

ARIZONA DEPARTMENT OF WATER RESOURCES

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**2008 ADWR Compliance and Enforcement Report
January 1 through June 30, 2008**

In the first half of 2008, Arizona Department of Water Resources (Department) compliance and enforcement staff collected payment on seven citations totaling \$55,190.00. These citations were issued from the Phoenix, Pinal, Prescott, Santa Cruz and Tucson Active Management Areas (AMA), for violations of the Groundwater Code and/or Third Management Plan. A description of the major violation types investigated and enforced by compliance staff follows:

Withdrawal of Groundwater in Excess of Legal Authority (Violations of A.R.S. § 45-451(A))

A.R.S. § 45-451(A), requires a regulated person in an AMA to withdraw and use groundwater in accordance with their legally determined withdrawal authority. The Department issued five citations and four advisory letters for violations of withdrawal of groundwater in excess of legal authority. Additionally, the Department is investigating or in consultation with several potential violators. A majority of (\$50,500 out of a \$55,000 total) the civil penalties collected by the Department through the first half of 2008 were for A.R.S. § 45-451(A) violations.

Exceedance of Permitted Annual Well Volume (Violations of A.R.S § 45-598 and A.A.C. R12-15-1302.B)

In 2008, the Department's Compliance Committee began a heightened identification, education and enforcement plan pertaining to exceedance of permitted well volume (including designated recovery wells) violations. Several service area and recovery well permit holders and well owners have been identified and audited across Arizona to verify potential violations and educate the public regarding permitted well volume compliance. The Department is currently developing procedures to include permitted well volumes, when appropriate, on the 2008 annual reports. For the 2008 annual reporting year and beyond, civil penalties involving exceedance of a permitted well volume are increasing as violations will be assessed on per acre-foot basis. If you have any questions regarding your current permitted well volume(s) and compliance status, or would like more information on the well permit application process, please contact the Department immediately.

The Department issued two citations totaling approximately \$4,500 for exceedance of a permitted annual well volume (established pursuant to A.R.S § 45-598 and A.A.C. R12-15-1302.B). The well was discovered to have exceeded their permitted annual volume by a cumulative total of 124.91 acre-feet over a four-year period.



Irrigation Grandfathered Right (IGFR) Flexibility Account Violations

Pursuant to A.R.S. § 45-467, an IGFR is allowed to accrue unlimited credits to their flexibility account balance, while the debit balance may not exceed 50% of the current annual groundwater allotment at any time. A.R.S. §45-467(O) enables Irrigation Grandfathered Right holders within irrigation districts to reduce their flexibility account debits by purchasing and/or conveying flexibility account credits from other Irrigation Grandfathered Right holders within the same irrigation district. Right holders located outside an of irrigation district also are permitted to buy or convey flexibility account credits between farms located within the same groundwater sub-basin, and the same AMA, but outside of an irrigation district. The sale or conveyance of credits between farms where one of the farms is located within an irrigation district and the other farm is located outside of that irrigation district is also allowed only if both farms are located within the same groundwater sub-basin, the same AMA, and if the owner or lessee of one of the farms is also the owner or lessee of the other farm.

In 2008, six Phoenix AMA IGFR owners were notified that they were in violation of A.R.S. § 45-467. The IGFR owners were given until August 8, 2008 to complete their flexibility account credit transfers and avoid compliance action by the Department. The possible cumulative civil penalty for these violations is a minimum of \$56,740.86, ranging from a high of \$34,420.50 to a low of \$505.59.

Dam Safety

The Department's Dam Safety Division conducted a field inspection of Amerind Dam #8, located in Cochise County, between the towns of Willcox and Benson. The purpose of the inspection was to determine the dimensions of the unauthorized breach. After the inspection, the Department notified the dam's owner of the unauthorized alteration of a dam and directed the filing of an application for complete removal of the structure within 15 days. The application for removal was reviewed and approved by the Department.

Recharge

The Recharge Division conducted four substantial audits of water providers and facilities located within the Phoenix AMA. Although the audits were initiated by the Recharge Division, several of the reporting issues greatly affected other Department programs (Municipal, Assured and Adequate Water Supply). Due to the complex nature and multiple water years audited, all audit issues are outstanding, but with various degrees of completion.

3/10/08 – An informal audit was conducted with a water provider that addressed reporting issues for calendar years 2004 through 2006. The water provider amended several reporting discrepancies, and resolved some outstanding issues. Complete resolution of reporting issues continues.

4/24/08 – An official audit was conducted with a golf course that addressed reporting issues for calendar years 2001 through 2007. The facility representatives are working to secure sufficient Long-term Storage Credits for reporting year 2008. The Department is currently finalizing a Stipulation and Consent Order (SCO) that will address past reporting and credit issues.

6/16/08 – An informal was conducted with a water provider that addressed reporting issues for calendar years 2004 through 2006. The water provider amended several reporting discrepancies and the Department is currently reviewing the newly supplied information.



6/30/08 – An official audit was conducted with a water provider for the reporting years 2004 through 2006. The water provider amended their annual reports, when applicable, and the Department is currently substantiating the new information provided.

Failure-to-File an Annual Report

Pursuant to ARS 45-632(O) an annual report shall be filed with the Department's director no later than March 31 of each year for the preceding calendar year. If a person who is required to file an annual report fails to file a report for the calendar year in question on or before March 31 of the following year, the director may assess and collect a penalty of twenty-five dollars for each month or portion of a month that the annual report is delinquent. The Department's current failure-to-file notification is as follows: 1) a First Notice of Violation is mailed out around April 15 of each calendar year, 2) a Final Notice of Violation is mailed around August 15 of each calendar year, and 3) annual reports delinquent after October 1 of each calendar year are assessed civil penalties in addition to late reporting penalties. The final 2008 Compliance Report will include the Department's failure-to-file and associated citation clearance rate.

Additional Compliance and Enforcement Actions/Accomplishments

The Department conducted the following actions in the first half of 2008:

- As of 6/3/08 the Department's updated and enhanced 'Compliance and Enforcement Manual' (finalized in May 2008) was made available to the public at <http://www.azwater.gov/dwr/>;
- Completed and issued compliance report status for 15 municipal providers and community water systems located throughout Arizona, as requested by the Arizona Corporation Commission;
- Issued Advisory Letters for improper and/or inadequate well metering/monitoring;
- Issued Advisory Letters for failure-to-provide Service Area Maps;
- Issued Data Deficiency Letters and/or schedule informal meetings to clarify annual reporting discrepancies or omissions;
- Three Field Investigations pertaining to surface water bodies. All surface water investigations are on-going.
- Numerous Field Investigations pertaining to stock water pond compliance were conducted throughout Arizona.

