

REFERENCE TITLE: department of water resources; fund

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

S. B. _____

Introduced by _____

AN ACT

AMENDING SECTIONS 45-113, 45-115 AND 45-116, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-117; AMENDING SECTIONS 45-133, 45-183, 45-273, 45-292, 45-411.01, 45-467 AND 45-476.01, ARIZONA REVISED STATUTES; REPEALING SECTION 45-580, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-595, 45-596 AND 45-599, ARIZONA REVISED STATUTES; REPEALING SECTION 45-606, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-612, 45-615, 45-703, 45-871.01, 45-874.01, 45-1021, 45-1041, 45-1205, 45-1212.01, 45-1220, 45-1603 AND 45-1605, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WATER RESOURCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 45-113, Arizona Revised Statutes, is amended to
3 read:
4 45-113. Fees; refunds
5 A. Except as otherwise prescribed, the director shall establish by
6 rule and shall collect reasonable fees to cover the costs of administrative
7 services and expenses.
8 B. Except as otherwise prescribed, the director may establish by rule
9 and collect fees for applications, certificates, licenses and permits
10 relating to surface water, groundwater, water exchanges, wells, grandfathered
11 rights, substitution of acres, adequate and assured water supply, groundwater
12 oversupply and lakes and for inspections relating to dam safety.
13 C. If the director determines that a fee, including a fee collected
14 pursuant to section 45-611, has been erroneously paid during the same fiscal
15 year or during any prior fiscal year, the director shall make an
16 administrative adjustment or a refund, without interest, from the agency fund
17 in which the fee was originally deposited to the current holder of the right,
18 application or registration for which the fee was paid.
19 D. This section does not apply to fees paid or payable under section
20 45-254 or section 45-255, subsection B.
21 E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
22 THE MONIES COLLECTED UNDER THIS SECTION IN THE WATER RESOURCES FUND
23 ESTABLISHED BY SECTION 45-117.
24 Sec. 2. Section 45-115, Arizona Revised Statutes, is amended to read:
25 45-115. Production and copying fund; use; account; nonreversion
26 A. The department of water resources production and copying fund is
27 established consisting of monies paid to the department for publications
28 produced by the department and for copies of department records. The
29 department shall administer the fund. Monies in the fund are continuously
30 appropriated and shall be used for expenses incurred by the department in
31 producing and distributing publications of the department and for copying
32 department records for the public.
33 B. The fund shall be a separate account on the books of the
34 department. Monies remaining in the fund at the end of the fiscal year
35 remain in the fund, except that any monies in excess of twenty thousand
36 dollars at the end of the fiscal year revert to the ~~state-general-fund~~ WATER
37 RESOURCES FUND ESTABLISHED BY SECTION 45-117.
38 Sec. 3. Section 45-116, Arizona Revised Statutes, is amended to read:
39 45-116. Publication and mailing fund; use; account;
40 nonreversion
41 A. The department of water resources publication and mailing fund is
42 established consisting of monies paid to the department for the publication
43 and mailing of legal notices required by law. The department shall
44 administer the fund. Monies in the fund are continuously appropriated and

1 shall be used for expenses incurred by the department in publishing and
2 mailing legal notices required by law.

3 B. The fund shall be a separate account on the books of the
4 department. Monies remaining in the fund at the end of the fiscal year
5 remain in the fund, except that any monies in excess of twenty thousand
6 dollars at the end of the fiscal year revert to the ~~state general fund~~ WATER
7 RESOURCES FUND ESTABLISHED BY SECTION 45-117.

8 Sec. 4. Title 45, chapter 1, article 1, Arizona Revised Statutes, is
9 amended by adding section 45-117, to read:

10 45-117. Water resources fund; purpose

11 A. THE WATER RESOURCES FUND IS ESTABLISHED TO BE MAINTAINED IN
12 PERPETUITY CONSISTING OF:

13 1. MONIES RECEIVED PURSUANT TO SECTIONS 45-113, 45-115, 45-116,
14 45-133, 45-183, 45-273, 45-292, 45-411.01, 45-467, 45-476.01, 45-595, 45-596,
15 45-599, 45-612, 45-615, 45-703, 45-871.01, 45-874.01, 45-1021, 45-1041,
16 45-1205, 45-1212.01, 45-1220, 45-1603 AND 45-1605.

17 2. MONIES APPROPRIATED BY THE LEGISLATURE TO THE WATER RESOURCES FUND.

18 3. GIFTS, GRANTS AND DONATIONS RECEIVED FROM ANY PUBLIC OR PRIVATE
19 SOURCE.

20 4. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE
21 FUND.

22 B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT
23 FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

24 C. MONIES IN THE FUND SHALL BE USED EXCLUSIVELY BY THE DEPARTMENT OF
25 WATER RESOURCES TO CARRY OUT THE PURPOSES OF THIS TITLE.

26 Sec. 5. Section 45-133, Arizona Revised Statutes, is amended to read:

27 45-133. Permit for interim water use; application; fee;
28 surcharge on use of groundwater

29 A. A person otherwise subject to the prohibitions of section 45-132
30 may use groundwater withdrawn pursuant to a type 1 or type 2 non-irrigation
31 grandfathered right or water other than groundwater to fill or refill all or
32 a portion of a body of water until sufficient effluent is available to fill
33 or refill the body of water if the person applies for and obtains a permit
34 for interim water use from the director. The director may issue a permit if
35 the applicant demonstrates to the satisfaction of the director that all of
36 the following apply:

37 1. The applicant otherwise has a right to use the water for the
38 proposed purpose.

39 2. Sufficient effluent to fill or refill the body of water is not
40 reasonably available but it has been demonstrated by clear and convincing
41 evidence that sufficient effluent will be available no later than five years
42 from the date the permit is issued.

43 3. The applicant has:

1 (a) Provided the necessary easements for an on-site treatment facility
2 or access to an off-site treatment facility and for transportation of a
3 permanent effluent supply to the body of water.

4 (b) Provided the site location for the facility and received approval
5 for the facility from the department of environmental quality, if an on-site
6 treatment facility will be used.

7 (c) Recorded the easements and any site location for an on-site
8 treatment facility on the plat of record for the subdivision or development
9 within which the body of water is located.

10 4. The body of water will store effluent that will be applied to grow
11 landscaping plants on common areas or will be used for other beneficial
12 purposes that would otherwise require use of surface water or groundwater.

13 5. The development or facility in which the body of water is located
14 will include an effective water conservation program. The specific
15 conservation requirements in the water conservation program shall be
16 consistent with and shall not by this paragraph be required to be more strict
17 than any specific conservation requirements in the applicable management
18 plan.

19 6. The body of water otherwise complies with this article.

20 B. The director may issue a permit under this section for a period of
21 up to three years. The director shall specify the amount of water that may
22 be used each year pursuant to the permit. The director shall determine the
23 duration of the permit and the amount of water that may be used pursuant to
24 the permit on the basis of the estimated time until sufficient effluent will
25 be available to fill and refill the body of water. The director shall
26 monitor the use of water pursuant to the permit and shall modify the terms of
27 the permit as necessary and terminate the permit if any of the conditions for
28 issuance of the permit no longer apply. The director may renew a permit for
29 no more than two successive one-year periods subject to the same criteria
30 used in granting the original permit.

