REQUIRE.

C. THE DIRECTOR SHALL, BY RULE OR REGULATION, ESTABLISH QUALIFICATIONS AND A REASONABLE FEE OF NOT MORE THAN FIFTY DOLLARS FOR LICENSES FOR WELL DRILLERS AND ESTABLISH PROCEDURES FOR THE EVALUATION AND LICENSING OF APPLICANTS. A NONTRANSFERABLE WELL DRILLER'S LICENSE SHALL BE ISSUED IF THE DIRECTOR FINDS THAT THE APPLICANT MEETS THE QUALIFICATIONS ESTABLISHED PURSUANT TO THIS SUBSECTION. THE DIRECTOR MAY REVOKE A WELL DRILLER'S LICENSE FOR GOOD CAUSE.

45-596. Notice of intention to drill

A. IN AN AREA NOT SUBJECT TO ACTIVE MANAGEMENT, A PERSON MAY NOT DRILL OR CAUSE TO BE DRILLED ANY WELL OR DEEPEN AN EXISTING WELL WITHOUT FIRST FILING NOTICE OF INTENTION TO DRILL PURSUANT TO SUBSECTION C.

B. IN AN ACTIVE MANAGEMENT AREA, A PERSON MAY NOT DRILL OR CAUSE TO BE DRILLED AN EXEMPT WELL OR A REPLACEMENT WELL IN APPROXIMATELY THE SAME LOCATION OR DEEPEN AN EXISTING WELL WITHOUT FIRST FILING NOTICE OF INTENTION TO DRILL PURSUANT TO SUBSECTION C.

C. A NOTICE OF INTENTION TO DRILL SHALL BE FILED WITH THE DIRECTOR ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR WHICH SHALL INCLUDE:

1. THE NAME AND MAILING ADDRESS OF THE PERSON FILING THE NOTICE.
4. THE DEPTH, DIAMETER AND TYPE OF CASING OF THE PROPOSED WELL.
5. SUCH LEGAL DESCRIPTION OF THE LAND UPON WHICH THE GROUNDWATER IS PROPOSED TO BE USED AS MAY BE REQUIRED BY THE DIRECTOR TO ADMINISTER THIS CHAPTER.

6. WHEN CONSTRUCTION IS TO BEGIN.
7. THE PROPOSED USES TO WHICH THE GROUNDWATER WILL BE APPLIED.
8. THE NAME AND WELL DRILLER'S LICENSE NUMBER OF THE WELL DRILLER WHO IS TO CONSTRUCT THE WELL.
9. THE DESIGN PUMPING CAPACITY OF THE WELL.
11. SUCH OTHER INFORMATION AS THE DIRECTOR MAY REQUIRE.

E. THE WELL SHALL BE COMPLETED WITHIN ONE YEAR AFTER THE DATE OF NOTICE. IF THE WELL IS NOT COMPLETED WITHIN ONE YEAR, THE PERSON SHALL FILE A NEW NOTICE BEFORE PROCEEDING WITH FURTHER CONSTRUCTION.

45-597. Deepening and replacement of wells in active management areas; filing of notice

A. A PERSON ENTITLED TO WITHDRAW GROUNDWATER IN AN ACTIVE MANAGEMENT AREA MAY DEEPEN AN EXISTING WELL OR CONSTRUCT A REPLACEMENT WELL AT APPROXIMATELY THE SAME LOCATION. THE DIRECTOR SHALL BY RULE OR REGULATION DEFINE WHAT CONSTITUTES A REPLACEMENT WELL, INCLUDING THE DISTANCE FROM THE ORIGINAL WELL SITE THAT IS DEEMED TO BE THE SAME LOCATION FOR A REPLACEMENT WELL.

B. PRIOR TO DEEPENING AN EXISTING WELL OR CONSTRUCTING A REPLACEMENT WELL AT APPROXIMATELY THE SAME LOCATION, THE PERSON SHALL FILE A NOTICE OF INTENTION TO DRILL PURSUANT TO SECTION 45-596 AND PROVIDE THE DIRECTOR WITH ANY OTHER INFORMATION AS THE DIRECTOR MAY BY RULES AND REGULATIONS REQUIRE.

45-598. New wells and replacement wells in new locations in active management areas; rules and regulations; permit required

A. THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS GOVERNING THE LOCATION OF NEW WELLS AND REPLACEMENT WELLS IN NEW LOCATIONS IN ACTIVE MANAGEMENT AREAS TO PREVENT UNREASONABLY INCREASING DAMAGE TO SURROUNDING LAND OR OTHER WATER USERS FROM THE CONCENTRATION OF WELLS.

B. A PERSON ENTITLED TO WITHDRAW GROUNDWATER IN AN ACTIVE MANAGEMENT AREA PURSUANT TO ARTICLE 5 OR 6 OF THIS CHAPTER MAY CONSTRUCT A NEW WELL OR A REPLACEMENT WELL IN A NEW LOCATION IF THE LOCATION OF THE NEW WELL OR THE REPLACEMENT WELL COMPLIES WITH THE RULES AND REGULATIONS ADOPTED BY THE DIRECTOR PURSUANT TO SUBSECTION A AND IF THE PERSON HAS APPLIED FOR AND RECEIVED A PERMIT FROM THE DIRECTOR.

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

A. AN APPLICATION FOR A PERMIT TO CONSTRUCT A NEW WELL OR REPLACEMENT WELL IN A NEW LOCATION SHALL BE MADE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR WHICH SHALL INCLUDE:

1. THE NAME AND MAILING ADDRESS OF THE APPLICANT.


3. THE LEGAL DESCRIPTION OF THE PROPOSED LOCATION OF THE NEW WELL ON THE LAND.


5. THE DEPTH, DIAMETER AND TYPE OF CASING OF THE NEW WELL.

6. SUCH LEGAL DESCRIPTION OF THE LAND UPON 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.
8. THE PROPOSED USE OF THE GROUNDWATER TO BE WITHDRAWN.
9. THE DESIGN PUMPING CAPACITY OF THE NEW WELL.
10. THE NAME AND WELL DRILLER'S LICENSE NUMBER OF THE WELL DRILLER WHO IS TO CONSTRUCT THE WELL.
11. SUCH OTHER INFORMATION INCLUDING ANY MAPS, DRAWINGS AND DATA AS THE DIRECTOR MAY REQUIRE.

B. UPON RECEIPT OF A PERMIT APPLICATION, THE DIRECTOR SHALL ENDORSE ON THE APPLICATION THE DATE OF ITS RECEIPT. IF THE APPLICATION IS INCORRECT OR INCOMPLETE, IT SHALL BE RETURNED FOR CORRECTION OR COMPLETION, ENDORSED WITH THE REASONS FOR ITS RETURN. A RECORD SHALL BE MADE OF ALL APPLICATIONS RECEIVED AND ALL APPLICATIONS RETURNED.

C. THE DIRECTOR SHALL APPROVE AN APPLICATION FOR A PERMIT FOR A NEW WELL OR A REPLACEMENT WELL IN A NEW LOCATION IF THE PROPOSED WELL COMPLIES WITH THE RULES AND REGULATIONS ADOPTED PURSUANT TO SECTION 45-598, SUBSECTION A.


E. THE PERMIT SHALL STATE THE FOLLOWING:
   1. THE LEGAL DESCRIPTION OF THE LAND UPON WHICH THE WELL MAY BE 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 WHICH THE GROUNDWATER WILL BE USED.
   6. THE USE OF THE GROUNDWATER TO BE WITHDRAWN.

45-600. Filing of log by driller; filing of completion report


B. WITHIN THIRTY DAYS AFTER THE INSTALLATION OF PUMPING EQUIPMENT IN ANY WELL IN THIS STATE, THE DRILLER SHALL FILE A COMPLETION REPORT WITH THE DIRECTOR. THE DIRECTOR SHALL PRESCRIBE THE COMPLETION REPORT FORM AND THE DEPARTMENT SHALL FURNISH THEM ON REQUEST. THE COMPLETION REPORT FORM SHALL INCLUDE:
1. THE TYPE OF EQUIPMENT INSTALLED.

2. TESTED PUMPING CAPACITY OF THE WELL IN GALLONS PER MINUTE AS DETERMINED FOR A NON-FLOWING WELL BY MEASURING THE DISCHARGE OF THE PUMP AFTER CONTINUOUS OPERATION FOR AT LEAST FOUR HOURS, OR FOR A FLOWING WELL BY MEASURING THE NATURAL FLOW AT THE LAND SURFACE.

3. DRAWDOWN OF THE WATER LEVEL MEASURED IN FEET FOR A NON-FLOWING WELL AFTER NOT LESS THAN FOUR HOURS OF CONTINUOUS OPERATION AND WHILE STILL IN OPERATION, OR FOR A FLOWING WELL, THE SHUT-IN PRESSURE MEASURED IN FEET ABOVE THE LAND SURFACE OR IN POUNDS PER SQUARE INCH AT THE LAND SURFACE.

4. DEPTH IN FEET FROM THE LAND SURFACE TO THE STATIC GROUNDWATER LEVEL, MEASURED IMMEDIATELY PRIOR TO THE WELL-CAPACITY TEST.

5. SUCH OTHER INFORMATION AS THE DIRECTOR MAY REQUIRE.

45-601. Operating regulations for multiple wells

THE DIRECTOR MAY ADOPT RULES AND REGULATIONS GOVERNING PUMPING PATTERNS OF PERSONS WHO WITHDRAWS GROUNDWATER FROM MULTIPLE WELLS IN AN ACTIVE-MANAGEMENT AREA TO MINIMIZE DAMAGE TO ADJACENT GROUNDWATER USERS.

THE DIRECTOR MAY NOT REQUIRE A PERSON WHO WITHDRAWS GROUNDWATER FROM MULTIPLE WELLS TO CHANGE HIS PUMPING PATTERNS IF THE PERSON OR USER CANNOT REASONABLY ACCOMMODATE SUCH CHANGES.

45-602. Capping of wells; waste

A. GROUNDWATER WHICH HAS BEEN WITHDRAWN SHALL NOT BE ALLOWED TO WASTE. TO EFFECTUATE THE PURPOSES OF THIS SECTION, THE DIRECTOR SHALL:

1. REQUIRE ALL FLOWING WELLS TO BE CAPPED OR EQUIPPED WITH VALVES SO THAT THE FLOW OF WATER CAN BE COMPLETELY STOPPED WHEN NOT IN USE.

2. REQUIRE BOTH FLOWING AND NON-FLOWING WELLS TO BE CONSTRUCTED AND MAINTAINED SO AS TO PREVENT WASTE OF GROUNDWATER THROUGH LEAKY CASING, LACK OF CASINGS,PIPES, FITTINGS, VALVES OR PUMPS, EITHER ABOVE OR BELOW THE SURFACE OF THE GROUND.

B. THE REASONABLE WITHDRAWAL OF GROUNDWATER FOR DEVELOPMENT, TESTING OR REPAIR OF A WELL OR THE INADVERTENT LOSS OF WATER DUE TO BREAKAGE OF A PUMP, VALVE, PIPE OR FITTING IS NOT WASTE IF REASONABLE DILIGENCE IS SHOWN IN EFFECTING THE NECESSARY REPAIRS.

45-603. Criteria for rules and regulations

IN DEVELOPING RULES AND REGULATIONS UNDER THIS ARTICLE, THE DIRECTOR SHALL CONSIDER, AMONG OTHER THINGS, WATER QUALITY, CONES OF DEPRESSION AND LAND SUBSIDENCE.

45-604. Water measuring devices

A. A PERSON WHO WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL IN AN ACTIVE MANAGEMENT AREA OR AN IRRIGATION NON-EXPANSION AREA SHALL USE A WATER MEASURING DEVICE APPROVED BY THE DIRECTOR.

B. THE DIRECTOR SHALL ADOPT RULES AND REGULATIONS SETTING FORTH THE REQUIREMENTS AND SPECIFICATIONS FOR WATER MEASURING DEVICES.

ARTICLE 11. FINANCIAL PROVISIONS

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

THE DIRECTOR SHALL LEVY AND COLLECT AN ANNUAL GROUNDWATER WITHDRAWAL FEE FROM EACH PERSON WITHDRAWING GROUNDWATER IN AN ACTIVE MANAGEMENT AREA IN AN AMOUNT NOT TO EXCEED FIVE DOLLARS PER ACRE-FOOT OF GROUNDWATER
WITHDRAWN AND BENEFICIALLY USED. THE ACTUAL AMOUNT OF THE FEE SHALL BE SET
BY THE DIRECTOR AS FOLLOWS:
1. FOR ADMINISTRATION AND ENFORCEMENT OF THIS CHAPTER, AN AMOUNT
   NOT LESS THAN FIFTY CENTS AND NOT GREATER THAN ONE DOLLAR PER ACRE-FOOT PER
   YEAR. THE INITIAL FEE FOR ADMINISTRATION AND ENFORCEMENT SHALL BE LEVIED
   AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS ARTICLE.
2. FOR AUGMENTATION OF THE WATER SUPPLY OF THE ACTIVE MANAGEMENT
   AREA, AN AMOUNT NOT GREATER THAN TWO DOLLARS PER ACRE-FOOT PER YEAR. THE
   INITIAL FEE FOR AUGMENTATION SHALL BE LEVIED IN THE FIRST YEAR IN WHICH THE
   DIRECTOR DEVELOPS AND IMPLEMENTS AN AUGMENTATION PROGRAM AS PART OF THE
   MANAGEMENT PLAN OF THE ACTIVE MANAGEMENT AREA.
3. FOR PURCHASING AND RETIRING GRANDFATHERED RIGHTS, AN AMOUNT NOT
   GREATER THAN TWO DOLLARS PER ACRE-FOOT PER YEAR. THE INITIAL FEE FOR
   PURCHASING AND RETIRING GRANDFATHERED RIGHTS SHALL BE LEVIED IN THE FIRST
   YEAR IN WHICH THE DIRECTOR DEVELOPS AND IMPLEMENTS A PROGRAM FOR THE
   PURCHASE AND RETIREMENT OF GRANDFATHERED RIGHTS AS PART OF THE MANAGEMENT
   PLAN FOR THE ACTIVE MANAGEMENT AREA, BUT NOT EARLIER THAN JANUARY 1,
   2006.

45-612. Administration and enforcement withdrawal fee;
exemption from lapsing; disposition of excess monies
A. EACH YEAR THE LEGISLATURE SHALL APPROPRIATE SUFFICIENT FUNDS TO
   THE DEPARTMENT TO COVER ALL COSTS OF ADMINISTRATION AND ENFORCEMENT OF THIS
   CHAPTER.
B. NOT LATER THAN OCTOBER 1 OF EACH YEAR, THE DIRECTOR SHALL
   ESTIMATE THE TOTAL AMOUNT OF GROUNDWATER WITHDRAWN IN ALL ACTIVE
   MANAGEMENT AREAS DURING THE FOLLOWING CALENDAR YEAR AND SET THE
   ADMINISTRATION AND ENFORCEMENT FEE PURSUANT TO SECTION 45-611, PARAGRAPH 1
   TO PRODUCE AN AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT BUDGETED BY THE
   DIRECTOR FOR ADMINISTRATION AND ENFORCEMENT PURPOSES FOR THE FOLLOWING
   FISCAL YEAR. IN SETTING THE ADMINISTRATION AND ENFORCEMENT FEE, THE
   DIRECTOR SHALL ACCOUNT FOR EXCESS PAYMENTS OR DEFICIENCIES IN PAYMENTS IN
   THE PAST FISCAL YEAR. MONIES COLLECTED FROM ADMINISTRATION AND
   ENFORCEMENT FEES SHALL BE DEPOSITED IN THE GENERAL FUND.
C. MONIES BUDGETED FOR ADMINISTRATION AND ENFORCEMENT PURPOSES
   PURSUANT TO THIS SECTION ARE EXEMPT FROM LAPSING UNDER SECTION 35-190. IF
   THE ADMINISTRATION AND ENFORCEMENT FEE IS SET AT FIFTY CENTS AND EXCESS
   PAYMENTS HAVE BEEN RECEIVED, SUCH EXCESS PAYMENTS SHALL BE CREDITED TO THE
   AUGMENTATION FUND ESTABLISHED UNDER SECTION 45-615 AND CREDITED AMONG THE
   ACTIVE MANAGEMENT AREAS IN PROPORTION TO THE AMOUNT OF SUCH MONIES
   COLLECTED FROM EACH ACTIVE MANAGEMENT AREA.

45-613. Use of withdrawal fees collected for augmentation
and purchase and retirement of grandfathered rights
MONIES COLLECTED FOR PURPOSES OF AUGMENTATION AND PURCHASE AND
RETIREMENT OF GRANDFATHERED RIGHTS UNDER SECTION 45-611, PARAGRAPHS 2 AND
3 SHALL BE USED TO FINANCE PROGRAMS ONLY FOR THE BENEFIT OF THE ACTIVE
MANAGEMENT AREA IN WHICH THEY ARE COLLECTED.
45-614. Setting of groundwater withdrawal fee; statement entered in record; statement transmitted to state treasurer; notice; payment

A. THE DIRECTOR, NOT LATER THAN OCTOBER 1 EACH YEAR, SHALL SET THE GROUNDWATER WITHDRAWAL FEE FOR EACH ACTIVE MANAGEMENT AREA FOR THE FOLLOWING CALENDAR YEAR. IN SETTING THE FEE, THE DIRECTOR SHALL CONSIDER, AMONG OTHER THINGS:

1. THE ESTIMATED FINANCIAL REQUIREMENTS FOR THE NEXT FISCAL YEAR.
2. THE ESTIMATED AMOUNT OF GROUNDWATER WHICH WILL BE WITHDRAWN IN THE ACTIVE MANAGEMENT AREAS IN THE NEXT CALENDAR YEAR.
3. THE AMOUNT OF MONIES COLLECTED FROM GROUNDWATER WITHDRAWAL FEES IN THE PRECEDING CALENDAR YEAR.
4. ANY MONIES EXPECTED TO BE AVAILABLE FOR USE FROM THE GROUNDWATER ENFORCEMENT FUND.


C. WITHIN THIRTY DAYS AFTER THE DIRECTOR SETS THE GROUNDWATER WITHDRAWAL FEES FOR THE NEXT CALENDAR YEAR, THE DIRECTOR SHALL GIVE NOTICE OF THE FEES BY:

1. GIVING WRITTEN NOTICE TO THE CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OR COUNTIES IN WHICH THE ACTIVE MANAGEMENT AREA IS LOCATED AND TO THE MAYOR OF EACH CITY OR TOWN, TO EACH PRIVATE WATER COMPANY AND TO THE PRESIDING OFFICER OF EACH POLITICAL SUBDIVISION ESTABLISHED PURSUANT TO CHAPTER 4, 5, 6 OR 7 OF THIS TITLE LOCATED IN THE ACTIVE MANAGEMENT AREA.
2. WRITTEN NOTICE TO ALL HOLDERS OF GROUNDWATER WITHDRAWAL PERMITS IN THE ACTIVE MANAGEMENT AREA.

D. THE GROUNDWATER WITHDRAWAL FEE SHALL BE PAID TO THE DEPARTMENT AT THE TIME THE PERSON WITHDRAWING GROUNDWATER FILES A REPORT ON ANNUAL GROUNDWATER WITHDRAWALS PURSUANT TO SECTION 45-632.

45-615. Remittance of collections to state treasurer; divisions of collections into funds

THE DIRECTOR SHALL REMIT ALL MONIES COLLECTED BY THE DEPARTMENT PURSUANT TO SECTION 45-611, PARAGRAPHS 2 AND 3 TO THE STATE TREASURER WHO, BASED ON THE STATEMENT OF THE DIRECTOR TRANSMITTED PURSUANT TO SECTION 45-614, SUBSECTION B, SHALL DIVIDE THE MONIES AS FOLLOWS:

1. MONIES RECEIVED FOR THE PURPOSE OF AUGMENTATION OF THE WATER SUPPLY OF THE ACTIVE MANAGEMENT AREA SHALL BE KEPT IN AN AUGMENTATION FUND. THE STATE TREASURER SHALL MAINTAIN SEPARATE ACCOUNTS FOR EACH ACTIVE MANAGEMENT AREA WITHIN THE FUND.
2. MONIES RECEIVED FOR THE PURPOSE OF PURCHASE AND RETIREMENT OF GRANDFATHERED RIGHTS SHALL BE KEPT IN A PURCHASE AND RETIREMENT FUND. THE STATE TREASURER SHALL MAINTAIN SEPARATE ACCOUNTS FOR EACH ACTIVE MANAGEMENT AREA WITHIN THE FUND.
ARTICLE 12. ENFORCEMENT

45-631. Definition

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PERSON" MEANS AN INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION, COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, SOCIETY, ESTATE, TRUST, ANY OTHER PRIVATE ORGANIZATION OR ENTERPRISE, THE UNITED STATES, ANY STATE, TERRITORY OR COUNTRY OR A GOVERNMENTAL ENTITY, POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION ORGANIZED UNDER OR SUBJECT TO THE CONSTITUTION AND LAWS OF THIS STATE.

45-632. Records and annual report of groundwater pumping, transportation and use

A. EACH PERSON WHO IS REQUIRED TO FILE AN ANNUAL REPORT UNDER THIS SECTION SHALL MAINTAIN CURRENT ACCURATE RECORDS OF HIS WITHDRAWALS, TRANSPORTATION AND USE OF GROUNDWATER AS PRESCRIBED BY THE DIRECTOR UNDER SUBSECTION J.

B. EXCEPT AS PROVIDED IN SUBSECTION C, AN ANNUAL REPORT SHALL BE FILED WITH THE DIRECTOR BY EACH PERSON WHO:

1. WITHDRAWS GROUNDWATER IN AN ACTIVE MANAGEMENT AREA.
2. USES GROUNDWATER IN AN ACTIVE MANAGEMENT AREA, NOT OTHERWISE REPORTED FOR SUCH PERSON IN A FORM ACCEPTABLE TO THE DIRECTOR.
3. USES GROUNDWATER WHICH IS TRANSPORTED FROM AN ACTIVE 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. PERSONS WHO ARE REQUIRED TO REPORT UNDER SUBSECTION B, PARAGRAPH 1 SHALL REPORT THE FOLLOWING INFORMATION FOR EACH WELL:

1. THE REGISTRATION NUMBER AND LOCATION OF THE WELL.
2. THE QUANTITY OF GROUNDWATER WITHDRAWN FROM THE WELL SINCE THE DATE OF THE PRECEDING REPORT.
3. THE QUANTITY OF FUEL OR ELECTRICITY CONSUMED BY THE PUMP SINCE THE DATE OF THE PRECEDING REPORT.
4. THE USES TO WHICH THE GROUNDWATER WAS APPLIED OR THE PERSONS TO WHOM THE GROUNDWATER WAS DELIVERED DURING THE REPORTING PERIOD.

E. PERSONS WHO ARE REQUIRED TO REPORT UNDER SUBSECTION B, PARAGRAPH 2 OR 3 SHALL REPORT THE FOLLOWING INFORMATION:

1. THE SOURCE OF THE GROUNDWATER, INCLUDING:
   (a) THE NAME OF THE PERSON FROM WHOM THE GROUNDWATER WAS OBTAINED.
   (b) THE REGISTRATION NUMBER AND LOCATION OF THE WELL, IF KNOWN.
2. THE QUANTITY OF GROUNDWATER USED SINCE THE DATE OF THE PRECEDING REPORT.
3. THE SPECIFIC USES TO WHICH THE GROUNDWATER WAS APPLIED DURING THE REPORTING PERIOD.

F. IF A PERSON BOTH WITHDRAWS GROUNDWATER IN AN ACTIVE MANAGEMENT AREA AND USES SUCH WATER, HE MAY COMBINE THE INFORMATION REQUIRED BY SUBSECTIONS D AND E INTO ONE REPORT.
S.B. 1001

G. THE DIRECTOR MAY REQUIRE SUCH OTHER INFORMATION IN THE REPORT AS MAY BE NECESSARY TO ACCOMPLISH THE MANAGEMENT GOALS OF THE APPLICABLE ACTIVE MANAGEMENT AREA.

H. EACH REPORT SHALL CONTAIN EITHER A SWORN STATEMENT OR A CERTIFICATION, UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IN THE REPORT IS TRUE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON FILING THE REPORT.

I. THE ANNUAL REPORT SHALL BE MAINTAINED ON A CALENDAR YEAR BASIS AND SHALL BE FILED WITH THE DIRECTOR NO LATER THAN MARCH 31.

J. THE RECORDS AND REPORTS REQUIRED TO BE KEPT AND FILED UNDER THIS SECTION SHALL BE IN SUCH FORM AS THE DIRECTOR PRESCRIBES. THE DIRECTOR SHALL PREPARE BLANK FORMS AND DISTRIBUTE THEM ON A TIMELY SCHEDULE THROUGHOUT EACH ACTIVE MANAGEMENT AREA AND FURNISH THEM UPON REQUEST. FAILURE TO RECEIVE OR OBTAIN THE FORMS DOES NOT RELIEVE ANY PERSON FROM KEEPING THE REQUIRED RECORDS OR MAKING ANY REQUIRED REPORT. THE DIRECTOR SHALL COOPERATE WITH CITIES AND TOWNS, PRIVATE WATER COMPANIES AND IRRIGATION DISTRICTS IN ESTABLISHING THE FORM OF THE RECORDS AND REPORTS TO BE KEPT AND FILED BY THEM.

45-633. Inspections; investigations and audits

A. THE DIRECTOR OR HIS AUTHORIZED REPRESENTATIVE MAY ENTER AT REASONABLE TIMES UPON PRIVATE OR PUBLIC PROPERTY WHERE FACILITIES FOR THE WITHDRAWAL, TRANSPORTATION OR USE OF GROUNDWATER ARE LOCATED, AND THE OWNER, MANAGER OR OCCUPANT OF THE PROPERTY SHALL PERMIT SUCH ENTRY, TO:

1. INSPECT THE FACILITIES FOR WITHDRAWAL, TRANSPORTATION OR USE OF GROUNDWATER THAT ARE SUBJECT TO THIS CHAPTER.

2. OBTAIN FACTUAL DATA OR ACCESS TO RECORDS REQUIRED TO BE KEPT UNDER SECTION 45-632.

3. ASCERTAIN COMPLIANCE WITH THIS CHAPTER.

B. INSPECTIONS AND INVESTIGATIONS UNDER SUBSECTION A OF THIS SECTION SHALL BE UPON REASONABLE NOTICE TO THE OWNER, MANAGER OR OCCUPANT OF THE PROPERTY UNLESS REASONABLE GROUNDS EXIST TO BELIEVE THAT SUCH NOTICE WOULD FRUSTRATE THE ENFORCEMENT OF THIS CHAPTER OR WHERE ENTRY IS SOUGHT FOR THE SOLE PURPOSE OF INSPECTING WATER MEASURING DEVICES REQUIRED PURSUANT TO SECTION 45-604. THE DIRECTOR SHALL ADOPT REGULATIONS FOR CONDUCTING INSPECTIONS, EXAMINING RECORDS AND OBTAINING WARRANTS PURSUANT TO THIS SECTION. THE DIRECTOR MAY APPLY FOR AND OBTAIN WARRANTS IF WARRANTS ARE REQUIRED BY LAW, THE DIRECTOR SHALL APPLY FOR AND OBTAIN WARRANTS FOR ENTRY AND INSPECTION TO CARRY OUT THE ADMINISTRATIVE AND ENFORCEMENT PURPOSES OF THIS CHAPTER.

C. THE DIRECTOR MAY REQUIRE A PERSON WHO IS REQUIRED TO KEEP RECORDS UNDER SECTION 45-632 TO APPEAR, AT REASONABLE TIMES AND UPON REASONABLE NOTICE, AT THE DIRECTOR'S OFFICE AND PRODUCE SUCH RECORDS AND INFORMATION AS ARE SPECIFIED IN THE NOTICE TO DETERMINE WHETHER THE RECORDS AND ANNUAL REPORTS REQUIRED BY SECTION 45-632 ARE COMPLETE, TRUE AND CORRECT. THE DIRECTOR SHALL AUDIT THE RECORDS OF A SUFFICIENT NUMBER OF PERSONS UNDER THIS SUBSECTION TO ENSURE GENERAL COMPLIANCE WITH THIS CHAPTER.

D. THE DIRECTOR SHALL PROVIDE A WRITTEN REPORT OF EACH INSPECTION, INVESTIGATION AND AUDIT UNDER THIS SECTION TO THE PERSON SUBJECT TO SUCH ACTION.
45-634. Cease and desist order; hearing; injunctive relief

A. If the director finds that a person is violating a provision of this chapter or the rules or regulations adopted pursuant to this chapter, the director may recommend the imposition of a civil penalty and shall issue a written notice for the violator to appear and show cause not less than fifteen days of receipt of the notice why he should not be ordered to cease and desist from such violation. Such notice shall inform the person of the time and place where he may appear to show cause and the consequences of his failure to appear.

B. After the cease and desist hearing, or after the expiration of the time to appear, the director shall issue a decision and order, which constitute the final action by the director. The person affected may appeal the decision and order of the director to the superior court in the county in which the violation is alleged to have occurred pursuant to Title 12, Chapter 7, Article 6.

C. If the person continues the violation after the director's final decision and order is issued, the director may apply for a temporary restraining order or preliminary or permanent injunction from the superior court according to the Arizona Rules of Civil Procedure. A decision to seek injunctive relief does not preclude other forms of relief or enforcement against the violator.

45-635. Violation; civil penalties

A. A person who is determined pursuant to section 45-634 to be in 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. One hundred dollars per day of violation not directly related to illegal withdrawal, use or transportation of groundwater.
2. Ten thousand dollars per day of violation directly related to illegal withdrawal, use or transportation of groundwater.

B. 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. 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.

45-636. Violation; classification

A. Unless otherwise specified, a person who knowingly violates or refuses to comply with a provision of this chapter or a permit, rule, regulation or order issued or adopted pursuant to this chapter is guilty of a class 2 misdemeanor. A person who, after notice of violation, continues in violation of a provision of this chapter or a permit, rule, regulation or order issued or adopted pursuant to this chapter is guilty of a separate offense for each day of violation.

B. A person who knowingly falsifies or renders inaccurate a measuring device required to be installed or maintained under this chapter is guilty of a class 6 felony.
C. A person who knowingly and intentionally withdraws or uses groundwater in violation of this chapter is guilty of:

1. A class 6 felony if the amount of groundwater illegally withdrawn or used is one thousand acre-feet or more.

2. A class 1 misdemeanor if the amount of groundwater illegally withdrawn or used is more than one hundred acre-feet but less than one thousand acre-feet.

3. A class 3 misdemeanor if the amount of groundwater illegally withdrawn or used is one hundred acre-feet or less.

45-637. Groundwater enforcement fund

A. There shall be established a permanent groundwater enforcement fund on July 1, 1982 in an amount of not less than one hundred thousand dollars. The monies in the fund shall be appropriated to the director to:

1. Reimburse the department for costs of actions relating to civil violations of this chapter.

2. Pay the attorney general, county attorneys or appropriate prosecutorial agency for unreimbursed costs of actions for prosecuting criminal violations of this chapter.