31 C. An application for a permit under this section shall be made on a
32 form prescribed and furnished by the director. The director shall levy and
33 collect a reasonable application fee to cover the costs of administrative
34 services and expenses, which shall be remitted to the ~~augmentation and~~
35 ~~conservation assistance fund described in section 45-615, paragraph 1~~ WATER
36 RESOURCES FUND ESTABLISHED BY SECTION 45-117.

37 D. The director shall levy and collect an annual surcharge from each
38 holder of a permit for interim groundwater use. The amount of the surcharge
39 shall be as follows:

40 1. For the first year following issuance of the permit, twenty-five
41 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

42 2. For the second year following issuance of the permit, fifty dollars
43 per acre-foot of groundwater withdrawn pursuant to the permit.

44 3. For the third year following issuance of the permit, one hundred
45 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

1 4. For the fourth year following issuance of the permit, two hundred
2 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

3 5. For the fifth year following issuance of the permit, four hundred
4 dollars per acre-foot of groundwater withdrawn pursuant to the permit.

5 E. All monies collected pursuant to subsection D of this section shall
6 be remitted ~~as follows:~~

7 ~~1. Fifty per cent to the augmentation and conservation assistance fund~~
8 ~~described in section 45-615, paragraph 1, or if a water district is organized~~
9 ~~in the active management area under title 48, chapter 28, to the general fund~~
10 ~~of the district.~~

11 ~~2. Fifty per cent to the purchase and retirement fund described in~~
12 ~~section 45-615, paragraph 2~~ TO THE WATER RESOURCES FUND ESTABLISHED BY
13 SECTION 45-117.

14 F. If the holder of a permit for interim groundwater use fails to pay
15 the surcharge levied pursuant to subsection D of this section by the date set
16 by the director, the director shall revoke the permit.

17 Sec. 6. Section 45-183, Arizona Revised Statutes, is amended to read:
18 45-183. Contents of statement of claim; filing procedure; fee

19 A. The statement of claim for each water right shall include the
20 following:

21 1. The name and mailing address of the person filing the claim.

22 2. The name of the watercourse or water source from which the right to
23 divert or make use of water is claimed.

24 3. The quantities of water and times of year use is claimed.

25 4. The legal description to the nearest forty-acre tract or by other
26 appropriate description of the point or points of diversion and place of use
27 of the waters.

28 5. The purpose and extent of use.

29 6. The approximate dates of first putting water to beneficial use for
30 the various amounts and times claimed in paragraph 3 of this subsection.

31 7. The legal basis for the claim.

32 8. The sworn statement that the claim set forth is true and correct.

33 B. A statement of claim for a water right may be verified by the
34 person claiming the right or may be verified by an authorized agent of such
35 person.

36 C. Filing of a statement of claim shall be complete upon timely
37 receipt by the ~~appropriate state agency~~ DEPARTMENT of a properly executed
38 statement of claim and a ~~five-dollar~~ filing fee ESTABLISHED BY THE DIRECTOR
39 BY RULE for each such claim. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO
40 SECTIONS 35-146 AND 35-147, THE FEES RECEIVED PURSUANT TO THIS SUBSECTION IN
41 THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

42 Sec. 7. Section 45-273, Arizona Revised Statutes, is amended to read:
43 45-273. Claim of water right; penalty; fee

44 A. A claim of water right for a stockpond and application for
45 certification of such right shall be typewritten or legibly written in ink

1 and filed in duplicate with the director upon a printed form furnished by the
2 director. Each blank in the form shall be completed with the required
3 information pursuant to instructions furnished by the director.

4 B. A claim which does not contain the required information or which is
5 not accompanied by the required filing fee shall not be accepted, but shall
6 be returned to the sender.

7 C. A separate claim shall be filed for each stockpond.

8 D. All claims shall be certified as true under penalty of perjury.

9 E. Each claim shall be accompanied by a filing fee ~~of ten dollars~~
10 ESTABLISHED BY THE DIRECTOR BY RULE.

11 F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
12 ALL FEES RECEIVED PURSUANT TO THIS SECTION IN THE WATER RESOURCES FUND
13 ESTABLISHED BY SECTION 45-117.

14 Sec. 8. Section 45-292, Arizona Revised Statutes, is amended to read:

15 45-292. Approval required to transport water out of state;
16 application; fee; criteria; hearing

17 A. A person may withdraw, or divert, and transport water from this
18 state for a reasonable and beneficial use in another state if approved by the
19 director pursuant to this article. A person shall not transport water from
20 this state unless approved by the director, but this article does not apply
21 to or prohibit transporting water from this state as required by interstate
22 compact, federal law or international treaty.

23 B. An application to transport water from this state for use in
24 another state shall be filed with the director, including a fee established
25 by the director by rule. In establishing a fee by rule, the director may
26 consider factors including the amount of time likely to be expended in
27 processing the application, the amount of preexisting hydrological
28 information available, if any, and the complexity of the application. The
29 application shall include:

30 1. The name and address of the applicant's statutory agent in this
31 state for service of process and other legal notices.

32 2. The legal basis for acquiring the water to be transported.

33 3. The purpose for which the water will be used.

34 4. The annual amount of water in acre-feet for which the application
35 is made.

36 5. The proposed duration of the permit, not to exceed fifty years with
37 an option to renew.

38 6. Studies satisfactory to the director of the probable hydrologic
39 impact on the area from which the water is proposed to be transported.

40 7. Any other information which the director may require.

41 C. The director shall approve or reject the application. If the
42 director approves the application, the director may prescribe terms and
43 conditions for the approval. In determining whether to approve the
44 application the director shall consider:

1 1. Whether the proposed action would be consistent with conservation
2 of water, including any applicable management goals and plans.
3 2. Potential harm to the public welfare of the citizens of this state.
4 3. The supply of water to this state and current and future water
5 demands in this state in general and the proposed source area in particular.
6 4. The feasibility of intrastate transportation of the water that is
7 the subject of the application to alleviate water shortages in this state.
8 5. The availability of alternative sources of water in the other
9 state.
10 6. The demands placed on the applicant's supply in the other state.
11 7. Whether the proposed action is prohibited or affected by other law,
12 including sections 45-165 and 45-172 and chapter 2 of this title.
13 D. This article does not authorize and the director shall not approve
14 transporting from this state water allocated to this state by federal law or
15 interstate compact.
16 E. An administrative hearing shall be held on the application, and the
17 director shall give notice of the hearing by publication once a week for
18 three consecutive weeks in a newspaper of general circulation in the county
19 or counties from which the applicant proposes to transport the water. The
20 hearing shall be conducted in the area from which water is proposed to be
21 transported. Any interested person, including the department, may appear and
22 give oral or written testimony on all issues involved.
23 F. Section 45-114, subsections A and B govern administrative
24 proceedings, rehearing or review and judicial review of final decisions of
25 the director under this section.
26 G. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
27 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
28 BY SECTION 45-117.
29 Sec. 9. Section 45-411.01, Arizona Revised Statutes, is amended to
30 read:
31 45-411.01. Exemptions from irrigation water duties,
32 conservation requirements for distribution of
33 groundwater and portions of groundwater withdrawal
34 fee for portions of Phoenix active management
35 area; fee; review
36 A. Each person who is entitled to use groundwater pursuant to an
37 irrigation grandfathered right under article 5 of this chapter on irrigation
38 acres located within the area delineated for exemption under subsection E of
39 this section is exempt, beginning January 1, 1989, from any irrigation water
40 duties or intermediate water duties established or required to be established
41 for those irrigation acres in the management plans for the first, second,
42 third and fourth management periods for the Phoenix active management area
43 adopted pursuant to article 9 of this chapter.
44 B. The Arlington canal company, the Buckeye water conservation and
45 drainage district and the St. John's irrigation district, or their

1 successors, are exempt, beginning January 1, 1989, from any applicable
2 conservation requirements for the distribution of groundwater established in
3 the management plans for the first, second, third and fourth management
4 periods for the Phoenix active management area adopted pursuant to article 9
5 of this chapter.