B. All civil penalties, assessments and fines collected under this article shall be immediately deposited in the fund.

C. The monies in the fund are exempt from section 35-190 relating to lapsing of appropriations.

Sec. 87. Section 45-701, Arizona Revised Statutes, is amended to read:

45-701. Definitions

In this article, unless the context otherwise requires:

1. "Dam" means any artificial barrier, including appurtenant works for the impounding or diversion of water except those barriers for the purpose of controlling liquid borne material, twenty-five feet or more in height or the storage capacity of which will be more than fifty acre feet, but does not include any such barrier which is or will be less than six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of fifteen acre feet, regardless of height.

2. "Height" means the vertical distance from the lowest elevation of the outside limit of the barrier at its intersection with the natural ground surface to the spillway crest elevation.

3. "Owner" includes any person or entity who owns, controls, operates, maintains, manages or proposes to construct or modify a dam, except the United States government and its agents or instrumentalities, if a safety program at least as stringent as the state program is applicable to and enforced against such agent or instrumentality.

4. "Person" means any person, firm, association, organization, partnership, business trust, corporation, company or district.

5. "State engineer" means the state water engineer.

6. "Storage capacity" means the maximum volume of water that can be impounded by the reservoir when there is no discharge of water.
Sec. 88. Section 45-702, Arizona Revised Statutes, is amended to read:

45-702. Jurisdiction of director of water resources; records; rules and regulations

A. All dams shall be under the jurisdiction of the state engineer DIRECTOR OF WATER RESOURCES. Dams of the state, or any political subdivisions thereof, or dams of public utilities, and all dams within the state except those of the United States or its instrumentalities are included within the jurisdiction conferred by this section. It is unlawful to construct, reconstruct, repair, operate, maintain, enlarge, remove or alter any dam except upon approval of the state engineer DIRECTOR.

B. The records pertaining to dam supervision shall be public documents. The state engineer DIRECTOR shall adopt and revise rules of procedure and regulations and issue general orders to effectuate this article, with the approval of the Arizona water commission.

Sec. 89. Section 45-703, Arizona Revised Statutes, is amended to read:

45-703. Approval by director of proposed dams or enlargements of existing dams; application for construction or enlargement

A. Construction of a dam or enlargement of an existing dam shall not be commenced until a written approval of plans and specifications has been obtained from the state engineer DIRECTOR.

B. A separate application for each dam shall be filed with the state engineer DIRECTOR upon forms provided by him, reciting the name and address of the owner or his agent, the location, type, size and height of the proposed dam and appurtenant works, the storage capacity of the reservoir, and such other information as the state engineer DIRECTOR requests. The application shall also set forth the area of the drainage basin, rainfall and stream flow records, flood flow records and estimates and other similar information required by the state engineer DIRECTOR. The state engineer DIRECTOR may require information concerning subsoil and foundation conditions and may require that the site be drilled or otherwise prospected.

C. When the physical conditions and the size of the dam do not require the information provided in subsection B, such information may be waived by the state engineer DIRECTOR.

D. The means, plans and specifications by which the stream or body of water is to be dammed, by-passed or controlled during construction shall be stated in the application, or such means, plans and specifications shall be submitted to the state engineer DIRECTOR for approval prior to beginning construction. The state engineer DIRECTOR shall have the same authority over the construction and maintenance of such means of damming, by-passing or controlling the stream or body of water during construction of the dam as he has over similar work on the dam itself.

E. The application shall further state the proposed time of beginning and completing construction, the estimated cost OF CONSTRUCTION, the use to which the impounded or diverted water is to be
put, and shall be accompanied by maps, plans and specifications and state
such details and dimensions as the state engineer DIRECTOR may require.
The maps, plans and specifications shall be a part of the application.

F. Prior to the approval of plans and specifications, the state
engineer DIRECTOR may require a surety company bond in an amount sufficient
to secure the costs to the state in assuring the safety of any dam left
partially constructed. The bond may be required only when the state
engineer DIRECTOR questions the financial ability of the owner or
contractor, or otherwise deems the bond advisable.

Sec. 90. Section 45-705, Arizona Revised Statutes, is amended to
read:

45-705. Charges against irrigation projects;
disposition of proceeds
A. Upon all projects for which approval is required by the state
certification board, or which involves examination, supervision and
inspection by the state engineer DIRECTOR, whether in connection with the
construction of a dam or otherwise, the following shall be paid:
1. For irrigation projects of any kind involving twenty-five
thousand acres or less, an annual tax levy of ten cents per acre shall be
levied and collected.
2. For such irrigation projects in excess of twenty-five thousand
acres, an annual tax levy of five cents per acre shall be levied and
collected.
B. The levy shall be made only in the years required for
construction of the project, and shall be made and collected in the same
manner as provided for the levy and collection of taxes made for other
expenses of the particular district. Such collections shall be
transmitted to the state treasurer and credited to the state general
fund.
C. All fees collected by the state engineer DIRECTOR under this
article shall be paid to the state treasurer who shall credit them to the
state general fund.
D. The fees provided by this article shall be required of all
applicants including the state and its departments, institutions or
agencies.

Sec. 91. Section 45-706, Arizona Revised Statutes, is amended to
read:

45-706. Approval of repair, alteration or removal of dam
A. Before commencing the repair, alteration or removal of a dam,
application shall be made for written approval by the state engineer
DIRECTOR, except as otherwise provided by this article. The application
shall state the name and address of the applicant, shall adequately detail
the changes it proposes to effect and shall be accompanied by maps, plans
and specifications setting forth such details and dimensions as the state
engineer DIRECTOR requires. The state engineer DIRECTOR may waive any such
requirements. The application shall give such other information
concerning the dam and reservoir required by the state engineer DIRECTOR,
such information concerning the safety of any change he may require, and
shall state the proposed time of commencement and completion of the work. The application shall otherwise conform to the requirements of section 45-703.

B. When repairs are necessary to safeguard life and property, they may be started immediately, but the state engineer DIRECTOR shall be notified forthwith of the proposed repairs and of work under way, and they shall be made to conform to his orders.

Sec. 92. Section 45-707, Arizona Revised Statutes, is amended to read:

45-707. Approval or disapproval of applications; commencing construction

A. Upon receipt of an application, the state engineer DIRECTOR shall approve, disapprove or approve subject to conditions necessary to insure safety.

B. A defective application shall not be rejected, but notice of the defects shall be sent to the applicant by registered mail. If the applicant fails to file a perfected application within thirty days, the original shall be canceled unless further time is allowed.

C. No application shall be approved in less than ten days from its receipt, nor shall an application be retained more than sixty days after it is filed unless the state engineer DIRECTOR finds that additional information is necessary.

D. If the state engineer DIRECTOR disapproves an application, one copy shall be returned with a statement of his objections. If an application is approved, the approval shall be attached thereto, TO THE APPLICATION and a copy returned by registered mail. Approval shall be granted under terms, conditions and limitations which the state engineer DIRECTOR deems necessary to safeguard life and property.

E. Construction shall be commenced within one year after the date of approval of the application or such approval is void. The state engineer DIRECTOR upon written application and good cause shown may extend the time for commencing construction. Notice by registered mail shall be given TO the state engineer DIRECTOR at least ten days before construction is commenced.

Sec. 93. Section 45-708, Arizona Revised Statutes, is amended to read:

45-708. Inspections and investigations during construction; modifications; notice

A. During the construction, enlargement, repair, alteration or removal of a dam the state engineer DIRECTOR shall make such inspections, investigations or examinations as he deems necessary to enforce the provisions of his approval and the plans and specifications as approved. If thereafter as the work progresses the state engineer DIRECTOR believes amendments, modifications or changes are necessary to insure safety, he shall revise the approval.

B. If, during construction, reconstruction, repair, alteration or enlargement of any dam, the state engineer DIRECTOR finds the work is not being done in accordance with the provisions of the approval and the
approved plans and specifications, he shall give written notice by registered mail or personal service to the person who received the approval and to the person in charge of construction at the dam. The notice shall state the particulars in which compliance has not been made, and shall order immediate compliance with the terms of the approval, and the approved plans and specifications. The state engineer DIRECTOR may order that no further construction work be undertaken until such compliance has been effected and approved by the state engineer DIRECTOR. A failure to comply with the approval and the approved plans and specifications shall render the approval revocable unless compliance is made after notice as provided by this section.

Sec. 94. Section 45-709, Arizona Revised Statutes, is amended to read:

45-709. Notice of completion; license of final approval; removal of dam
A. Immediately upon completion or enlargement of a dam, notice of completion shall be given to the state engineer DIRECTOR. As soon as possible thereafter supplementary drawings or descriptive matter showing or describing the dam as actually constructed shall be filed with the state engineer DIRECTOR which shall include:
1. A record of all grout holes and grouting.
2. A record of permanent location points and bench marks.
3. A record of tests of concrete or other material used in the construction of the dam.
4. A record of other items of permanent value bearing on safety and permanence of construction.
B. When an existing dam is enlarged, the supplementary drawings and descriptive matter need apply only to the new work.
C. The owner of a completed dam shall file an affidavit of the total cost of the dam comprised of items set forth in section 45-704, and furnish such evidence in support thereof as the state engineer DIRECTOR requires. No license of final approval shall issue until the affidavit is filed. The completed dam shall be inspected by the state engineer DIRECTOR, and upon finding that the work has been done as required and that the dam is safe, he shall issue a license of final approval forthwith, subject to such terms as he deems necessary for the protection of life and property. In the event the total cost exceeds the estimated cost, the fee shall be recomputed in accordance with the schedule in section 45-704, subsection B. The owner shall pay the difference between the fee already paid and the recomputed fee.
D. Pending issuance of the license, the dam shall not be used except on written consent of the state engineer DIRECTOR, subject to conditions he may impose.
E. When a dam is removed the owner shall file with the state engineer DIRECTOR evidence showing that a sufficient portion has been removed to permit the free passage of flood waters. Before final approval of the removal of the dam the state engineer DIRECTOR shall inspect the work to ascertain its safety.
Sec. 95. Section 45-710, Arizona Revised Statutes, is amended to read:

45-710. Petition for review

Except as otherwise provided in this article, a petition for review by a board of review of any approval, disapproval or order of the state engineer DIRECTOR concerning plans, specifications, construction or maintenance pertaining to any dam may be filed by the owner or applicant, or by three land owners whose property would be endangered by the failure of the dam.

Sec. 96. Section 45-711, Arizona Revised Statutes, is amended to read:

45-711. Time for filing petition; board of review

A. The petition for review shall be in writing and shall be filed with the state engineer DIRECTOR within ten days after issuance of the approval, disapproval or order of which complaint is made. Upon receipt of the petition, the state engineer DIRECTOR shall prepare a list of ten qualified experts. Within ten days the petitioner shall select three individuals from the list who shall then serve as the board of review. The board shall serve at the expense of the petitioners. Within thirty days from its designation, or within such further time as the state engineer DIRECTOR allows, the board shall report to the state engineer DIRECTOR and he shall forthwith affirm, change or modify the report, and his action shall be final and not subject to further review. No board of review shall be appointed to consider any action taken by the state engineer DIRECTOR relative to emergency regulation and control of a dam under section 45-712.

B. Pending examination, change or modification by the state engineer DIRECTOR, his approval, disapproval or order issued shall remain operative. Operations shall be suspended if an applicant or owner files a petition for a board of review unless the state engineer DIRECTOR orders work to proceed because of emergency conditions.

Sec. 97. Section 45-712, Arizona Revised Statutes, is amended to read:

45-712. Supervision over maintenance and operation; remedial measures; lien

A. Supervision over the maintenance and operation of dams to safeguard life and property is vested exclusively in the state engineer DIRECTOR. He shall make complete inspections, require reports from owners or operators and shall issue rules, regulations and orders necessary to secure maintenance and operation of dams which will safeguard life and property.

B. If the state engineer DIRECTOR determines that the dam under consideration is dangerous to the safety of life and property, and that there is not sufficient time to issue and enforce an order relative to its maintenance or operation, or if the state engineer DIRECTOR believes that imminent floods threaten the safety of the dam under consideration, the state engineer DIRECTOR shall immediately employ remedial measures necessary to protect life and property.
C. In applying remedial measures the state engineer DIRECTOR may
lower the water level of a reservoir by releasing water impounded, may
completely empty the reservoir, may destroy the dam or reservoir or such
portions thereof as appear necessary, or may construct, reconstruct,
repair or enlarge the dam, and may exercise any other control of the dam,
reservoir and appurtenances essential to safeguard life and property. The
state engineer DIRECTOR shall remain in full charge and control of the dam,
reservoir and appurtenances until they have been rendered safe or the
emergency has terminated.

D. The costs and expenses of the control, regulation and
abatement— provided by this section, including costs of construction work
done to render the dam, reservoir, or appurtenances safe, shall
constitute a lien against all property of the owner, and the lien shall be
prior and superior to all other mortgages, liens or encumbrances of record.
The lien shall have the force and effect of a mechanic's and materialman's
lien, and may be foreclosed at any time within two years.

E. The lien referred to in subsection D may be perfected and
foreclosed in advance of construction or repair or after completion of the
repairs. If in advance, the lien shall be perfected by the filing of an
affidavit of the state engineer DIRECTOR setting forth the estimate of the
costs of construction or repair with the county recorder in the county in
which the dam is located in the same manner as prescribed for mechanics'
liens in title 33, chapter 7, article 6 and may be foreclosed in the same
manner as a mechanic's MECHANIC'S and materialman's MATERIALMAN'S lien.
When the affidavit is filed, the amount set forth in the affidavit shall be
a lien in such amount against all property of the owner. If the actual
cost of construction or repair exceeds the estimated cost, the state
engineer DIRECTOR may amend the affidavit setting forth the additional
estimated cost. If the estimated cost exceeds the actual costs of
construction or repair at completion, the state engineer DIRECTOR shall
file an amended affidavit at completion. If a lien is perfected in advance
and the construction or repair is not commenced within two years from the
date of perfection, the lien shall be void. The state engineer DIRECTOR
shall file a satisfaction of lien upon payment of the costs of construction
or repair by the owner.

Sec. 98. Section 45-713, Arizona Revised Statutes, is amended to
read:

45-713. Inspection upon complaint

Upon receipt of a written complaint that the person or property of
the complainant is endangered by any dam, the state engineer DIRECTOR shall
inspect such dam unless his records disclose that the complaint is without
merit. If the complainant insists upon an inspection and deposits with the
state engineer DIRECTOR an amount sufficient to cover costs thereof OF
INSPECTION, the inspection shall be made. If an unsafe condition is found,
the state engineer DIRECTOR shall cause it to be corrected, and the deposit
shall be returned. If the complaint was without merit the deposit shall be
paid into the general fund.

Sec. 99. Section 45-714, Arizona Revised Statutes, is amended to
read:
45-714. Investigations for review of design and construction
The state engineer DIRECTOR shall make investigations and assemble
data for a proper review and study of the design and construction of dams,
reservoirs and appurtenances, and shall make watershed investigations to
facilitate decisions on public safety. The state engineer DIRECTOR or his
representatives may enter upon private property for such purposes.
Sec. 100. Section 45-716, Arizona Revised Statutes, is amended to
read:
45-716. Violations; classification
A. It is unlawful for an owner, director, officer, agent, employee,
contractor or his agents to construct, reconstruct, repair, enlarge, alter
or remove a dam without an approval as provided in this chapter, or
contrary to an approval issued. It is unlawful for the agents or employees
of the state engineer DIRECTOR to permit such work to be done without
immediately notifying the state engineer DIRECTOR.
B. A person who violates this article, except as otherwise
provided, is guilty of a class 2 misdemeanor, and each day such violation
continues constitutes a separate offense.
Sec. 101. Section 45-717, Arizona Revised Statutes, is amended to
read:
45-717. Action and procedures to restrain violations
A. The state engineer DIRECTOR may take any legal action proper and
necessary for the enforcement of this chapter.
B. An action or proceeding under this section may be commenced
whenever any owner or any person acting as a director, officer, agent or
employee of any owner, or any contractor or agent or employee of such
contractor is:
1. Failing or omitting or about to fail or omit to do anything
required of him by this chapter or by any approval, order, rule,
regulation or requirement of the state engineer DIRECTOR under the
authority of this chapter; or
2. Doing or permitting anything or about to do or permit anything to
be done in violation of or contrary to this chapter or any approval, order,
rule, regulation or requirement of the state engineer DIRECTOR under this
chapter; or
3. In the opinion of the state engineer DIRECTOR, in any manner in
violation of this chapter.
C. Any action or proceeding under this section shall be commenced
in a court of appropriate jurisdiction in which:
1. The cause or some part thereof arose; or
2. The owner or person complained of has his principal place of
business; or
3. The person complained of resides.
Sec. 102. Section 45-1065, Arizona Revised Statutes, is amended to
read:
45-1065. Revenue bonds
A. To undertake, carry out and accomplish any or all of the purposes
and powers of the district authorized or permitted by law, the district may
borrow money and issue its negotiable bonds therefor. No bonds may be
issued unless authorized by a resolution of the board of directors adopted
by an affirmative vote of a majority of its members, which shall set forth
a brief description of the undertaking to be accomplished, the estimated
cost thereof, and the amount, maximum rate of interest and time of payment
of the bonds. In districts that have both a board of directors and a
council pursuant to title 45, chapter 4, article 3 OF THIS CHAPTER, no
bonds may be issued unless the council by resolution adopted by an
affirmative vote of a majority of its members ratifies and confirms the
amount of bonds authorized to be issued by the board of directors. Written
notice of any meeting of the board or council for the purpose of taking
action under this section shall be sent to all members thereof by certified
or registered mail at least ten days prior to the date of such meeting.

B. No bonds shall be issued pursuant to this article until the
district shall first secure an order authorizing the issuance of such bonds
in accordance with those provisions of section 40-302 pertaining to the
issuance of bonds. All additional costs which are necessarily incurred by
the CORPORATION commission in connection with securing such order shall be
paid for by the district.

C. The principal of and interest on such bonds and premiums, if any,
shall be payable solely from the revenue of the district, or any part
thereof, or all or any part of the revenue from the undertaking, as shall
be pledged thereto in the authorizing resolution, which may include, if the
resolution so provides, revenues derived by reason of future improvements,
enlargements, extensions or repairs thereto, or revenues from the
operation of all or any part of the district or undertaking. No bond or
coupon may be issued pursuant to this article for which taxes or
assessments upon or against the lands included within the district may be
levied, nor may payment thereof be enforceable out of any funds other than
the revenue pledged to the payment thereof. Any other provision of law to
the contrary notwithstanding, bonds issued under the provisions of this
article shall not be a lien upon the real property included in the
district, and neither such bonds nor the interest thereon may be payable
from the levy of taxes upon the real property included in the district. No
referendum or election is required for the issuance of bonds authorized in
this article.

Sec. 103. Section 45-1585, Arizona Revised Statutes, is amended to
read:

45-1585. Supervisory powers of director of
water resources over district projects

A. All engineering determinations and supervision provided for and
directed by any law relating to irrigation districts shall be made under
the direction of the state water engineer DIRECTOR OF WATER RESOURCES, and
when so made shall be binding upon the state land department and the state
certification board.

B. Upon the certification of an irrigation project, the plans,
specifications and contracts therefor, for and any modification thereof,
OF THE PROJECT shall be filed with the state engineer DIRECTOR. The works
approved and authorized thereby shall be performed strictly in accordance with the plans, specifications and contracts and any modifications thereof. The state engineer DIRECTOR in enforcing the provisions of this section shall have the same powers and duties as conferred upon him by article 1, chapter 3, ARTICLE 1 of this title.

Sec. 104. Section 45-1814, Arizona Revised Statutes, is amended to read:

45-1814. Issuance of certificate; form
A. When any bond of a district, including any bond authorized but not sold, which is eligible to FOR certification by the assistant director of the department of administration for the division of assistant DIRECTOR FOR finance as provided by section 45-1812 is presented to the assistant director of the department of administration for the division of finance, he shall attach thereto a certificate TO THE BOND in substantially the following form:

Phoenix, Arizona

I, (insert date)
assistant director of the department of administration for the division of finance of the state of Arizona, do hereby certify that the within bond, number ________, of series number ________ of the ________ district, issued ________ (insert date), is, in accordance with an act of the legislature of the state of Arizona, approved ____________ (insert date), a legal investment for the funds of savings banks in the state of Arizona, and may be deposited to secure public monies, it being entitled to such privilege by virtue of an examination by the state water engineer DIRECTOR OF WATER RESOURCES, the attorney general and the superintendent of banks of the state of Arizona in pursuance of said act.

Assistant director of the department of administration for the division of finance of the state of Arizona.

B. A facsimile of the signature of the assistant director of the department of administration for the division of finance impressed upon the certificate shall be a sufficient signing thereof, provided that the imprint of the seal of the assistant director of the department of administration for the division of finance shall appear upon both the certificate and the bond over the facsimile signature.

Sec. 105. Transfer and renumber

Title 45, chapter 8, Arizona Revised Statutes, is transferred and renumbered for placement in title 37, Arizona Revised Statutes, as chapter 5, which is entitled, "NATURAL RESOURCE CONSERVATION DISTRICTS". The transferred articles are renumbered, with title 45, chapter 8, articles 1, 2, 3 and 4 becoming, respectively, title 37, chapter 5, articles 1, 2, 3 and 4. The transferred sections, previously included in title 45, chapter 8, articles 1, 2, 3 and 4, are renumbered for placement in title 37, chapter 5, articles 1, 2, 3 and 4, respectively, the first number being
replaced by the second number as follows: 45-2001 as 37-901, 45-2002 as
37-902, 45-2011 as 37-911, 45-2012 as 37-912, 45-2013 as 37-913, 45-2014 as
37-914, 45-2031 as 37-931, 45-2032 as 37-932, 45-2033 as 37-933, 45-2034 as
37-934, 45-2035 as 37-935, 45-2036 as 37-936, 45-2037 as 37-937, 45-2038 as
37-938, 45-2039 as 37-939, 45-2040 as 37-940, 45-2051 as 37-951, 45-2052 as
37-952, 45-2053 as 37-953, 45-2054 as 37-954, 45-2055 as 37-955, 45-2056 as
37-956 and 45-2057 as 37-957.

Sec. 106. Section 37-934, Arizona Revised Statutes, as renumbered
by section 105 of this act, is amended to read:

37-934. Referendum; election of supervisors

A. Within a reasonable time after the commissioner has recorded his
determination that it is in the public interest that a district be
organized, and has defined the boundaries thereof, he shall hold a
referendum within the proposed district upon the question of the creation
of the district, and an election to elect three supervisors. He shall
promulgate regulations for the conduct of such referendum and election and
prescribe a procedure for the determination of persons eligible to vote.
The referendum and election of supervisors shall be conducted by separate
ballots.

B. The ballot for the referendum shall:

1. Describe the boundaries of the proposed district as determined
by the commissioner.

2. Contain the propositions: "For the creation of a district" and
"against the creation of a district", with a square after each
proposition.

3. An instruction to mark an X in the square after the proposition
for which the voter wishes to vote.

C. Only owners of land lying within the boundaries of the territory
described shall be eligible to vote on the referendum, but any such owner
who is not a qualified elector of the district, or any owner who is a
qualified elector but is unable because of illness or absence from the
district to appear at the polls, may appoint in writing, on a form
prescribed by the commissioner, a qualified elector of the district as his
agent or proxy. The appointment of agent or proxy shall be presented to
the board of election, and if it is found to be bona fide and in proper
form, the holder thereof shall be allowed to vote in behalf of the owner
executing the appointment on the question of creation of the district only.
The appointment shall be filed with the ballots and other election
returns.

D. Candidates for supervisor shall file nomination petitions with
the commissioner in the manner prescribed by the commissioner. Any
qualified elector of the proposed district may sign the petitions of not
more than three candidates. The names of candidates shall appear on the
election ballot in alphabetical order by surnames, with a square opposite
each name, and an instruction to mark an X in the squares opposite the
names of not more than three candidates for whom the voter wishes to
vote.

E. No informality in the conduct of any referendum or election held
under the provisions of this chapter, or in any matter relating thereto,
shall invalidate the result thereof if notice has been given substantially as prescribed in section 45-2002, and the referendum and election has been fairly conducted. All expenses of a referendum and election shall be paid by the commissioner.

Sec. 107. Section 37-936, Arizona Revised Statutes, as renumbered by section 105 of this act, is amended to read:

37-936. Proceedings to organize district; certificate of organization

A. A district shall be organized and be a body corporate upon taking the following steps:

1. The supervisors elected as provided in section 45-2002 shall present to the secretary of state an application, signed and acknowledged by each supervisor, setting forth:
   (a) That a petition for the creation of the district was approved by the commissioner pursuant to the provisions of this chapter.
   (b) The name and official residence of each supervisor, and a certified copy of their notification of election.
   (c) The name proposed for the district.
   (d) The location of the proposed office of the supervisors of the district.

2. The application shall be accompanied by a certificate of the commissioner which shall set forth:
   (a) The boundaries of the district as determined by him.
   (b) That a petition was filed, notice issued and a hearing held as prescribed by law.
   (c) That for a district to function in the proposed territory was determined by the commissioner to be in the public interest.
   (d) That notice was given and a referendum on the question of the creation of the district and an election of supervisors were held.
   (e) That the results of the referendum showed not less than sixty-five per cent of the votes cast, representing not less than fifty per cent of the owners of land, to be in favor of the creation of the district.
   (f) That the supervisors signing the application are the duly elected supervisors of the district.

3. The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with or so similar to that of any other district as to lead to confusion, he shall record them. If the name proposed is identical with or so similar to another district as to lead to confusion, he shall certify that fact to the commissioner, who shall submit another name. Upon receipt of a new name, free from defects, the secretary of state shall record the application and statement.

B. The secretary of state shall issue to the supervisors a certificate, under the seal of the state, certifying the organization of the district, and record the certificate with the application and statement. The district shall include the territory as determined by the commissioner, but it shall not include any area within the boundaries of
another district, nor shall it include any area, land or property of or
lands held under certificate of purchase or lease from the state by any
person or persons, which area, land, property or leaseholds lie within the
geographical limits of such district but the owners or holders of
certificates of purchase or lessees of which do not desire to come within
the district.

C. In any action or proceeding involving the validity or
enforcement of, or relating to, any contract, proceeding or action of the
district, the district shall be deemed to have been established in
accordance with the provisions of this chapter upon proof of the issuance
of the certificate of organization by the secretary of state. A copy of
the certificate certified by the secretary of state shall be admissible in
evidence in any action or proceeding, and shall be proof of the filing and
contents thereof. In like manner, any district combined, and consolidated
with an adjacent district or districts, and reorganized and renamed prior
to the date of this section shall be deemed to have been established upon
proof of certifications and official maps filed with the secretary of state
by the division of natural resource conservation of the state land
department.

D. The commissioner shall appoint two supervisors from a panel of
candidates compiled by the elected supervisors and presented by the
temporary chairman of the elected supervisors. Candidates for the office
of appointed supervisors shall be qualified electors of the state.
Appointed supervisors shall continue to serve until May 31 next
even-numbered year or until their successors are otherwise appointed.

Sec. 108. Section 37-939, Arizona Revised Statutes, as renumbered
by section 105 of this act, is amended to read:

37-939. Status following dissolution

Upon the issuance of a certificate of dissolution as provided in
section 45-2038 37-938, the ordinances and regulations theretofore in
force within the district shall be of no further effect. Any contract
theretofore entered into to which the district or supervisors are parties
shall remain in force for the period provided therein, and the commissioner
shall be substituted for the district or supervisors as a party thereto.
The commissioner shall be entitled to all benefits and subject to all
liabilities under any such contract and shall have the same right and
liability to perform, require performance, sue and be sued thereon, and to
modify or terminate the contract by mutual consent or otherwise, as the
supervisors of the district would have had. Dissolution shall not affect
the lien of any judgment entered under the provisions of this chapter, nor
the pendency of any action instituted thereunder, and the commissioner
shall succeed to all the rights and obligations of the district or
supervisors as to such liens and actions.

Sec. 109. Section 37-951, Arizona Revised Statutes, as renumbered
by section 105 of this act, is amended to read:

37-951. District supervisors; term of office; biennial
election

A. The governing body of a district shall consist of five
supervisors, three of whom are to be elected and two appointed by the
commissioner. Except as to the first supervisors, whose election and terms are prescribed in section 45-2035 37-935, the term of each elected
supervisor shall be six years, beginning on June 1 following his election.
As prescribed in section 45-2035 37-936, the terms of the two supervisors appointed by the commissioner shall be until May 31 of the next
even-numbered year, or until their successors are otherwise appointed.

B. An election shall be held on the first Saturday in May of each
even-numbered year, at which one supervisor of the district shall be
elected. Any person desiring to be a candidate shall file with the
commissioner a nomination petition in such form as the commissioner
prescribes, at least ten days prior to the election, containing the
signatures of not less than twenty-five qualified electors of the
district. No person shall be eligible to be a candidate for supervisor
unless he is a qualified elector of the district. The names of candidates shall appear on the ballot in alphabetical order by surnames, with a square
after each name and an instruction to mark an X in the square after the
name of the voter's choice. The governing body of a district may provide a
mail ballot to a qualified district elector for which the district
governing body has a first class mailing address. Qualified electors of a
district who wish to vote by mail ballot shall file a first class mailing
address with the district governing body at least thirty days prior to the
date of the election. Qualified district electors who receive ballots in
proper form from the district governing board may cast their votes by mail.
Mail ballots, to be counted, shall be received at the place designated, and
within the prescribed time by the district supervisors and clearly
specified in the notice of election. Only qualified electors of the
district shall have the right to vote. The district governing body shall
provide at least one polling place in the district for qualified voters who
wish to vote in person. If two or more candidates receive the same number
of votes, the successful candidate shall be determined by lot.

Sec. 110. Section 45-2101, Arizona Revised Statutes, is amended to
read:

45-2101. State certification board
A. The state certification board shall consist of the attorney
general, the state water engineer DIRECTOR OF WATER RESOURCES and the
superintendent of banks.
B. The board shall elect one of its members chairman, and appoint a
secretary who shall keep the records and minutes of the board. One or more
members of the board shall from time to time, as may be required, designate
from his or their regularly employed personnel the secretary and such
clerks and assistants as are necessary to perform the duties of the board
but without extra compensation.

Sec. 111. Section 45-2112, Arizona Revised Statutes, is amended to
read:

45-2112. Extension of unexpired permits
Notwithstanding the provisions of any law to the contrary, when the
state land department DIRECTOR OF WATER RESOURCES has issued to any
district a permit to make an appropriation of water, or a reservoir permit,
and actual construction work under the permit has not begun, and the time
prescribed in the permit for beginning construction work has not expired,
and the district has, or before the expiration of such prescribed time
shall have, made application to any federal agency for a loan or grant, or
both, of monies to be used for the construction of its works, or some part
thereof, the time for beginning actual construction under the permit is
extended until six months after the monies so applied for have become
available to the district, but in no event shall such extension exceed two
years after the time prescribed in the permit as that within which actual
construction must be begun.

Sec. 112. Section 45-2191, Arizona Revised Statutes, is amended to
read:

45-2191. Definitions
In this article, unless the context otherwise requires:
1. "District" means any irrigation, drainage, flood control,
   agricultural improvement, electrical, water conservation or power district
   organized under the laws of this state.
2. "Governing body of the district" means the board of directors,
   board of trustees, district supervisors, or any other name by which the
   body charged with the administration of the affairs of a district may be
   known.
3. "Person" means any individual, firm, partnership, joint
   adventure VENTURE, corporation or association.
4. "State engineer" means the state water engineer.