6 C. No groundwater withdrawal fee shall be levied or collected pursuant
7 to section 45-611 and no water quality assurance fee shall be levied or
8 collected pursuant to section 45-616 for:

9 1. Groundwater withdrawn during calendar years 1989 through 2019 for
10 irrigation use on irrigation acres within the area exempted from irrigation
11 water duties and intermediate water duties under subsection A of this
12 section.

13 2. Groundwater withdrawn and used in the area delineated for exemption
14 under subsection E of this section during calendar years 1999 through 2019
15 for a non-irrigation use pursuant to section 45-519, subsection B, if the
16 user of the groundwater pays a fee of five hundred dollars to the director by
17 March 31 of each year following a year in which the groundwater was used.
18 The director shall deposit, pursuant to sections 35-146 and 35-147, the
19 monies collected under this paragraph in the water quality assurance
20 revolving fund established by section 49-282.

21 D. Except as provided in subsection G of this section, a water duty
22 exemption fee of twenty-five cents per irrigation acre per year shall be paid
23 to the department for each irrigation acre in the exempted area. The water
24 duty exemption fee shall be paid to the department no later than March 31 of
25 each year from 1990 through 2020 for the preceding year by each person who
26 owns irrigation acres within the exempted area as of December 31 of the year
27 preceding the date the payment is due except that, if the Arlington canal
28 company, the Buckeye water conservation and drainage district or the St.
29 John's irrigation district, or a successor, delivers water to the irrigation
30 acres during the year preceding the date payment is due, the fee shall be
31 paid by the company or district delivering water to the irrigation acres. If
32 a person who is required to pay a fee pursuant to this subsection fails to
33 pay the fee for the calendar year in question on or before March 31 of the
34 following year, the director may assess and collect a penalty of ten per cent
35 of the unpaid fee, without compounding, for each month or portion of a month
36 that the fee is delinquent. The total penalty assessed under this subsection
37 shall not exceed sixty per cent of the unpaid fee. The director shall
38 deposit, pursuant to sections 35-146 and 35-147, all monies collected by the
39 department under this subsection in the ~~state general fund~~ WATER RESOURCES
40 FUND ESTABLISHED BY SECTION 45-117.

41 E. The boundaries of the exempted area under this section are
42 delineated on a map of the Phoenix active management area filed in the office
43 of the secretary of state on May 12, 1988. A true copy of the map filed in
44 the office of the secretary of state shall be on file in the department and

1 shall be available for examination by the public during regular business
2 hours.

3 F. The director shall review the hydrologic conditions within the area
4 delineated on the map filed in the office of the secretary of state pursuant
5 to subsection E of this section. The director shall consult with
6 representatives of the Arlington canal company, the Buckeye water
7 conservation and drainage district and the St. John's irrigation district, or
8 their successors, on the scope of the review before beginning the review and
9 on the status of the review periodically during the course of the review.
10 The director shall submit a recommendation to the governor, the president of
11 the senate and the speaker of the house of representatives no later than
12 December 15, 2015 regarding extending the exemptions established in this
13 section.

14 G. A person who owns an irrigation grandfathered right appurtenant to
15 ten or fewer irrigation acres located in the exempt area is exempt from the
16 payment of a water duty exemption fee for the acres prescribed by subsection
17 D of this section unless the irrigation acres are part of an integrated
18 farming operation. The exemption provided by this subsection does not apply
19 to the Arlington canal company, the Buckeye water conservation and drainage
20 district or the St. John's irrigation district, or any successor, in any year
21 in which the company or district delivers water to the irrigation acres.

22 Sec. 10. Section 45-467, Arizona Revised Statutes, is amended to read:
23 45-467. Withdrawals in excess of irrigation grandfathered
24 right; withdrawals less than irrigation grandfathered
25 right; flexibility account; conveyances; variance;
26 exemption

27 A. A person who is entitled to use groundwater pursuant to an
28 irrigation grandfathered right may:

29 1. In an active management area other than the Santa Cruz active
30 management area, use groundwater in excess of the amount allowed by the right
31 in an amount determined pursuant to subsection I of this section.

32 2. In the Santa Cruz active management area, use water, other than
33 stored water, withdrawn from a well in excess of the farm's current
34 irrigation water duty multiplied by the farm's water duty acres in an amount
35 determined pursuant to subsection J of this section.

36 3. Use less than the amount allowed by the right in one accounting
37 period and use the remaining amount allowed by the right in a succeeding
38 accounting period or periods.

39 B. The director shall establish rules for the maintenance of a
40 flexibility account for each farm in an active management area.

41 C. If a farm located in an active management area other than the Santa
42 Cruz active management area is irrigated solely with groundwater, the
43 director shall:

44 1. Register a debit to the account in any accounting period in which
45 the amount of groundwater used for the irrigation of the irrigation acres in

1 the farm is greater than the current irrigation water duty for the farm
2 multiplied by the water duty acres in the farm.

3 2. Register a credit to the account in any accounting period in which
4 the amount of groundwater used for the irrigation of the irrigation acres in
5 the farm is less than the current irrigation water duty for the farm
6 multiplied by the water duty acres in the farm.

7 D. Except as provided in subsection G of this section, if a farm
8 located in an active management area other than the Santa Cruz active
9 management area is irrigated with a combination of surface water or effluent,
10 or both, and groundwater, and uses of water by the farm from all sources for
11 irrigation purposes, except for surface water, other than Colorado river
12 water, released for beneficial use from storage, diversion or distribution
13 facilities to avoid spilling that would otherwise occur due to uncontrolled
14 surface water inflows that exceed facility capacity, in the accounting
15 period:

16 1. Exceed the amount of the current irrigation water duty for the farm
17 multiplied by the water duty acres in the farm, the amount of groundwater
18 used up to the amount of the excess, less any effluent used, shall be
19 registered as a debit to the account.

20 2. Are less than the amount of the current irrigation water duty for
21 the farm multiplied by the water duty acres in the farm, the amount of water
22 not used which would have been groundwater shall be registered as a credit to
23 the account.

24 E. If a farm located in the Santa Cruz active management area is
25 irrigated solely with water, other than stored water, withdrawn from a well,
26 the director shall:

27 1. Register a debit to the account in any accounting period in which
28 the amount of water, other than stored water, withdrawn from a well and used
29 for the irrigation of the irrigation acres in the farm is greater than the
30 current irrigation water duty for the farm multiplied by the water duty acres
31 in the farm. The amount of the debit shall equal the amount of the excess.

32 2. Register a credit to the account in any accounting period in which
33 the amount of water, other than stored water, withdrawn from a well and used
34 for the irrigation of the irrigation acres in the farm is less than the
35 current irrigation water duty for the farm multiplied by the water duty acres
36 in the farm.