Sec. 113. Section 45-2192, Arizona Revised Statutes, is amended to
read:

45-2192. Approval of plans and specifications by the
    director of water resources
A. When any construction, repair, alteration, extension or
   improvement work for district purposes is to be performed according to
   plans and specifications prepared by or for a district, the governing body
   of the district may, if it so desires, make application to the state
   engineer DIRECTOR OF WATER RESOURCES for his approval in writing of the
   plans and specifications.
B. All applications shall contain such information and data as the
   state engineer DIRECTOR may require and shall have attached thereto TO THE
   APPLICATION the plans and specifications to be approved.
C. If application is made to the state engineer DIRECTOR for
   approval of plans and specifications for any such work, no person shall
   commence any such work until the state engineer DIRECTOR has approved the
   plans and specifications in writing, and when approved all work shall be
   performed strictly in accordance with the plans and specifications as
   approved.

Sec. 114. Section 45-2194, Arizona Revised Statutes, is amended to
read:

45-2194. Liability in actions for damages
A. No action shall be brought or maintained against the state, the
   state engineer DIRECTOR OF WATER RESOURCES or his employees or agents for
damages sustained as a result of the approval by the state—engineer
DIRECTOR of the plans and specifications for any such work.
B. No action shall be brought or maintained against any person for
damages resulting directly or indirectly from any such construction,
repair, alteration, extension or improvement work performed by such person
in accordance with plans and specifications as approved by the state
engineer DIRECTOR.
C. The provisions of subsection B of this section shall not be
deemed to limit the liability of any person for negligence or wilful
wrongdoing during the performance of such work.
D. Nothing in this section shall relieve a district from the legal
duties, obligations and liabilities it may have arising from any work
performed in accordance with the plans and specifications approved by the
state—engineer DIRECTOR, nor to relieve any district or person from the
legal duties, obligations and liabilities provided under title 23.
Sec. 115. Section 45-2309, Arizona Revised Statutes, is amended to
read:
45-2309. Development of flood control plan by
director of water resources
A. Upon the application of any district organized pursuant to this
article, and subject to available appropriations, the Arizona—water
commission DIRECTOR OF WATER RESOURCES shall conduct a study and, if deemed
justified by the commission DIRECTOR, develop a flood control plan to
address any flood control problem within the district.
B. The commission DIRECTOR shall conduct such studies and develop
such plans for counties having a population of less than one million. If
personnel are available and if funds are specifically authorized by the
legislature, the commission DIRECTOR may conduct such studies and develop
such plans for counties having a population in excess of one million. The
commission DIRECTOR shall perform its HIS responsibilities under this
section in such a manner as to spread the benefits of such assistance among
all counties of this state.
C. In operating pursuant to this section, the commission DIRECTOR
may utilize its HIS own engineers and resources or may contract for outside
consulting engineers and resources.
D. Any plan developed by the commission DIRECTOR pursuant to this
section shall, to the extent practicable, resolve the particular flood
control problem. The practicality of any solution to a flood control
problem shall be determined jointly by the commission DIRECTOR and the
flood control district based upon cost effectiveness and design criteria
developed by the commission DIRECTOR.
Sec. 116. Section 45-2341, Arizona Revised Statutes, is amended to
read:
45-2341. Definitions
In this article, unless the context otherwise requires:
1. "Area of jurisdiction" means:
   (a) For an incorporated town or city, all of the lands within the
town or city.
(b) For a county, all of the unincorporated areas of the county.

2. "Dwelling unit" means a place of residence and may be located in a single or multiple-dwelling building.

3. "Flood" or "flood waters" means a temporary overflow of water on lands not normally covered by water.

4. "One hundred-year flood" means a flood that has a one per cent chance of occurring, based upon the criteria established by the Arizona water commission DIRECTOR OF WATER RESOURCES.

5. "Floodplain" means the relatively flat areas or low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by man-made structures which have been or may be covered partially or wholly by floodwater from the one hundred-year flood.

6. "Floodplain regulations" means the codes, ordinances and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, housing codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

7. "Person" means any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state or any agency or political subdivision thereof OF THE STATE.

8. "Floodplain board" means the governing body of an incorporated town or city, charter city or county.

9. "Watercourse" means any lake, river, creek, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Sec. 117. Section 45-2342, Arizona Revised Statutes, is amended to read:

45-2342. Flood magnitude criteria; floodplain delineation; regulations

A. Within sixty days after the effective date of this section, the Arizona water commission THE DIRECTOR OF WATER RESOURCES shall develop and adopt criteria for establishing the one hundred-year flood for the state of Arizona.

B. The floodplain board, within its area of jurisdiction shall delineate or may require, by ordinance, developers of subdivisions to delineate for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Arizona water commission DIRECTOR. The floodplains so designated shall be submitted to the water commission DIRECTOR.

C. The floodplain board shall adopt floodplain regulations which shall include the following:

1. Regulations for all subdivision of land, construction of dwelling units or commercial or industrial structures or uses which may divert, retard or obstruct flood water and threaten public health, safety or the general welfare.

-148-
2. Regulations which establish minimum flood protection elevations and flood damage prevention requirements for uses, structures and facilities which are vulnerable to flood damage. Regulations adopted under this section are to be in accordance with state and local land use plans and ordinances, if any.

3. Regulations which provide for coordination by the floodplain board with all other interested and affected political subdivisions and state agencies.

4. Regulations which require that any dwelling built within a floodplain shall be constructed so as to place the minimum floor elevation of the dwelling unit above the high water line of the one hundred-year flood, except that the floodplain board may adopt a variance procedure for floodplains within its jurisdiction.

D. Floodplain boards may enter into cooperative agreements pursuant to title 11, chapter 7, article 3 for the delineation of floodplains and adoption of regulations within such floodplain.

E. Floodplain regulations enacted pursuant to this article may only be adopted after a public hearing at which parties in interest and other citizens have an opportunity to be heard. At least thirty-days prior to the hearing, a notice of the time and place of hearing shall be published in a newspaper of general circulation within the area of jurisdiction of the floodplain board or if no newspaper of general circulation is regularly published within the area of jurisdiction, in a newspaper of general circulation regularly published nearest the area of jurisdiction. A notice of any hearing accompanied by a copy of each of the proposed rules and regulations shall be furnished to the Arizona Water Commission Director at least thirty days prior to the date of such hearing. A copy of any regulation adopted by a floodplain board pursuant to this article shall within five days thereafter be filed with the Arizona Water Commission Director.

F. One hundred eighty days after the effective date of this article, and at all times thereafter, all subdivision of land, construction of dwelling units or commercial or industrial structures or future development within delineated floodplain areas is prohibited unless:

1. Seventy-five per cent of such floodplain area within a platted and approved subdivision to be developed and utilized for such units and structures has been so developed and utilized on the effective date of this article; or

2. Prior to regulations having been adopted, a special permit is granted by the floodplain board; or

3. A special permit is granted by the state agency having the primary land management administrative duty over the lands if development or construction is to be on lands owned or held in trust by the state; or

4. Floodplain regulations have been adopted pursuant to this article for such floodplain area and are in full force and effect.

G. The floodplain board prior to adopting regulations may issue a special permit authorizing construction or development when the floodplain
board finds that construction or development is not a danger to persons or property.

H. Nothing in this article or any regulations adopted pursuant to this article shall:
1. Affect existing uses of property or the right to the continuation of the use.
2. Affect reasonable repair or alteration of property for the purposes for which such property was used on the effective date of this section or any regulations affecting such property takes effect.
3. Affect reasonable repair of structures constructed with the written authorization required by section 45-2343.
4. Affect or apply to facilities constructed or installed pursuant to a certificate of environmental compatibility issued under the authority of title 40, chapter 2, article 6.2.

I. Within one hundred twenty days after completion of construction of any flood control protective works, the floodplain in the area benefited by such works shall be redefined.

J. Upon the granting of a variance, permit or waiver for the construction of a dwelling unit or commercial or industrial structure, where the construction of such unit or structure is otherwise contrary to the adopted floodplain regulation of the area, the governing board shall provide written notice to the grantees of such variance, permit or waiver that, if the structure is a dwelling unit or business as defined by section 26-321, the land upon which the structure is located is ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided for by title 26, chapter 2, article 2. A copy of the notice shall be recorded by the governing board in the office of the county recorder in the county in which the affected parcel is located and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

Sec. 118. Section 45-2360, Arizona Revised Statutes, is amended to read:

45-2360. Powers of district
In addition to the powers specifically granted, a flood-control district organized under this article, acting through its board of directors, may:
1. Acquire by eminent domain or otherwise rights-of-way for, and construct, operate and maintain flood-control work, storm drainage facilities within or without the district for benefit of the district.
2. Acquire by eminent domain or otherwise, and own and dispose of real and personal property within or without the boundaries of the district. The provisions of section 9-403 do not apply to a flood control district organized under this article.
3. Contract and join with the state, the United States or any other flood-control district, municipality, political subdivision, governmental agency, irrigation district, association, corporation or individual in the acquisition, construction, maintenance and operation of flood-control works, and enter into contracts of indemnity to indemnify the state, the
United States, any other flood-control district, municipality, political
subdivision, governmental agency, irrigation district, association,
corporation or individual against liability by virtue of injuries, losses
or damages occurring through the use of their facilities, structures,
streets, rights-of-way or properties in connection with the operation of a
flood-control district.

4. Acquire and maintain existing flood-control and drainage
facilities within or without the district for benefit of the district when
mutually agreeable to owners of such facilities.

5. Acquire, convert and maintain as storm drainage facilities,
surplus irrigation facilities when mutually agreeable to owners of such
facilities.

6. Provide for construction, maintenance and operation of
flood-control and storm drainage facilities of the district by agreement
with the county highway department, other municipal corporations,
political subdivisions and other individuals, and reimburse such agencies
or individuals for the cost of such work.

7. Apply for, obtain, expend and repay flood control loans pursuant
to chapter 14, article 3 of this title.

8. Apply to the Arizona water commission DIRECTOR OF WATER
RESOURCES for alternative flood control assistance for flood control
projects pursuant to section 45-2721, except that the commission DIRECTOR
shall not grant any such assistance for any project unless such project
shall have been approved in advance of planning for the project by the
commission DIRECTOR.

Sec. 119. Section 45-2401, Arizona Revised Statutes, is amended to
read:

45-2401. License required
No person or corporation, other than the United States and its
administrative agencies or the state shall, without having first received
a license from the Arizona water commission DIRECTOR OF WATER RESOURCES,
conduct any weather control or cloud modification operations or attempt
artificially to produce rainfall.

Sec. 120. Section 45-2402, Arizona Revised Statutes, is amended to
read:

45-2402. Application for license
Any individual or corporation who proposes to operate weather
control or cloud modification projects or attempts to artificially induce
rainfall shall, before engaging in any such operation, make application to
the Arizona water commission DIRECTOR for a license to engage in the
particular weather control or cloud modification operation contemplated.

Sec. 121. Section 45-2403, Arizona Revised Statutes, is amended to
read:

45-2403. Application fee; statement accompanying application
At the time of applying for the license, the applicant shall pay to
the Arizona water commission DIRECTOR a fee of one hundred dollars, and
shall file an application in the form prescribed by the Arizona water
commission DIRECTOR and furnish a statement showing:
1. The name and address of the applicant.

2. The names of the operating personnel, and if unincorporated all individuals connected with the organization, or if a corporation the names of each of the officers and directors thereof, together with the address of each.

3. The scientific qualifications of all operating or supervising personnel.

4. A statement of all other contracts completed or in process of completion at the time the application is made, giving the names and addresses of the persons to whom the services were furnished and the areas in which such operations have been or are being conducted.

5. Methods of operation the licensee will use and the description of the aircraft, ground and meteorological services to be utilized.

6. Names of the contracting parties within the state, including:
   a) The area to be served.
   b) The months in which operations will be conducted.
   c) The dates when evaluations will be submitted.

Sec. 122. Section 45-2404, Arizona Revised Statutes, is amended to read:

45-2404. Reports required from licensees; failure to file; revocation of license

Each licensee shall, within ninety days after conclusion of any weather control or cloud modification project, file with the Arizona water commission DIRECTOR a final evaluation of the project. Each six months during the operation of any project which has not been completed, each licensee shall file a report evaluating the operations for the preceding six months in the project. Failure to file such reports constitutes grounds for immediate revocation of the license.

Sec. 123. Section 45-2405, Arizona Revised Statutes, is amended to read:

45-2405. Equipment license; fee; application; reports required; revocation of license

A. Any individual or corporation engaging in manufacturing, selling or offering for sale, leasing or offering to lease, licensing or offering to license equipment and supplies designed for weather control or cloud modification shall, before engaging in such manufacture, sale or offering for sale, procure a license from the Arizona water commission DIRECTOR. The license shall be issued upon payment of a license fee of ten dollars and the filing of an application which shall show:

1. The name and address of the applicant.

2. The full description of the type and design of the equipment and supplies manufactured and sold by the applicant.

3. The operating technique of the equipment or supplies.

B. Within sixty days after issuance of an equipment license and semiannually thereafter, the licensee shall file with the commission DIRECTOR a copy of all advertising material used in selling or offering for sale, leasing or offering for lease, licensing or offering for license the equipment and supplies manufactured or sold by it.
C. The holder of a license shall within ten days after each sale of equipment or supplies report to the commission DIRECTOR, in writing, the exact character and quantity of equipment or supplies sold, the date of the sale and the persons to whom the sale was made.

D. Failure to file a copy of advertising material or reports required in this section constitutes grounds for immediate revocation of the equipment license.

Sec. 124. Section 45-2502, Arizona Revised Statutes, is amended to read:

45-2502. Definitions
In this article, unless the context otherwise requires:
1. "Authority" means the Arizona power authority created pursuant to chapter 1 of title 30, CHAPTER 1.
2. "Bonds" and "notes" means bonds and notes, respectively, of the authority issued pursuant to this article.
4. "District" means any irrigation district, power district, electrical district, agricultural improvement district or water users association now or hereafter organized under the laws of this state which is directly engaged in the sale, distribution or delivery of municipal, industrial or irrigation water or in the sale, distribution or use of electric power or energy.
5. "Municipality" means any incorporated city or town or other corporation organized for municipal purposes.
6. "Power" means electric power or electric energy or both.
7. "Project" or "work" means any of the projects or works authorized by this article or hereafter authorized, including each and every facility or improvement necessary or incidental thereto and all rights-of-way, lands or interests in lands, the use or occupancy of which are necessary or appropriate in the construction, reconstruction, replacement, extension, betterment, development, improvement or operation and maintenance of such facilities and improvements.
8. "Public utility" means any person, corporation, district, public agency or political subdivision of the state that provides electrical service to the public by means of electric facilities or provides water for municipal, industrial, irrigation, recreation and fish and wildlife purposes to the public.
9. "Real property" means lands, rights in lands, interests in land, including lands under water, appurtenances, improvements and any and all other things and rights usually included within the term and includes also any and all interest in such property less than full title, such as easements, permanent or temporary rights-of-way, uses, leases, licenses and other such incorporeal hereditaments.
10. "Retail" means sales to persons, corporations, firms, partnerships or other entities for their use and not for resale.
11. "State" means the state of Arizona.
12. "State water and power development fund" means the fund by that name established in section 45-2511.
13. "State water and power plan" means the plan established pursuant to section 45-2503.
14. "Wholesale" means sales to municipalities, districts or public utilities for resale or distribution.

Sec. 125. Section 45-2504, Arizona Revised Statutes, is amended to read:

45-2504. Construction, acquisition and operation
A. The commission-director is authorized to DIRECTOR OF WATER RESOURCES MAY plan, construct, operate and maintain the central Arizona project, or any portion thereof OF THE PROJECT, and any other water projects hereafter included in the state water and power plan, to acquire all real property required therefor in the name of the state— and to take such actions and proceedings as may be necessary or desirable in connection therewith. The authority may plan, construct, operate and maintain the Bridge, canyon hydroelectric project, the Marble canyon hydroelectric project, the Montezuma pumped storage power project and the Havasu pumped storage power project, or any portion of any such project, and any other power projects hereafter included in the state water and power plan, to acquire all real property required therefor in the name of the state— and to take such actions and proceedings as may be necessary or desirable in connection therewith. In carrying out their functions hereunder, the commission-director and the authority shall consult with each other and with appropriate state officials and shall coordinate their activities so that the development of the state water and power plan shall proceed with all reasonable dispatch and efficiency.

B. Before either the commission-director or the authority undertakes the financing or construction of any portion of the central Arizona project, the commission-director or authority shall file with the president of the senate and the speaker of the house, at least thirty calendar days prior to the scheduled adjournment of the legislature's regular session or within five days following the convening of a special session called for that purpose, a feasibility report on such project. Such feasibility report shall set forth estimated costs, the financing steps contemplated, and the anticipated means and schedule of debt payment. Upon approval in whole or in part of such feasibility report by the legislature, the commission-director or the authority shall therefore be authorized to proceed in accordance with the approval granted by the legislature and the provisions of this article. Such authorization to proceed shall not be granted prior to December 15, 1967.

C. The state consents to the use and occupation of any real property now or hereafter owned by it, and not dedicated to public use, necessary for the construction, operation or maintenance of any project or projects included in the state water and power plan subject, however, to such payment as lawfully may be required.

Sec. 126. Section 45-2505, Arizona Revised Statutes, is amended to read:

45-2505. Construction of works across public or private property
The commission DIRECTOR or authority may construct facilities or works pursuant to this article across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, flume or private property. If the commission DIRECTOR or authority and the persons, firms, corporations, municipalities, federal or state agencies, state trust lands, or political subdivisions of the state owning or controlling any property or installation to be used or crossed cannot agree upon the amount to be paid for the taking, use or privilege thereof, such amount shall be ascertained and determined in the manner provided by law for the taking of land for public uses.

Sec. 127. Section 45-2506, Arizona Revised Statutes, is amended to read:

45-2506. Right of eminent domain

A. Condemnation proceedings may be brought by the commission DIRECTOR or authority and all laws of the state relating to the exercise of the right of eminent domain and the taking of private property for public use and obtaining immediate possession thereof shall apply to the proceedings. The use of property which is condemned, taken or appropriated under the provisions of this article is declared to be a public use subject to regulation and control by the state in the manner provided by law.

B. When real property has been appropriated to public use by any person, firm or corporation, the taking of the property for the construction and operation of the state water and power plan by the commission DIRECTOR or authority shall be deemed a more necessary public use than the use of the property by such person, firm or corporation.

C. Notwithstanding any other provision of this article, the commission DIRECTOR or authority shall have no authority to condemn, take or destroy the whole or any part of property belonging to any district, public utility or municipality unless and until the commission DIRECTOR or authority has provided and substituted for the property to be taken, condemned or destroyed new property of like character and at least equal in usefulness with suitable adjustment for any increase or decrease in the costs of operating and maintaining thereof, or unless and until the taking, condemnation or destruction has been permitted by agreement executed between the commission DIRECTOR or authority and such district, public utility or municipality. Nothing contained herein shall grant the authority or commission DIRECTOR the authority to condemn, take or use the generating, transmission or distribution facilities or other real or personal property of any type whatsoever of a public utility except for the purpose of procuring rights-of-way across real property of the public utility.

D. In the event any property is to be acquired hereunder pursuant to a license granted by the federal power commission UNITED STATES DEPARTMENT OF ENERGY, such property may be acquired through the exercise of the right of eminent domain as provided in section 21 of the federal power act, as amended.

Sec. 128. Section 45-2507, Arizona Revised Statutes, is amended to read:
45-2507. Issuance of bonds and notes

A. The authority:

1. Shall have the power and is authorized from time to time to issue its negotiable bonds and notes in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient monies for the construction, reconstruction and improvement of the projects included in the state water and power plan or any portion thereof, together with suitable facilities and appurtenances, the cost of acquisition of all real property, the expense of maintenance and operation, interest on bonds and notes during construction and for a reasonable period thereafter, establishment of reserves to secure bonds or notes, and all other expenditures of the authority incident to and necessary or convenient to carry out the aforesaid purpose. Notwithstanding any other provision herein, the commission DIRECTOR shall determine whether bonds or notes shall be offered for public or private sale for the central Arizona project or any part thereof, or any future water projects, the time of the offering, the amount, and the terms and conditions thereof. When such determination has been made, the authority shall proceed to offer the bonds or notes, or cause the same to be offered for sale in accordance with the determination of the commission DIRECTOR. In the event the authority fails to do so, the commission DIRECTOR may proceed to issue the bonds or notes for the water features of the state water and power plan. In such event the commission DIRECTOR shall have all of the rights and powers invested in the authority under the terms of this article to issue such bonds or notes.

2. Shall have power from time to time to issue renewal notes, to issue bonds to pay notes, and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose. Whether or not the bonds or notes are of such form and character as to be negotiable instruments under the terms of the negotiable instruments law, constituting chapter 4 UNIFORM COMMERCIAL CODE, title 44, CHAPTER 14, ARTICLE 3, the bonds or notes shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the negotiable instrument law, subject only to the provisions of the bonds for registration.

B. The bonds and notes shall be authorized by resolution of the authority, shall bear such date or dates and mature at such time or times, in the case of notes and any renewals thereof within five years after their respective dates and in the case of bonds not exceeding sixty years from their respective dates, as such resolution or resolutions may provide. The bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds and notes shall be sold at public or private sale at such price and on such
terms as the authority may determine, provided that bonds or notes to fund
or refund other bonds or notes may be exchanged with the holders of such
bonds or notes being funded or refunded on such terms as the authority may
determine.

C. Any resolution or resolutions or trust indenture or indentures
authorizing or securing any bonds or notes or any issue thereof may contain
provisions, which shall be a part of the contract with the holders thereof,
as to:

1. Pledging all or any part of the fees, charges, gifts, grants,
rents, revenues or other monies received or to be received by the authority
or the commission DIRECTOR from or in connection with the ownership or
operation of the projects included in the state water and power plan and
leases or agreements to secure the payment of the bonds or notes or of any
issue thereof, including any amounts deposited in the state water and power
development fund; subject to such agreements with bondholders or
noteholders as may then exist.

2. The rates of the fees, charges or rents to be established for the
projects included in the state water and power plan, and the amounts to be
raised in each year thereby and the use and disposition of the fees,
charges, gifts, grants, rents, revenues or other monies received or to be
received therefrom.

3. The setting aside of reserves or sinking funds, and the
regulation and disposition thereof.

4. Notwithstanding the provisions of section 30-203, the custody,
collection, securing, investment and payment of any monies held pursuant
to any such resolution or trust indenture in trust or otherwise for the
payment of bonds or notes or in any way to secure bonds or notes. Such
monies and the deposits thereof may be secured in the same manner as monies
of the authority, and all banks and trust companies are authorized to give
such a security for such deposits.

5. Limitations on the purpose to which the proceeds of sale of any
issue of bonds or notes then or thereafter to be issued may be applied and
pledging such proceeds to secure the payment of the bonds or notes or of
any issue thereof.

6. Limitations on the issuance of additional bonds or notes, the
terms upon which additional bonds or notes may be issued and secured, the
refunding of outstanding or other bonds or notes.

7. The procedure, if any, by which the terms of any contract with
bondholders or noteholders may be amended or abrogated, the amount of bonds
or notes the holders of which must consent thereto, and the manner in which
such consent may be given.

8. Limitations on the amount of monies to be expended for
operating, administrative or other expenses with respect to the projects
included in the state water and power plan.

9. Vesting in a trustee or trustees such property, rights, powers
and duties in trust as the authority may determine which may include any or
all of the rights, powers and duties of the trustee appointed by the
bondholders pursuant to this article, and limiting or abrogating the right
1 of the bondholders to appoint a trustee under this article or limiting the
rights, duties and powers of such trustee.

10. Any other matters, of like or different character, which in any
way affect the security or protection of the bonds or notes.

D. It is the intention in the enactment of this article:

1. That any pledge made pursuant to this article of all or any part
of the fees, charges, gifts, grants, rents, revenues or other monies
received or to be received by the authority or the commission DIRECTOR from
or in connection with the ownership or operation of the projects included
in the state water and power plan shall be valid and binding from the time
when the pledge is made.

2. That the monies so pledged and thereafter received by the
authority or the commission DIRECTOR shall immediately be subject to the
lien of such pledge without any physical delivery thereof or further act,
and that the lien of any such pledge shall be valid and binding as against
all parties having claims of any kind in tort, contract or otherwise
against the authority or the commission DIRECTOR irrespective of whether
such parties have notice thereof. Neither the resolution nor trust
indenture nor any other instrument by which a pledge is created need be
recorded.

E. Neither the members of the authority nor any person executing
the bonds or notes shall be liable personally on the bonds or notes or be
subject to any personal liability or accountability by reason of the
issuance thereof. In case any one or more of the officers who shall have
signed manually or by facsimile or sealed any of the bonds or notes shall
cease to be such officer before the bonds or notes so signed and sealed
shall have been delivered, such bonds or notes may, nevertheless, be issued
as if the persons who signed or sealed such bonds or notes had not ceased
to hold such offices. Any bonds or notes may be signed and sealed on
behalf of the authority by such persons as at the actual time of the
execution of such bonds or notes shall be duly authorized or hold the
proper office in the authority, although at the date of such bonds or notes
such persons may not have been so authorized or held such office.

F. The authority shall have power out of any funds available
therefor to purchase bonds or notes, which shall thereupon be cancelled, at
a price not exceeding either of the following:

1. If the bonds or notes are then redeemable, the redemption price
then applicable plus accrued interest to the next interest payment date
thereon.

2. If the bonds or notes are not then redeemable, the redemption
price applicable on the first date after such purchase upon which the bonds
or notes become subject to redemption plus accrued interest to such date.

Sec. 129. Section 45-2508, Arizona Revised Statutes, is amended to
read:

45-2508. Contracts

A. The commission shall have power and is authorized to DIRECTOR
MAY enter into and carry out contracts with water users for the delivery of
Colorado river water through the facilities of the central Arizona project
and for the sale and delivery of water from other sources included in the
central Arizona project or other water projects, if any, hereafter
included in the state water and power plan. The \textit{commission} DIRECTOR shall
provide in all contracts executed for the delivery of water from the
central Arizona project that such contracts shall be subordinate to the
satisfaction of all existing contracts between the United States secretary
of the interior and users in Arizona heretofore made pursuant to the
Boulder canyon project act. It may be required as a condition in any
contract under which water is provided from the central Arizona project
that the contractor agree to accept main stream water of the Colorado river
in exchange for or in replacement of existing supplies from sources other
than the main stream. Water which has been developed, stored or
appropriated shall be sold only at wholesale rates which will not be
unreasonably discriminatory for the same.

B. The authority shall have power and is authorized to MAY enter
into and carry out contracts for the sale and transmission of power from
power projects included in the state water and power plan. Notwithstanding
the provisions of articles 2, 3 and 4 of chapter 1 of title 30, CHAPTER 1,
ARTICLES 2, 3 AND 4, the power from such power projects included in the
state water and power plan shall be sold at wholesale only to such power
purchasers, located within or without the state, in such manner and upon
such terms and conditions, as shall be determined by the authority to be
necessary or advisable to effectuate the purposes of this article.

C. The surplus revenues derived by the \textit{commission} DIRECTOR from the
central Arizona project and any other water project and by the authority
from any power project shall be paid into the state water and power
development fund in the amounts and in the manner and at the times
specified in an agreement which shall be entered into by the authority and
the \textit{commission} DIRECTOR prior to the issuance of any bonds or notes. For
this purpose, surplus revenues shall mean the revenues of any such project
remaining after payment therefrom of operating and maintenance expenses of
such project, debt service with respect to bonds and notes issued for such
project, payments for renewals and replacements of such project and
improvements thereof, any payments required under any license from the
federal power commission UNITED STATES DEPARTMENT OF ENERGY with respect
to such project and any other charges or liens with respect to such project
payable out of such revenues, including in each case reserves therefor, all
to the extent required to be paid or provided for under the terms of any
resolution or resolutions or trust indenture or indentures authorizing or
securing bonds or notes issued for such project or any license from the
federal power commission UNITED STATES DEPARTMENT OF ENERGY with respect
to such project. Such agreement may also provide for reasonable
limitations on the amounts of the necessary operation and maintenance
expense for the projects included in the state water and power plan, and it
may contain such other terms, conditions and provisions consistent with
the provisions of this article as may be necessary or desirable to
effectuate the state water and power plan. It is recognized that such
agreement will provide additional security for the bonds and notes of the
authority and that the same may be pledged by the authority for such purpose.

D. The commission DIRECTOR or authority may enter into any obligation or contract with the United States necessary or required in carrying out or accomplishing any of the purposes or power authorized or permitted by this article and may conform to such requirements, rules or regulations not otherwise inconsistent with the laws of this state as may be prescribed by the United States in accordance with the acts of Congress applicable thereto now in effect or which may hereafter be adopted and the rules and regulations promulgated thereunder. Contracts or agreements entered into with the United States may contain such terms, conditions, covenants and restrictions for the security of the United States or any subsequent holders of bonds issued to evidence such loans, grants or advances of money. The commission DIRECTOR or authority may do any and all acts and things considered necessary or advisable by the United States and the commission DIRECTOR or authority in connection with or additionally to secure any such loans, grants or advances of money or issuance or sale of bonds provided for in the contract or agreement with the United States.

Sec. 130. Section 45-2509, Arizona Revised Statutes, is amended to read:

45-2509. General powers
The commission DIRECTOR and the authority, respectively, authorized MAY:

1. To cooperate with the appropriate agencies or officials of the federal government and of the state and political subdivisions thereof of the state to the end that the purposes of this article shall be realized.

2. To apply to the appropriate agencies or officials of the state and of the federal government, including the federal power commission of the United States Department of Energy and the Department of the Interior, for such licenses, permits, easements and such other approvals or authorizations as may be necessary or advisable and to accept the same upon such terms and conditions as may be deemed appropriate.

3. To accept any gifts or any grant or advance of funds or property from the federal government or from the state or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof.

4. To fix and establish the prices, rates, rents and charges for water and power delivered or produced by the projects herein authorized by this article.

5. To retain and employ engineering, accounting, legal, financial and other private consultants on a contract basis for rendering professional and technical assistance and advice.

6. To promote, foster and encourage the use, development, protection and conservation of water and power and the development, protection and conservation thereof.

7. To institute and maintain actions and proceedings necessary to enforce, maintain, protect or preserve all rights, privileges or immunities created or granted by this article or otherwise in pursuance
thereof, and in all courts, actions and proceedings the commission
DIRECTOR or authority may sue, appear and defend in person in their
respective names.

8. To enter into contracts and agreements and do all things which
are necessary or convenient for the effectuation of the state water and
power plan.

9. To exercise all the powers necessary or convenient to carry out
and effectuate the purposes and provisions of this article, and as
incidental thereto, to own, lease, construct, operate, maintain and
dispose of real and personal property of every kind and character, to
acquire real and personal property and any or every interest therein for
its lawful purposes by purchase, lease, condemnation or otherwise, and
generally to do any ANYTHING and everything necessary or convenient to
carry out the purposes of this article. PROVIDED that The authority
shall have no power MAY NOT at any time to pledge the credit of the state
nor shall any of its obligations or securities be deemed to be obligations
of the state.

10. To be specifically charged with the responsibility to begin
immediate studies and to continue them in an effort to determine alternate
ways and means to finance and fund the construction of the central Arizona
project and to bring those studies to the legislature so that this water
project may be constructed at the earliest possible time.