37 F. If a farm located in the Santa Cruz active management area is
38 irrigated with a combination of surface water not withdrawn from a well and
39 effluent, or both, and water, other than stored water, withdrawn from a well,
40 and uses of water by the farm from all sources for irrigation purposes in the
41 accounting period:

42 1. Exceed the amount of the current irrigation water duty for the farm
43 multiplied by the water duty acres in the farm, the amount of water, other
44 than stored water, withdrawn from a well and used on the farm up to the

1 amount of the excess, less any effluent used that does not qualify as stored
2 water, shall be registered as a debit to the account.

3 2. Are less than the amount of the current irrigation water duty for
4 the farm multiplied by the water duty acres in the farm, the amount of water
5 not used which would have been water, other than stored water, withdrawn from
6 a well shall be registered as a credit to the account.

7 G. Beginning January 1, 1995 through December 31, 1999, if a farm that
8 qualifies under this subsection as determined pursuant to subsection H of
9 this section is irrigated during an accounting period with a combination of
10 surface water or effluent, or both, and groundwater, and uses of water by the
11 farm from all sources for irrigation purposes, except for surface water,
12 other than Colorado river water, released for beneficial use from storage,
13 diversion or distribution facilities to avoid spilling that would otherwise
14 occur due to uncontrolled surface water inflows that exceed facility
15 capacity, in the accounting period:

16 1. Exceed the amount of the first intermediate irrigation water duty
17 established for the farm pursuant to section 45-565 multiplied by the water
18 duty acres in the farm, the amount of groundwater used up to the amount of
19 the excess, less any effluent used, shall be registered as a debit to the
20 account.

21 2. Are less than the amount of the current irrigation water duty for
22 the farm multiplied by the water duty acres in the farm, the amount of water
23 not used that would have been groundwater shall be registered as a credit to
24 the account.

25 3. Exceed or equal the amount of the current irrigation water duty for
26 the farm multiplied by the water duty acres in the farm but are less than or
27 equal to the amount of the first intermediate irrigation water duty
28 established for the farm pursuant to section 45-565 multiplied by the water
29 duty acres in the farm, no credit or debit may be registered to the account.

30 H. A farm qualifies under subsection G of this section if it is
31 located in an active management area other than the Santa Cruz active
32 management area and either of the following applies:

33 1. The amount of groundwater used to irrigate the farm during the
34 accounting period does not exceed an amount computed by multiplying the water
35 duty acres in the farm by one and one-half acre-feet of water, except that an
36 electrical district organized under title 48, chapter 12 or an irrigation
37 district may apply to the director no later than March 31 of a year for an
38 increase in that amount for that year for the farms located within the
39 boundaries of the district that do not qualify under paragraph 2 of this
40 subsection. The director shall grant the increase if the district
41 demonstrates that it holds a contract for the purchase of hydroelectric power
42 marketed by the western area power administration or the Arizona power
43 authority and that the use of groundwater during that year by all of the
44 farms within the boundaries of the district that do not qualify under
45 paragraph 2 of this subsection in an amount that does not exceed one and

1 one-half acre-feet of water multiplied by the total number of water duty
2 acres of those farms would result in the district being unable to use its
3 hydroelectric power capacity entitlement under the contract. If the director
4 grants the increase, the director shall compute the maximum amount of
5 groundwater that may be used by a farm within the district during the year in
6 order to qualify under subsection G of this section as follows:

7 (a) Determine the total amount of groundwater that must be used during
8 the year by all farms in the district that do not qualify under paragraph 2
9 of this subsection to enable the district to efficiently use its
10 hydroelectric kilowatt demand allocation.

11 (b) Divide the amount determined in subdivision (a) of this paragraph
12 by the total number of water duty acres of the farms in the district that do
13 not qualify under paragraph 2 of this subsection.

14 (c) Multiply the farm's water duty acres by the quotient in
15 subdivision (b) of this paragraph or two acre-feet of water, whichever is
16 less.

17 2. The farm is irrigated with water supplied by an irrigation district
18 that owns or leases and operates all of the wells used to withdraw
19 groundwater for irrigation use within the district, and the total amount of
20 groundwater supplied by the irrigation district for irrigation use during the
21 year does not exceed an amount computed by multiplying the total number of
22 water duty acres within the irrigation district by one and one-half acre-feet
23 of water, except that the irrigation district or an electrical district
24 organized under title 48, chapter 12 may apply to the director no later than
25 March 31 of a year for an increase in that amount for that year for the farms
26 located within the boundaries of the irrigation district. The director shall
27 grant the increase if the irrigation district or electrical district
28 demonstrates that it holds a contract for the purchase of hydroelectric power
29 marketed by the western area power administration or the Arizona power
30 authority and that the irrigation district or electrical district would be
31 unable to use its hydroelectric power capacity entitlement under the contract
32 if the total amount of groundwater supplied by the irrigation district for
33 irrigation use during the year does not exceed an amount computed by
34 multiplying the total number of water duty acres within the irrigation
35 district by one and one-half acre-feet of water. If the director grants the
36 increase, the maximum amount of groundwater that may be supplied by the
37 irrigation district for irrigation use during the year in order for the farms
38 located within the boundaries of the irrigation district to qualify under
39 subsection G of this section shall be the lesser of the following:

40 (a) The amount of groundwater that the director determines must be
41 supplied by the irrigation district for irrigation use during the year to
42 enable the irrigation district or electrical district to efficiently use its
43 hydroelectric kilowatt demand allocation.

44 (b) An amount of groundwater computed by multiplying the total number
45 of water duty acres within the irrigation district by two acre-feet of water.

1 I. The maximum excess amount of groundwater that may be used pursuant
2 to this section is equal to fifty per cent of the current irrigation water
3 duty for the farm multiplied by the water duty acres in the farm. An owner
4 of an irrigation grandfathered right and the person using groundwater
5 pursuant to the right violate this section if the flexibility account for the
6 farm in which the irrigation acres to which the right is appurtenant are
7 located is in arrears at any time in excess of this amount. Groundwater
8 equal to the credit balance in the flexibility account may be used at any
9 time.

10 J. In the Santa Cruz active management area, the maximum excess amount
11 of water, other than stored water, withdrawn from a well that may be used
12 pursuant to this section is equal to fifty per cent of the current irrigation
13 water duty for the farm multiplied by the water duty acres in the farm. A
14 person using water, other than stored water, withdrawn from a well for an
15 irrigation use in the Santa Cruz active management area violates this section
16 if the flexibility account for the farm is in arrears at any time in excess
17 of this amount. Water, other than stored water, withdrawn from a well in an
18 amount equal to the credit balance in the flexibility account may be used at
19 any time, except that if the water is surface water, the amount that may be
20 used shall not exceed the amount allowed by the decreed or appropriative
21 surface water right.

22 K. If an irrigation grandfathered right is conveyed for an irrigation
23 use pursuant to section 45-472, each acre conveyed shall carry with it a
24 proportional share of any debits or credits in the flexibility account for
25 the farm. If an irrigation grandfathered right is conveyed for a
26 non-irrigation use pursuant to section 45-472, each acre conveyed shall carry
27 with it a proportional share of any debits in the flexibility account for the
28 farm.

29 L. A person in an active management area other than the Santa Cruz
30 active management area who is using groundwater pursuant to an irrigation
31 grandfathered right and who is operating under a variance to the irrigation
32 water duty pursuant to section 45-574:

33 1. May accumulate a maximum debit in an amount equal to fifty per cent
34 of the current irrigation water duty for the farm multiplied by the water
35 duty acres in the farm.