Sec. 131. Section 45-2510, Arizona Revised Statutes, is amended to
read:

45-2510. Powers of municipalities, districts and
other public bodies and officers
Notwithstanding any provision of law to the contrary, all
municipalities, districts and other public bodies— are authorized and
empowered to enter into contracts with the commission DIRECTOR or the
authority as provided in section 45-2508 for the sale or delivery of water
or the sale or transmission of power, on such terms and conditions as shall
be determined by the parties, and to carry out their obligations
thereunder. Such municipalities, districts and other public bodies, the
officials thereof, and all state agencies and officials— may do such acts
and make such additional agreements not inconsistent with law as may be
necessary or desirable in connection with the construction, operation,
maintenance and financing of any project or projects included in the state
water and power plan.

Sec. 132. Section 45-2511, Arizona Revised Statutes, is amended to
read:

45-2511. State water and power development fund
There is created in the treasury of the state a state water and power
development fund. The resolution or trust indenture of the authority
securing the bonds or notes shall fix the amount and the provisions of the
application of a bond reserve to be held by the state treasurer in such
development fund. The surplus revenues as determined pursuant to section
45-2508 from each project included in the state water and power plan shall
be promptly paid to the state treasurer for deposit in the fund in
accordance with the agreement between the commission DIRECTOR and the
authority referred to in section 45-2508, together with any other funds
which may be made available for the purposes of this article, including
funds from the state or federal government. Amounts in such development
fund in excess of the bond reserve therein shall be paid by the state
treasurer in such manner and at such times as shall be specified in the
bond resolution or trust indenture securing such bonds or notes to the
trustee appointed by the authority thereunder. The bond reserve in such
development fund shall be applied by the state treasurer as provided in
such resolution or trust indenture.

Sec. 133. Section 45-2512, Arizona Revised Statutes, is amended to
read:

45-2512. Agreement of state
The state of Arizona does pledge to and agree with the holders of the
bonds and notes that the state will not limit or alter the rights hereby
vested in the commission DIRECTOR and the authority to maintain,
reconstruct and operate the projects included in the state water and power
plan, and to establish and collect such charges, fees and rentals as may be
convenient or necessary to produce sufficient revenue to meet the expense
of maintenance and operation and to fulfill the terms of any agreements
made with the holders of the bonds and notes, or in any way impair the
rights and remedies of the bondholders or noteholders, until the bonds and
notes, together with interest thereon, with interest on any unpaid
installments of interest, and all costs and expenses in connection with any
action or proceedings by or on behalf of the bondholders and noteholders,
are fully met and discharged. The authority as agent for the state is
hereby authorized to include this pledge and undertaking by the state in
its resolutions and indentures securing the bonds and notes.

Sec. 134. Section 45-2513, Arizona Revised Statutes, is amended to
read:

45-2513. Exemption from taxation
The commission DIRECTOR and the authority shall be regarded as
performing a governmental function in undertaking and carrying out the
state water and power plan and shall be required to pay no taxes or
assessments on any of the property thereof or upon their activities in the
operation and maintenance thereof or upon the revenues therefrom. The
bonds and notes, their transfer and the income therefrom shall at all times
be free from taxation within the state.

Sec. 135. Section 45-2514, Arizona Revised Statutes, is amended to
read:

45-2514. Remedies of bondholders and noteholders
A. In the event the authority defaults in the payment of principal
of or interest on any issue of bonds or notes after the same shall become
due, whether at maturity or upon call for redemption, and such default
shall continue for a period of thirty days, or in the event the authority
shall fail or refuse to comply with the provisions of this article, or
shall default in any agreement made with the holders of any issue of bonds
or notes, the holders of twenty-five per centum CENT in aggregate principal

-162-
amount of the bonds or notes of such issue then outstanding, by instrument
or instruments filed in the office of the clerk of the MARICOPA county of
Maricopa and proved or acknowledged in the same manner as a deed to be
recorded, may appoint a trustee to represent the holders of such bonds or
notes for the purposes provided in this article.

B. Such trustee may, and upon written request of the holders of
twenty-five per centum CENT in principal amount of such bonds or notes then
outstanding shall, in his or its own name:

1. By mandamus or other suit, action or proceeding at law or in
equity enforce all rights of the bondholders or noteholders, including the
right to require the authority to collect fees, rentals and charges
adequate to carry out any agreements with the holders of such bonds or
notes and to perform its duties under this title.

2. Bring suit upon such bonds or notes.

3. By action or suit in equity, require the authority to account as
if it were the trustee of an express trust for the holders of such bonds or
notes.

4. By action or suit in equity, enjoin any acts or things which may
be unlawful or in violation of the rights of the holders of such bonds or
notes.

5. Declare all such bonds or notes due and payable, and if all
defaults shall be made good then with the consent of the holders of
twenty-five per centum CENT of the principal amount of such bonds or notes
then outstanding, to annul such declaration and its consequences.

C. Such trustee, whether or not the issue of bonds or notes
represented by such trustee has been declared due and payable, shall be
entitled as of right to the appointment of a receiver of any project or
projects included in the state water and power plan or any part thereof OF
THE PLAN, the fees, rentals, charges or other revenues of which are pledged
for the security of the bonds or notes of such issue and such receiver may
enter and take possession of such project or projects and, subject to any
pledge or agreement with bondholders, shall take possession of all monies
and other property derived from or applicable to the construction,
operation, maintenance and reconstruction of such project or projects, and
proceed with any construction thereon which the commission DIRECTOR or the
authority is under obligation to do and shall operate, maintain and
reconstruct such project or projects, and collect and receive all fees,
rentals, charges and other revenues thereafter arising therefrom subject
to any pledge thereof or agreement with bondholders or noteholders
relating thereto and perform the public duties and carry out the agreements
and obligations of the commission DIRECTOR and the authority under the
direction of the court. In any suit, action or proceeding by the trustee
the fees, counsel fees and expenses of the trustee and of the receiver, if
any, shall constitute taxable disbursements and all costs and
disbursements allowed by the court shall be a first charge on any fees,
rentals and other revenues derived from such project or projects.

D. Such trustee shall in addition to the foregoing have and possess
all of the powers necessary or appropriate for the exercise of any
functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

E. The superior court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders or noteholders.

The venue of any such suit, action or proceeding shall be laid in the MARICOPA county of Maricopa.

Sec. 136. Section 45-2519, Arizona Revised Statutes, is amended to read:

45-2519. Reversion of projects to state

When all bonds and notes issued under the provisions of this article to finance the state water and power plan and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and notes and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the holders of such bonds and notes, all projects then included in the state water and power plan shall thereafter be operated and maintained by the commission DIRECTOR and the authority, and water and power rates shall be reduced accordingly unless the legislature shall provide that the revenues therefrom shall be deposited in the general fund of the state, in the state water and power development fund or as the legislature may otherwise direct.

Sec. 137. Section 45-2521, Arizona Revised Statutes, is amended to read:

45-2521. Exclusive law

The powers conferred by this article shall be in addition to and supplemental to the powers conferred by any other law, general or special. This article shall, without reference to chapter 1 of title 30, CHAPTER 1 or chapter 1 OR 2 of THIS title 45, or to any other law, general or special, be deemed full authority for the construction, acquisition, reconstruction, improvement, operation and maintenance of the projects herein provided for and contracts in connection therewith, and for the authorization, issuance and sale of the bonds and notes pursuant to this chapter and without regard to the procedure required by any other such law. Except as otherwise provided in this article, the provisions of chapter 1 of title 30, CHAPTER 1 and chapter 1 OR 2 of THIS title 45, insofar as they relate to the matters herein contained, are superseded, it being the legislative intent that this article shall constitute the exclusive law on such matters.

Sec. 138. Section 45-2601, Arizona Revised Statutes, is amended to read:

45-2601. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of directors of a multi-county water conservation district.

2. "Commission" means the Arizona interstate stream commission or any successor organization.

3. 2. "District" means a multi-county water conservation district, organized under the authority of this chapter.
3. "Multi-county water conservation district" means a district composed of three or more counties which have joined together for the creation of a district.

4. "Secretary" means the secretary of the interior of the United States of America.

Sec. 139. Section 45-2604, Arizona Revised Statutes, is amended to read:

45-2604. Petition for formation of district
A. Petitions for the formation of a district may be signed by either the chairman of the board of supervisors of a county, pursuant to a resolution adopted by the board of supervisors, or by a number of qualified electors of the county equal to at least one per cent of the votes cast for governor in such county at the last preceding general election.
B. The petitions shall set forth:
1. The name of the proposed district, which shall include the words "water conservation district".
2. A statement to the effect that the public convenience and welfare will be promoted by the establishment of the district.
3. The counties proposed to be included in the district.
C. Such petitions shall be filed with the DIRECTOR OF WATER RESOURCES.

Sec. 140. Section 45-2605, Arizona Revised Statutes, is amended to read:

45-2605. Notice; hearing on petitions; transcript
A. Upon receipt of petitions from three or more counties, the DIRECTOR shall set a date for hearing on the petitions not less than thirty days nor more than sixty days after the date of filing of such petitions. The DIRECTOR shall cause a SIGNED notice signed by the chairman of the commission giving the time and place of the hearing on the petitions to be:
1. Mailed by certified mail to the board of supervisors of each county in the state.
2. Published at least once each week for two consecutive weeks in newspapers of general circulation published in each of the counties of the state, or, if no newspaper is published in a particular county, in a newspaper published in an adjoining county.
3. Posted in three or more conspicuous places in each county in the state at least two weeks before the date set for hearing.
B. Any county not included in the petitions for which notice of the hearing has been given may file with the DIRECTOR a petition to be included in such district. Such petition may be filed at any time up to ten days prior to the date of the hearing on the original petitions and, if filed, shall be considered as though filed with such petitions. The petitioners so filing shall serve notice of such filing on the clerks of the boards of supervisors of the original petitioning counties, and shall publish a copy of such notice in a newspaper of general circulation in the county which they represent not less than five days prior to the date of the hearing. No further notice of the inclusion of additional counties shall be required.
C. At the hearing, any affected person may appear and be heard on any matter relating to the establishment of the proposed district.

D. The commission DIRECTOR shall cause a transcript to be made of all proceedings.

Sec. 141. Section 45-2606, Arizona Revised Statutes, is amended to read:

45-2606. Establishment of district; appeal
A. Upon the hearing, if it appears that the petitions conform to the provisions of this chapter and that the public convenience and welfare will be served by the establishment of the district, the commission DIRECTOR shall make a final written order to declare its findings, designate the counties to be included, and declare the district organized under a corporate name by which it shall be known in all proceedings.

B. Not less than ten days after the date of the final order, the commission DIRECTOR shall cause a certified copy of such final order to be:
   1. To be filed in the office of the board of supervisors of each county.
   2. Recorded in the office of the county recorder in each county included in the district.
   3. Filed in the office of the secretary of state.

C. Any affected person who made an appearance before the commission DIRECTOR may seek a review of such final order within thirty days from the date of the order by filing a petition for a special action writ in the supreme court. The special action shall be given precedence over other civil actions.

D. If such appeal is taken from the commission's DIRECTOR'S final order, a certified copy of the order or judgment of the supreme court shall be filed and recorded, as provided in subsection B, within ten days after the final determination of the appeal.

Sec. 142. Section 45-2607, Arizona Revised Statutes, is amended to read:

45-2607. Areas outside of district; inclusion of additional counties
A. Water users outside the district may contract for a water supply from the central Arizona project directly with the secretary or with the district on the basis of paying costs allocated by the secretary.

B. A county not originally included in the district may petition for inclusion in the district upon agreement to pay the county's accrued equitable share of construction costs previously paid by the district and interest thereon. Such petition shall be filed with the commission DIRECTOR and a copy served upon the district. The proceedings and hearings shall be in all respects the same as in the organization of districts. After inclusion within the district, the taxable property within the petitioning county is subject to a tax levy as provided for by this chapter. Notwithstanding any other provision of law, the board of supervisors of a petitioning county may levy an additional tax to accomplish the purposes of this section.
Sec. 143. Section 45-2701, Arizona Revised Statutes, is amended to read:

45-2701. Definitions
In this chapter, unless the context otherwise requires:
2. 1. "Design flood" means a selected flood against which protection is provided, or eventually will be provided, by means of flood protective or control works. When a federal survey has been authorized the design flood will be determined by the appropriate federal agency and in all other cases it will be determined by the responsible public agency. It is the basis for design and operation of a particular project after full consideration of flood characteristics, frequencies, and potentials and economic and other practical considerations.
3. 2. "Designated floodway" means the channel of a stream and that portion of the adjoining flood plain required to reasonably provide for the construction of a project for passage of the design flood, including lands necessary for construction of project levees.
4. 3. "Flood control project" means any project requiring local cooperation for flood control purposes authorized pursuant to federal law and on which construction commences after the effective date of this chapter.
5. 4. "Lands, easements and rights-of-way" means:
   (a) Lands and rights of interest in lands necessary for flood control storage, channel improvements and channel rectifications.
   (b) Lands, rights or interests in lands necessary in connection with the construction, operation or maintenance of such storage, channel improvements and rectifications, including those necessary for flowage purposes, spoil areas, borrow pits or for access roads.
   (c) The cost of the relocation, reconstruction or replacement of existing improvements, structures or utilities rendered necessary by such channel improvements and rectifications.
   (d) Land enhancement costs, if any, charged to a public agency by a federal agency in connection with construction of a flood control project.
6. 5. "Public agency" means any state agency or political subdivision of the state.

Sec. 144. Section 45-2702, Arizona Revised Statutes, is amended to read:

45-2702. Investigation and certification by director of water resources
Any public agency may request the commission DIRECTOR OF WATER RESOURCES to investigate any flood control project in this state and report to the legislature the results of its investigation, and the commission DIRECTOR shall certify to the legislature the date state funds should be appropriated to pay the cost of state participation in such project and the estimated amount.

Sec. 145. Section 45-2703, Arizona Revised Statutes, is amended to read:
45-2703. Limitation on expenditure of funds

A. The commission DIRECTOR shall not disburse any funds for a flood control project until the legislature has appropriated funds to contribute toward the local cost of land, easements and rights-of-way for that project. The commission DIRECTOR shall not undertake the construction of flood control projects.

B. Prior to the federal government budgeting funds for the construction of a flood control project, the commission DIRECTOR may only disburse the state's portion of the costs incurred by a public agency in acquiring fee title to real property necessary for such project. At such times as the federal government does budget funds for the construction of any flood control project in this state, the commission DIRECTOR may then disburse the state's portion of the costs for easements and rights-of-way.

C. If a public agency receives the state's portion of costs for acquiring fee title to lands, easements and rights-of-way, which are subsequently found to be unnecessary for a flood control project, the public agency shall, within a reasonable time, sell such lands, easements and rights-of-way at fair market value and return to the state one-half the net amount of money realized from such sale after deducting direct expenses of the sale, or may retain such lands, easements or rights-of-way, and return to the state one-half of the fair market value of such lands, easements and rights-of-way.

Sec. 146. Section 45-2704, Arizona Revised Statutes, is amended to read:

45-2704. Flood plain regulations; effect of failure to adopt

The commission DIRECTOR shall not disburse any monies pursuant to this chapter to pay any costs of lands, easements and rights-of-way for a flood control project for which the appropriate public agency fails to establish, within a reasonable time after notification by the commission DIRECTOR, the necessary flood plain regulations for the area classified as a designated floodway by the commission DIRECTOR upon review of the complete federal or federally assisted project report.

Sec. 147. Section 45-2705, Arizona Revised Statutes, is amended to read:

45-2705. Limit of financial assistance

For a period of fifteen years from the EFFECTIVE date of this chapter, the state may contribute funds not to exceed one-half of the non-federally supported cost solely for lands, easements and rights-of-way necessary in connection with the construction of any federal or federally assisted flood control project recommended by the commission DIRECTOR, subject to appropriation of monies by the legislature.