36 2. Shall accumulate credits pursuant to subsection C or D of this
37 section.

38 M. A person in the Santa Cruz active management area who is using
39 water, other than stored water, withdrawn from a well for an irrigation use
40 and who is operating under a variance to the irrigation water duty pursuant
41 to section 45-574:

42 1. May accumulate a maximum debit in an amount equal to fifty per cent
43 of the current irrigation water duty for the farm multiplied by the water
44 duty acres in the farm.

1 2. Shall accumulate credits pursuant to subsection E or F of this
2 section.

3 N. In an active management area other than the Santa Cruz active
4 management area, a person using groundwater pursuant to an irrigation
5 grandfathered right shall file a report with the director each year which
6 shall include the amount of groundwater used pursuant to the irrigation
7 grandfathered right and such other information as the director shall require.
8 In the Santa Cruz active management area, a person using water, other than
9 stored water, withdrawn from a well for irrigation use shall file a report
10 with the director each year which shall include the amount of water used on
11 the farm and such other information as the director shall require. The
12 director may consolidate the reporting requirements of this section with the
13 reporting requirements of section 45-632. A person using groundwater
14 pursuant to an irrigation grandfathered right that is regulated under a best
15 management practices program adopted by the director, pursuant to section
16 45-566.02, subsection F, section 45-567.02, subsection ~~F~~ G or section
17 45-568.02, subsection F, is exempt from the reporting requirements of this
18 subsection for groundwater used pursuant to the irrigation grandfathered
19 right, except that the person shall file a report with the director each year
20 that includes the information required by the best management practices
21 program. A person using groundwater pursuant to an irrigation grandfathered
22 right that is appurtenant to ten or fewer irrigation acres is exempt from the
23 reporting requirements of this subsection for groundwater used pursuant to
24 the irrigation grandfathered right unless one of the following applies:

25 1. The land to which the irrigation grandfathered right is appurtenant
26 is part of an integrated farming operation.

27 2. Groundwater is withdrawn from the land to which the irrigation
28 grandfathered right is appurtenant and delivered for use pursuant to either a
29 service area right pursuant to article 6 of this chapter or a grandfathered
30 groundwater right other than an irrigation grandfathered right that is
31 appurtenant to irrigation acres that are exempt from irrigation water duties
32 pursuant to section 45-563.02.

33 3. Groundwater is withdrawn from land that is both owned by the owner
34 of the irrigation grandfathered right and contiguous to the land to which the
35 irrigation grandfathered right is appurtenant and delivered for use pursuant
36 to either a service area right pursuant to article 6 of this chapter or a
37 grandfathered groundwater right other than an irrigation grandfathered right
38 that is appurtenant to irrigation acres that are exempt from irrigation water
39 duties pursuant to section 45-563.02.

40 0. A person who owns an irrigation grandfathered right that is
41 appurtenant to irrigation acres that were capable of being irrigated as of
42 December 31 of the preceding calendar year and whose farm has registered a
43 credit balance to its flexibility account may convey or sell all or a portion
44 of the credit balance to any person, including the conveyer or seller of the

1 credit balance, who owns another irrigation grandfathered right or who uses
2 groundwater pursuant to another irrigation grandfathered right, except that:
3 1. A credit balance that is registered to the flexibility account of a
4 farm located within an irrigation district may be transferred only to:
5 (a) The flexibility account of a farm that is located within the same
6 irrigation district.
7 (b) The flexibility account of a farm that is located outside of that
8 irrigation district if both farms are located in the same groundwater
9 subbasin and the same active management area and if the farm to which the
10 credits are conveyed is owned or leased by the owner or lessee of the farm
11 from which the credits are conveyed.
12 2. A credit balance that is registered to the flexibility account of a
13 farm that is not located within an irrigation district may be transferred
14 only to:
15 (a) The flexibility account of a farm that is located within the same
16 groundwater subbasin and the same active management area and that is not
17 located within an irrigation district.
18 (b) The flexibility account of a farm that is located within the same
19 groundwater subbasin and the same active management area and that is located
20 within an irrigation district if the farm to which the credits are conveyed
21 is owned or leased by the owner or lessee of the farm from which the credits
22 are conveyed.
23 3. A credit registered to a flexibility account for a year may be
24 conveyed or sold only during the second calendar year following the year for
25 which the credit was registered.
26 4. A person who owns a farm that includes protected farmland may not
27 sell or otherwise convey any credit registered to the farm's flexibility
28 account.
29 P. A person who sells or conveys all or a portion of a credit balance
30 pursuant to subsection O of this section, and the person to whom the credit
31 balance is sold or conveyed, shall notify the director of the sale or
32 conveyance within thirty days after the sale or conveyance on a form
33 prescribed and furnished by the director.
34 Q. The director shall establish and collect a reasonable fee from the
35 conveyee or purchaser of a credit balance pursuant to subsection O of this
36 section to cover the cost of administrative services and other expenses
37 associated with registering a deduction to the conveyor's or seller's
38 flexibility account balance and an addition to the conveyee's or purchaser's
39 flexibility account balance pursuant to subsection R of this section. The
40 conveyee or purchaser shall pay the fee at the time the notice required
41 pursuant to subsection P of this section is given to the director. **THE**
42 **DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES**
43 **RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY**
44 **SECTION 45-117.**

1 R. A sale or conveyance of all or part of a credit balance under
2 subsection O of this section is effective only if the director receives the
3 notice required by subsection P of this section and the fee required by
4 subsection Q of this section within thirty days after the sale or conveyance.
5 After receiving the notice and the fee, the director shall register a
6 deduction of the credit amount conveyed or sold from the conveyor's or
7 seller's flexibility account balance and the corresponding addition to the
8 conveyee's or purchaser's flexibility account balance. The deduction and
9 addition to the flexibility account balances are effective as of the date of
10 the sale or conveyance.

11 S. The director shall report to the president of the senate and the
12 speaker of the house of representatives no later than June 30, 2002 on the
13 effect of conveyances of flexibility account credit balances pursuant to
14 subsection O, paragraph 2 of this section on the achievement of the
15 management goal of each active management area as stated in section 45-562
16 and on the conservation program included in the management plan for each
17 active management area as provided in section 45-565, and any recommended
18 changes to subsection O, paragraph 2 of this section.

19 T. Except for subsection N of this section, this section does not
20 apply to:

21 1. A farm if the person entitled to use groundwater on the farm is
22 exempt from the irrigation water duties established for the farm as provided
23 in section 45-563.02, subsection A or if the director may not establish
24 irrigation water duties for the farm as provided in section 45-563.02,
25 subsection B.

26 2. A farm if water use within the farm is regulated under a best
27 management practices program adopted by the director pursuant to section
28 45-566.02, subsection F, section 45-567.02, subsection ~~F~~ G or section
29 45-568.02, subsection F.

30 Sec. 11. Section 45-476.01, Arizona Revised Statutes, is amended to
31 read:

32 45-476.01. Late applications for certificates of grandfathered
33 rights; definition

34 A. A person who claims the right to withdraw or receive and use
35 groundwater in an initial active management area pursuant to a grandfathered
36 right and who failed to file an application on or before July 1, 1983 as
37 required by law may file a late application for a certificate of
38 grandfathered right pursuant to this section on a form provided by the
39 department.