Sec. 148. Section 45-2706, Arizona Revised Statutes, is amended to read:

45-2706. Time for determining costs; change of determination

A. The state's portion of the costs of lands, easements and rights-of-way shall be determined by the commission DIRECTOR at or prior to
the time the commission DIRECTOR submits its HIS report to the legislature recommending an appropriation for such project.

B. The state's portion of such costs shall not be changed unless there are major project changes made in the plan of improvement, in which case the commission DIRECTOR, prior to the next appropriation of state funds for the project, shall review the project and make such reports and recommendations to the legislature as HE deems justified by the project changes.

Sec. 149. Section 45-2707, Arizona Revised Statutes, is amended to read:

45-2707. State held harmless
The commission DIRECTOR shall not disburse any monies appropriated to it pursuant to this chapter unless and until a public agency has in writing assumed the obligations of maintenance and provided the federal government and the state with written indemnification from damages due to the construction of flood control projects.

Sec. 150. Section 45-2708, Arizona Revised Statutes, is amended to read:

45-2708. Disbursement to public agencies
Money appropriated to the commission DIRECTOR for flood control projects shall be disbursed to public agencies upon order of the commission DIRECTOR after application by such agencies showing the necessity, purpose and use to be made of such monies and the availability of all local monies necessary for the project or by the showing that such agencies, subsequent to April 1, 1973, have made necessary advances or incurred obligations for the purpose of expediting projects for which such monies are required and giving such other information as the commission DIRECTOR may require. In addition to the information required on the application, the commission DIRECTOR may require interim reports detailing expenditures of disbursed sums and containing such additional information as required by the commission DIRECTOR. The commission DIRECTOR may refuse to make any disbursement of any of the monies available if the provisions of this chapter are violated.

Sec. 151. Section 45-2709, Arizona Revised Statutes, is amended to read:

45-2709. Report to legislature
The commission DIRECTOR shall report to the legislature, within fifteen days after the commencement of each regular session, on the disbursal or refusal to disburse money appropriated to it by the legislature for purposes of this chapter.

Sec. 152. Section 45-2710, Arizona Revised Statutes, is amended to read:

45-2710. Consideration of water uses in studying flood control projects
In studying flood control projects, the commission DIRECTOR shall give full consideration to all beneficial uses of the state's water and other natural resources, including, but not limited to, irrigation, generation of electric energy, municipal and industrial consumption of water, and other beneficial uses in the state.
water and power, recharge of ground-water GROUNDWATER basins, preservation
and development of fish and wildlife resources and recreational facilities
in order that recommendations may be made as to the feasibility of such
projects and the method of financing feasible projects. Nothing in this
chapter shall affect existing water rights.

Sec. 153. Section 45-2711, Arizona Revised Statutes, is amended to
read:

45-2711. Powers and duties of director of
water resources

A. The commission DIRECTOR, or any duly authorized
representative, may call, conduct, attend or otherwise participate in
conferences or hearings, official or unofficial, within or without this
state, with interested persons, agencies or officers of this or any other
state or the federal government, concerning flood control and flood plain
management.

B. The commission DIRECTOR shall keep itself informed as to any
activities, requirements or procedures of the federal government, or any
of its departments or agencies, affecting any proposed flood control
projects within the scope of this chapter.

C. The commission DIRECTOR shall:
1. Collect and file data.
2. Make necessary studies and surveys.
3. Make investigations.
4. Prepare plans and estimates for costs and benefits of all
proposed water development projects.
5. Determine the damage created by flood waters.
6. Encourage the creation and development of flood control and
water conservation plans and activities of the several counties, cities,
state agencies and public districts.
7. Cooperate with the federal government or any of its departments
or agencies, counties, cities, state agencies or public districts, in
carrying out measures for control, storage or use of waters in streams,
rivers or other waterways, and the watersheds thereof within this state.
8. Adopt rules and regulations for the dispensing of funds
appropriated by the legislature pursuant to this chapter.

Sec. 154. Section 45-2721, Arizona Revised Statutes, is amended to
read:

45-2721. Alternative flood control assistance to
flood control districts

A. Any flood control district organized pursuant to chapter 10,
articles 1 and 5 of this title may, subject to available appropriations,
qualify for assistance from this state for any flood control project if
such project is being developed pursuant to a plan developed pursuant to
section 45-2309 or chapter 10, article 5 of this title as applicable.

B. Assistance granted pursuant to this article shall be
administered by the Arizona water commission DIRECTOR OF WATER RESOURCES
and shall not exceed for any single flood control project an amount equal
to fifty per cent of the total cost of the flood control project or five
million dollars, whichever amount is less.
C. For funds appropriated for alternative flood control assistance after January 1, 1979, no county flood control district or special flood control district is eligible to receive more than thirty per cent of any single appropriation.

Sec. 155. Section 45-2722, Arizona Revised Statutes, is amended to read:

45-2722. Alternative flood control assistance fund
There shall be an alternative flood control assistance fund. All payments made by the Arizona water commission DIRECTOR for alternative flood control assistance shall be drawn from such fund. The fund shall be exempt from the provisions of section 35-190, relating to lapsing of appropriations.

Sec. 156. Section 45-2723, Arizona Revised Statutes, is amended to read:

45-2723. Floodplain regulations; effect of failure to adopt
The commission DIRECTOR shall not expend or disburse any monies pursuant to this article for the payment of any costs of lands, easements or rights-of-way or for any other purpose for a project for flood control which is to be located in an area for which the appropriate public agency has failed to adopt and enforce for its jurisdiction floodplain regulations required by chapter 10, article 5 of this title.

Sec. 157. Section 45-2731, Arizona Revised Statutes, is amended to read:

45-2731. Flood control loans
A. The Arizona water commission DIRECTOR OF WATER RESOURCES may grant loans from the flood control loan fund established by section 45-2732 to defray the cost to a county flood control district, organized pursuant to chapter 10, article 1 of this title, or a special flood control district organized pursuant to chapter 10, article 5 of this title, for flood control projects eligible for alternative flood control assistance under article 2 of this chapter. Loans may be granted, subject to the provisions of this article, in such manner and upon such terms and conditions as may be prescribed by the commission DIRECTOR.

B. Upon application, the commission DIRECTOR shall make full and careful investigation of the qualifications of the applicant district and the proposed project. The commission DIRECTOR shall determine whether the proposed project would provide meaningful flood control and is in the best interests of this state.

C. The loans granted by the commission DIRECTOR shall be for not more than twenty-five per cent of the cost of a project or two and one-half million dollars, whichever is less, and for a term of not more than twenty years.

D. No single loan may be made for more than thirty per cent of the funds available in the flood control loan fund at any given time and no loan may be made to any flood control district which at the time of the loan application had more than thirty per cent of the outstanding loans of the fund.

E. The loans shall bear interest at the following rates:
1. If the loan is for a term of not more than five years, the rate is three per cent per year.

2. If the loan is for a term of more than five years, but not more than ten years, the rate is five per cent per year.

3. If the loan is for a term of more than ten years, the rate is six per cent per year.

F. Each loan shall be evidenced by a contract between the district and the commission DIRECTOR, acting on behalf of this state. The contract shall provide for the loan payment by this state of a stated sum defraying up to twenty-five per cent of the costs of the flood control project. The contract shall provide for equal annual payments of principal and interest for the term of the loan.

G. The district board shall each year levy a tax sufficient to pay the annual amount of principal and interest due on the loan.

H. The attorney general may commence whatever actions are necessary to enforce the contract and achieve repayment of loans provided by the commission DIRECTOR pursuant to this article.

Sec. 158. Section 45-2732, Arizona Revised Statutes, is amended to read:

45-2732. Flood control loan fund
A. The state treasurer shall maintain a fund known as the flood control loan fund. All money appropriated to carry out the provisions of this article shall be deposited in such fund, and all payments of principal and interest received by the commission DIRECTOR shall be transmitted to the state treasurer for deposit in the fund. The auditor general shall annually prepare an audit on such fund and shall forward a copy of such report to the joint legislative budget committee within ninety days following the close of the fiscal year.

B. Monies in the flood control loan fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

Sec. 159. Section 45-2801, Arizona Revised Statutes, is amended to read:

45-2801. Definitions
In this chapter, unless the context otherwise requires:
1. "Area of jurisdiction" means:
   (a) For an incorporated town or city, all of the lands within the town or city.
   (b) For a county, all of the unincorporated areas of the county.
2. "Commission" means the state floodplain coordinating agency as designated by the governor now and from time to time hereafter.
3. "Floodplain" means the relatively flat areas of low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by man-made structures which have been or may be covered partially or wholly by floodwater from the one hundred-year flood.
4. "Floodplain board" means the governing body of an incorporated town or city, charter city, or county.
5. "Floodway" means the channel of a watercourse and those portions of adjoining floodplains which are reasonably required to carry and discharge a one hundred-year flood.
§ 5. "One hundred-year flood" means a flood that has a one per cent chance of occurring, based upon the criteria established by the Arizona water commission DIRECTOR OF WATER RESOURCES.

§ 6. "Topographic maps" means maps of the floodplain of a sufficiently large scale showing, in detail, man-made and natural features of a watercourse, including its relief by means of contour lines of equal elevation with an interval of from two to five feet.

§ 7. "Watercourse" means any lake, river, creek, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Sec. 160. Section 45-2802, Arizona Revised Statutes, is amended to read:

45-2802. Assistance for floodplain delineations
A. When a floodplain board is required to delineate a floodplain pursuant to section 45-2342, subsection B, and such floodplain has not heretofore been delineated with sufficient accuracy to allow adoption of regulations pursuant to section 45-2342, subsection C, the floodplain board may request the commission DIRECTOR OF WATER RESOURCES for assistance in obtaining delineations of the floodplain.

B. Provided sufficient funds have been appropriated, the commission DIRECTOR may, at its option, either provide the engineering and technical services necessary to delineate the floodplains and floodway and determine water surface profile data associated with such delineations or disburse funds for such services to the requesting floodplain board.

C. If a floodplain board chooses to be reimbursed for costs incurred to have floodplains delineated after the effective date of this chapter, money appropriated to the commission DIRECTOR shall be disbursed upon order of the commission DIRECTOR after application by such floodplain board showing the necessity and purpose of the expenditures for which reimbursement is required.

D. The commission DIRECTOR may refuse to provide financial or technical assistance allowed by this section if, in the opinion of the commission DIRECTOR, such assistance is not necessary for the requesting floodplain board to comply with section 45-2342.

Sec. 161. Section 45-2803, Arizona Revised Statutes, is amended to read:

45-2803. No assistance may be made for topographic mapping

No state funds or assistance allowed by this chapter will be provided to a floodplain board to aid in the preparation of topographic maps or to gather other elevation or channel cross-sectional data necessary, as determined by the commission DIRECTOR, for making hydraulic and hydrologic computations for determination of floodplain and floodway limits. Such costs shall be a local responsibility.

Sec. 162. Section 45-2804, Arizona Revised Statutes, is amended to read:
45-2804. Director may contract for work
The commission DIRECTOR may contract with private engineering firms
or other governmental agencies to carry out the provisions of this
chapter.
Sec. 163. Section 45-2805, Arizona Revised Statutes, is amended to
read:
45-2805. Assistance in flood insurance program
A. The commission DIRECTOR is designated as the state coordinator
of the national flood insurance program to assist local jurisdictions in
complying with the requirements of such program and Arizona state law.
B. The commission DIRECTOR is designated as the state coordinator
of the army corps of engineers floodplain management services program and
shall coordinate floodplain information studies of federal, state and
local agencies and make recommendations to such agencies.
Sec. 164. Section 45-2806, Arizona Revised Statutes, is amended to
read:
45-2806. Rules and regulations
The commission DIRECTOR may adopt and promulgate rules and
regulations necessary for the orderly effectuation of this chapter.
Sec. 165. Section 45-2909, Arizona Revised Statutes, is amended to
read:
45-2909. Rio Salado technical advisory council
A. There is established a Rio Salado technical advisory council,
consisting of one representative to be appointed by each of the
following:
1. The city of Mesa.
2. The city of Phoenix.
3. The city of Tempe.
5. The Salt River Pima-Maricopa Indian community.
6. The state land department.
7. The Arizona water commission DIRECTOR OF WATER RESOURCES.
8. The department of transportation.
9. The Arizona game and fish department.
10. The Arizona outdoor recreation coordinating commission.
11. The Arizona state parks board.
12. The office of economic planning and development.
13. The United States army corps of engineers or its successor.
14. The United States water and power resources service or its
successor.
15. The United States soil conservation service or its successor.
16. The flood control district of Maricopa county or a successor
special flood control district organized under chapter 10, article 5 of
this title.
17. The Salt River project or a successor agricultural improvement
district organized under chapter 4 of this title.
18. The Arizona wildlife federation or any similar organization
designated by the board.
19. Valley forward association or any similar private organization, as designated by the board, having a similar purpose.
20. The Maricopa association of governments or a successor association or council of governments established pursuant to statute or executive order.
22. The Rio Salado association as provided in this article.
23. The board may appoint other appropriate organizations to be represented on the council.
24. Members of the council shall serve at the pleasure of the appointing authority.
25. The council shall provide technical assistance to the board in the performance of its duties and coordinate the technical aspects of all plans, programs and projects of the member agencies as they affect the duties of the board.

Sec. 166. Ratification of prior actions
A. This act does not alter the effect of any actions heretofore taken by:
1. The state water engineer as a member of the state certification board.
2. The Arizona water commission in promulgating the state water and power plan under section 45-2512, Arizona Revised Statutes.
B. This act shall not be construed to impair the obligations of this state or any political subdivision of this state which were lawfully incurred prior to the effective date of this act.

Sec. 167. Termination; exception
A. Notwithstanding section 41-2377, subsection D, Arizona Revised Statutes, the department of water resources is subject to legislative review and termination as provided by this act.
B. If title 41, chapter 20, Arizona Revised Statutes, operates to terminate an agency other than the department of water resources, any provisions regarding powers, duties, functions or personnel added or amended by this act terminate on the date of termination of the particular agency.

Sec. 168. Initial terms of groundwater users advisory councils
Notwithstanding section 45-420, subsection B, Arizona Revised Statutes, prescribing terms of six years for members of groundwater users advisory councils, the governor shall appoint as initial members of the council in each active management area:
1. Two members to serve terms which expire on January 18, 1982.
2. Two members to serve terms which expire on January 16, 1984.
3. One member to serve a term which expires on January 20, 1986.

Sec. 169. Relationship of rules and regulations of Arizona water commission and department of water resources
Rules and regulations adopted by the Arizona water commission have full force and effect until superseded by rules and regulations adopted by the department of water resources.
Sec. 170. Transfer of funds, equipment, orders, contracts, judicial actions and data

A. All personnel, equipment, records, furnishings and other property, all data and investigational findings and all funds remaining unexpended and unencumbered, and funds appropriated for fiscal year 1980-81 of the Arizona water commission are transferred to the department of water resources on the effective date of this act and may be used for the purposes of this act including the funding of necessary full-time employee positions.

B. All matters, including contracts, orders and judicial or quasi-judicial actions, whether completed, pending or in process, of the Arizona water commission are, on the effective date of this act, transferred to and shall maintain the same status with the department of water resources.

Sec. 171. Purpose

The purpose of the department of water resources, established by this act, is to:

1. Focus the responsibility for water management and administration of water-related programs within this state.

2. Stabilize the use of water resources, particularly groundwater resources, in this state according to management practices, procedures, standards and plans provided for by statute.

3. Compile and maintain information which is necessary for intelligent management, administration and planning for water resources and programs.

Sec. 172. Nonseverability

If any portion of this act is finally adjudicated invalid, the entire act shall be null and void. The provisions of this act are intended to be nonseverable.

Sec. 173. Emergency

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor - June 12, 1980

Filed in the Office of the Secretary of State - June 12, 1980