40 B. A late application for a certificate of grandfathered right shall
41 include the information required in section 45-476. The fee for filing a
42 late application ~~is one hundred dollars~~ SHALL BE ESTABLISHED BY THE DIRECTOR
43 BY RULE. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
44 ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND
45 ESTABLISHED BY SECTION 45-117.

1 C. The director shall review each late application for a certificate
2 of grandfathered right submitted pursuant to this section and may conduct
3 such investigations as the director deems necessary to determine whether the
4 information contained in the application is correct and sufficient to issue a
5 certificate.

6 D. A person who files a late application for a certificate of
7 grandfathered right pursuant to this section has the burden of establishing
8 by clear and convincing evidence that the necessary statutory requirements
9 for issuing the certificate of grandfathered right have been met.

10 E. The director's decision on a late application for a certificate of
11 grandfathered right submitted pursuant to this section, is subject to
12 administrative review. A person aggrieved by the director's decision is not
13 entitled to an administrative hearing. A final decision of the director
14 approving or denying the application is not subject to judicial review.

15 F. If the director, after reviewing a late application, determines
16 that the statutory requirements for issuing the certificate of grandfathered
17 right have been met, the director shall issue a certificate of grandfathered
18 right to the applicant pursuant to section 45-481. A holder of a certificate
19 of grandfathered right issued pursuant to this section has the same rights
20 and duties as all other holders of certificates of grandfathered rights.

21 G. Notwithstanding section 41-1092.02, subsection D, this section is
22 not subject to title 41, chapter 6, article 10.

23 H. For **THE** purposes of this article, "late application for a
24 certificate of grandfathered right" means an application that is filed after
25 July 1, 1983 for a certificate of grandfathered right to withdraw or receive
26 and use groundwater in an initial active management area.

27 Sec. 12. Repeal

28 Section ~~45-580~~, Arizona Revised Statutes, is repealed.

29 Sec. 13. Section 45-595, Arizona Revised Statutes, is amended to read:

30 ~~45-595.~~ Well construction requirements; licensing of well
31 drillers

32 A. New well construction, including modifications of wells, shall be
33 performed under the direct and personal supervision of a well driller who
34 holds a well driller's license pursuant to subsection B **OF THIS SECTION**.

35 B. A person who intends to construct or modify one or more wells in
36 this state shall file an application for a well driller's license with the
37 director. The application shall include:

38 1. The name, mailing address and place of business of the applicant.

39 2. The applicant's experience and qualifications.

40 3. Such other information as the director may require.

41 C. The director ~~shall~~, by rule ~~or regulation~~, **SHALL** establish
42 qualifications and a ~~reasonable fee of not more than fifty dollars~~ for
43 licenses for well drillers and establish procedures for the evaluation and
44 licensing of applicants. A nontransferable well driller's license shall be
45 issued if the director finds that the applicant meets the qualifications

1 established pursuant to this subsection. The director may revoke a well
2 driller's license for good cause.

3 D. A person who drills or modifies an exempt well on land owned by
4 that person shall first obtain a single well license from the department. The
5 department shall issue the license to drill the well according to standard
6 small well construction standards. No fee may be charged for a single well
7 license.

8 E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
9 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
10 BY SECTION 45-117.

11 Sec. 14. Section 45-596, Arizona Revised Statutes, is amended to read:
12 45-596. Notice of intention to drill; fee

13 A. In an area not subject to active management, a person may not drill
14 or cause to be drilled any well or deepen an existing well without first
15 filing notice of intention to drill pursuant to subsection C of this section
16 or obtaining a permit pursuant to section 45-834.01. Only one notice of
17 intention to drill is required for all wells that are drilled by or for the
18 same person to obtain geophysical, mineralogical or geotechnical data within
19 a single section of land.

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

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

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

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

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

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

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

18 15. Such other information as the director may require.

19 D. Upon receiving a notice of intention to drill and the fee required
20 by subsection L of this section, the director shall endorse on the notice the
21 date of its receipt. The director shall then determine whether all
22 information that is required has been submitted and whether the requirements
23 of subsection C, paragraphs 11 and 12 and subsection I of this section have
24 been met. If so, within fifteen days of receipt of the notice, or such
25 longer time as provided in subsection J of this section, the director shall
26 record the notice, mail a drilling card that authorizes the drilling of the
27 well to the well driller identified in the notice and mail written notice of
28 the issuance of the drilling card to the person filing the notice of
29 intention to drill at the address stated in the notice. Upon receipt of the
30 drilling card, the well driller may proceed to drill or deepen the well as
31 described in the notice of intention to drill. If the director determines
32 that the required information has not been submitted or that the requirements
33 of subsection C, paragraphs 11 and 12 or subsection I of this section have
34 not been met, the director shall mail a statement of the determination to the
35 person giving the notice to the address stated in the notice, and the person
36 giving the notice may not proceed to drill or deepen the well.

37 E. The well shall be completed within one year after the date of the
38 notice unless the director approves a longer period of time pursuant to this
39 subsection. If the well is not completed within one year or within the time
40 approved by the director pursuant to this subsection, the person shall file a
41 new notice before proceeding with further construction. At the time the
42 drilling card for the well is issued, the director may provide for and
43 approve a completion period that is greater than one year but not to exceed
44 five years from the date of the notice if both of the following apply:

1 1. The proposed well is a nonexempt well within an active management
2 area and qualifies as a replacement well in approximately the same location
3 as prescribed in rules adopted by the director pursuant to section 45-597.

4 2. The applicant has submitted evidence that demonstrates one of the
5 following:

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

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

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

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

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

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

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

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

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

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

32 1. "Contaminated groundwater" means groundwater that has been
33 contaminated by a release of a hazardous substance, as defined in section
34 49-201, or a pollutant, as defined in section 49-201.

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

36 (a) The site of a remedial action undertaken pursuant to the
37 comprehensive environmental response, compensation, and liability act of
38 1980, as amended (P.L. 96-510; 94 stat. 2767; 42 United States Code sections
39 9601 through 9657), commonly known as "superfund".

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

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

44 (d) The site of a remedial action undertaken pursuant to title 49,
45 chapter 2, article 5.

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

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

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

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

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

13 (a) A remedial action undertaken pursuant to title 49, chapter 2,
14 article 5.

15 (b) A remedial action undertaken pursuant to the comprehensive
16 environmental response, compensation, and liability act of 1980, as amended
17 (P.L. 96-510; 94 stat. 2767; 42 United States code sections 9601 through
18 9657), commonly known as "superfund".

19 (c) A remedial action undertaken pursuant to the department of defense
20 environmental restoration program (P.L. 99-499; 100 stat. 1719; 10 United
21 States code section 2701).

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

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

26 (b) A remedial action undertaken pursuant to the resource conservation
27 and recovery act of 1976 (P.L. 94-580; 90 stat. 2795; 42 United States code
28 sections 6901 through 6992).

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

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

34 L. ~~A notice of intention to drill filed under this section shall be~~
35 ~~accompanied by a filing fee of one hundred fifty dollars, except that a~~
36 ~~notice filed for a proposed well that will not be located within an active~~
37 ~~management area or an irrigation nonexpansion area, that will be used solely~~
38 ~~for domestic purposes as defined in section 45-454 and that will have a pump~~
39 ~~with a maximum capacity of not more than thirty-five gallons per minute shall~~
40 ~~be accompanied by a filing fee of one hundred dollars. THE DIRECTOR SHALL~~
41 ~~ESTABLISH BY RULE AND COLLECT A FILING FEE FROM A PERSON FILING A NOTICE OF~~
42 ~~INTENTION TO DRILL. The director shall deposit, pursuant to sections 35-146~~
43 ~~and 35-147, all fees collected pursuant to this subsection in the well~~
44 ~~administration and enforcement fund established by section 45-606 WATER~~
45 ~~RESOURCES FUND ESTABLISHED BY SECTION 45-117.~~

1 subsection J of this section, the director shall approve or reject the
2 application and mail notice of the action to the applicant.

3 E. If the director determines that an administrative hearing should be
4 held before approving or rejecting an application, the director shall notify
5 the applicant of the date of the hearing within sixty days of receipt of the
6 complete and correct application and the fee required by subsection J of this
7 section.

8 F. If at the request of the applicant the director determines that an
9 emergency exists, the director shall expedite all decisions under this
10 section.

11 G. If the application is approved, the director shall issue a permit
12 and the applicant may proceed to construct the well. If the application is
13 rejected, the applicant shall not proceed with construction of the well. The
14 well shall be completed within one year of receipt of the permit, unless the
15 director in granting the permit approves a longer period to complete the
16 well. If the well is not completed within one year or the longer period
17 approved by the director, the applicant shall file a new application before
18 proceeding with construction.

19 H. The permit shall state the following:

20 1. The legal description of the land upon which the well may be
21 constructed.

22 2. The legal description of the location of the new well on the land.

23 3. The depth and diameter of the well and type of casing.

24 4. The maximum pumping capacity of the well.

25 5. The legal description of the land upon which the groundwater will
26 be used.

27 6. The use of the groundwater to be withdrawn.

28 7. The latest date for completing the well.

29 I. Section 45-114, subsections A and B govern administrative
30 proceedings, rehearing or review and judicial review of final decisions of
31 the director under this section. If an administrative hearing is held, it
32 shall be conducted in the active management area in which the use is located.

33 J. ~~An application for a permit filed under this section shall be~~
34 ~~accompanied by a filing fee of one hundred fifty dollars. THE DIRECTOR SHALL~~
35 ~~ESTABLISH BY RULE AND COLLECT FROM THE APPLICANT A FILING FEE.~~ The director
36 shall deposit, pursuant to sections 35-146 and 35-147, all fees collected
37 pursuant to this subsection in the ~~well administration and enforcement fund~~
38 ~~established by section 45-606~~ WATER RESOURCES FUND ESTABLISHED BY SECTION
39 45-117.

40 Sec. 16. Repeal

41 Section 45-606, Arizona Revised Statutes, is repealed.

1 Sec. 17. Section 45-612, Arizona Revised Statutes, is amended to read:
2 45-612. Administration and enforcement withdrawal fee:
3 exemption from lapsing; disposition of excess monies

4 A. Each year the legislature shall appropriate sufficient monies to
5 the department to cover all costs of administration and enforcement of this
6 chapter.

7 B. Not later than October 1 of each year, the director shall estimate
8 the total amount of groundwater to be withdrawn in all active management
9 areas except the Tucson, Phoenix, Pinal and Santa Cruz active management
10 areas during the following calendar year and the total amount of water, other
11 than stored water, to be withdrawn in the Santa Cruz active management area
12 during the following calendar year, and set the administration and
13 enforcement fee pursuant to section 45-611, subsection A, paragraph 1 to
14 produce an amount equal to one-half of the amount budgeted by the director
15 for administration and enforcement purposes for the following fiscal year.
16 In setting the administration and enforcement fee, the director shall account
17 for excess payments or deficiencies in payments in the past fiscal year.
18 Except as provided in section 45-113, subsection C, monies collected from
19 administration and enforcement fees shall be deposited in the ~~state general~~
20 ~~fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

21 C. For the Tucson, Phoenix and Pinal active management areas, not
22 later than October 1, 2016 and by October 1 of each year thereafter, the
23 director shall estimate the total amount of groundwater to be withdrawn in
24 each active management area and shall set the administration and enforcement
25 fee pursuant to section 45-611, subsection C, paragraph 1 to produce an
26 amount equal to one-half of the amount budgeted by the director for
27 administration and enforcement purposes for the following fiscal year. In
28 setting the administration and enforcement fee, the director shall account
29 for excess payments or deficiencies in payments in the past fiscal year.
30 Except as provided in section 45-113, subsection C, monies collected from
31 administration and enforcement fees shall be deposited in the ~~state general~~
32 ~~fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.

33 D. Monies budgeted for administration and enforcement purposes
34 pursuant to this section are exempt ~~from lapsing under~~ FROM THE PROVISIONS OF
35 section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. If the administration
36 and enforcement fee is set at fifty cents and excess payments have been
37 received, such excess payments shall be credited to the augmentation and
38 conservation assistance fund established under section 45-615 and credited
39 among the active management areas in proportion to the amount of such monies
40 collected from each active management area.

41 Sec. 18. Section 45-615, Arizona Revised Statutes, is amended to read:
42 45-615. Deposits; divisions of collections into funds

43 Except as provided in section 45-113, subsection C, the director shall
44 deposit, pursuant to sections 35-146 and 35-147, all monies collected by the
45 department pursuant to section 45-611, subsection A, paragraphs 2 and 3 and

1 subsection C, paragraphs 2, 3 and 4 and any other monies received for that
2 purpose. Based on the statement of the director transmitted pursuant to
3 section 45-614, subsection B, the monies collected shall be allocated as
4 follows:

5 1. Except as provided in paragraph 2 of this section, monies received
6 for the purpose of augmentation of the water supply of the active management
7 area, conservation assistance to water users within the active management
8 area and monitoring and assessing water availability within the active
9 management area shall be kept in an augmentation and conservation assistance
10 ~~fund~~ ACCOUNT IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.
11 Separate ~~accounts~~ SUBACCOUNTS for each active management area shall be
12 maintained within the ~~fund~~ ACCOUNT. On notice from the director, the state
13 treasurer shall invest and divest monies in the ~~fund~~ ACCOUNT as provided by
14 section 35-313, and monies earned from investment shall be credited to the
15 ~~fund~~ ACCOUNT.

16 2. If an active management area water district has been established in
17 an active management area, all monies received pursuant to section 45-611,
18 subsection A, paragraph 2 for the purpose of augmentation of the water supply
19 of that active management area shall be transmitted to the
20 secretary-treasurer of the district for deposit in the general fund of the
21 district.

22 3. Monies received for the purpose of purchase and retirement of
23 grandfathered rights shall be kept in a purchase and retirement ~~fund~~ ACCOUNT
24 IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117. Separate ~~accounts~~
25 SUBACCOUNTS for each active management area shall be maintained within the
26 ~~fund~~ ACCOUNT. On notice from the director, the state treasurer shall invest
27 and divest monies in the ~~fund~~ ACCOUNT as provided by section 35-313, and
28 monies earned from investment shall be credited to the ~~fund~~ ACCOUNT.

29 4. Monies received for the purpose of Arizona water banking shall be
30 deposited, pursuant to sections 35-146 and 35-147, in the Arizona water
31 banking fund.

32 Sec. 19. Section 45-703, Arizona Revised Statutes, is amended to read:

33 45-703. Application for certificate of groundwater oversupply;
34 fee

35 A. The director shall prescribe and furnish an application form for a
36 certificate of groundwater oversupply that includes the following:

- 37 1. The name and mailing address of the district member.
- 38 2. The name of the active management area in which the groundwater
39 will be withdrawn.
- 40 3. The estimated annual quantity of groundwater to be designated as
41 groundwater oversupply.
- 42 4. The locations and well registration numbers of the wells from which
43 the designated groundwater will be withdrawn.
- 44 5. The proposed duration of the certificate.

1 6. Evidence of the district member's right under articles 4 through 7
2 of this chapter to withdraw the groundwater to be designated as groundwater
3 oversupply.

4 7. Evidence that the groundwater to be designated will be withdrawn
5 from an area in the district of localized excess groundwater.

6 8. Evidence that if the district member does not withdraw the
7 groundwater to be designated either of the following could occur in the
8 active management area in which the district is located:

9 (a) The groundwater would be discharged from the district without
10 being used and would not contribute hydrologically to achieving safe-yield.

11 (b) The groundwater would contribute to a waterlogging or drainage
12 problem.

13 9. Any other information the director may reasonably require.

14 B. The director shall establish and collect a reasonable fee from the
15 applicant to cover the cost of administrative services and other expenses
16 associated with evaluating and issuing a certificate of groundwater
17 oversupply. **THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND**
18 **35-147, ALL FEES RECEIVED UNDER THIS SUBSECTION IN THE WATER RESOURCES FUND**
19 **ESTABLISHED BY SECTION 45-117.**

20 Sec. 20. Section 45-871.01, Arizona Revised Statutes, is amended to
21 read:

22 **45-871.01. Permit application; fee; notice of application;**
23 **objections; hearing; appeal**

24 A. The director shall prescribe and furnish application forms for the
25 permits prescribed by articles 2 and 3 of this chapter. The application
26 forms shall require the applicant to submit the information needed by the
27 director to determine whether the permit may be issued. The director shall
28 establish and collect a reasonable fee from the applicant to cover the cost
29 of administrative services and other expenses associated with evaluating and
30 issuing each permit. ~~All fees collected pursuant to this subsection shall be~~
31 ~~remitted pursuant to section 45-615, paragraph 1.~~ **THE DIRECTOR SHALL DEPOSIT,**
32 **PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES RECEIVED UNDER THIS**
33 **SUBSECTION IN THE WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117.**

34 B. On receipt of an application for a permit pursuant to this chapter,
35 the director shall endorse on the application the date of its receipt and
36 shall keep a record of the application. Within fifteen days after receipt of
37 an application for an underground storage facility permit, the director shall
38 post notice of the application on the department's website until the director
39 issues a decision on the application. The notice shall state the name of the
40 applicant, the location of the proposed underground storage facility, the
41 date the application was filed and the application number. The notice
42 required by this subsection is in addition to the notice requirement in
43 subsection d of this section. The director shall conduct a review of the
44 application within one hundred days of receipt of the application. If the
45 director determines in the review that the application is incomplete or

1 incorrect, the director shall notify the applicant and the review period is
2 extended by fifteen days. The application is incomplete or incorrect until
3 the applicant files the information requested in the application. The
4 director may conduct independent investigations as necessary to determine
5 whether the application should be approved or rejected.

6 C. If the application is for water storage at an underground storage
7 facility that is exempt from the requirement for an aquifer protection permit
8 under section 49-250, subsection B, paragraph 12, 13 or 24, the director of
9 water resources shall consult with the director of environmental quality and
10 shall develop a coordinated and unified permit review process, that conforms
11 to the time schedule prescribed by this section, to determine whether the
12 permit application is correct and whether the development of a plan of action
13 for monitoring and data analysis shall be required.

14 D. Except as provided in subsection E of this section, if the
15 application is determined to be complete and correct and the application is
16 for a storage facility permit or a water storage permit, the director, within
17 fifteen days of that determination or a longer period if requested by the
18 applicant, shall give notice of the application once each week for two
19 consecutive weeks in a newspaper of general circulation in the county or
20 counties in which persons reside who could reasonably be expected to be
21 affected by the water storage. The director shall also give notice by first
22 class mail to each city, town, private water company, conservation district,
23 irrigation district and electrical district that serves land within the area
24 of impact of the stored water. The notice shall state that persons who may
25 be adversely affected by the water storage may file written objections to the
26 issuance of the permit with the director for fifteen days after the last
27 publication of notice. An objection shall state the name and mailing address
28 of the objector, shall be signed by the objector or the objector's agent or
29 attorney and shall clearly set forth the reasons why the permit should not be
30 issued. The grounds for objection are limited to whether the application
31 meets the criteria for issuing the permit being requested as prescribed by
32 articles 2 and 3 of this chapter.

33 E. If the application is determined to be complete and correct and the
34 application is for a water storage permit to store Colorado river water at a
35 storage facility where storage of Colorado river water has previously been
36 permitted, the director may issue the permit within twenty days of that
37 determination if all of the following apply:

38 1. The holder of the storage facility permit with which the water
39 storage permit will be affiliated has consented to the water storage.

40 2. The water storage permit will not require a modification of an
41 affiliated water storage facility permit.

42 3. Colorado river water will be the only type of water stored under
43 the water storage permit.

44 4. The applicant has the right to use the Colorado river water.

1 F. Except as provided in section 45-834.01, subsection D, if the
2 application is determined to be complete and correct and the application is
3 for a recovery well permit, the director, within fifteen days of the
4 determination or a longer period if requested by the applicant, shall give
5 notice of the application once each week for two consecutive weeks in a
6 newspaper of general circulation in the county in which the applicant
7 proposes to recover stored water. If the application is for a well located
8 inside of or within three miles of the exterior boundaries of the service
9 area of a city, town, private water company or irrigation district, the
10 applicant shall give notice of the application by first class mail to each
11 city, town, private water company or irrigation district within that
12 distance. The applicant shall file proof of the notice with the director.
13 The notice shall state that persons who may be adversely affected by the
14 recovery well may file written objections to the issuance of the permit with
15 the director for fifteen days after the last publication of notice. An
16 objection shall state the name and mailing address of the objector, shall be
17 signed by the objector or the objector's agent or attorney and shall clearly
18 set forth reasons why the permit should not be issued. The grounds for
19 objection are limited to whether the application meets the criteria for
20 issuing a recovery well permit as set forth in section 45-834.01,
21 subsection B. For the purposes of this subsection, if the proposed recovery
22 well is located within three miles outside of the exterior boundaries of the
23 service area of a city, town, private water company or irrigation district, a
24 city, town, private water company or irrigation district within that distance
25 shall be considered a person who may be adversely affected by the recovery
26 well.

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

35 H. If a hearing is not held, the director shall issue a decision and
36 order within six months of the date notice of the application is first given
37 pursuant to subsection D or F of this section, or within ninety days in the
38 case of an application under article 6 of this chapter. The director shall
39 record and endorse the approval or rejection of the application on the
40 application. If the permit is denied, the director shall return a copy of
41 the application to the applicant specifically stating the reasons for denial.

42 I. The applicant or any person who filed a proper objection to the
43 application may seek judicial review of the final decision of the director as
44 provided in section 45-114, subsection B in superior court as provided in
45 section 45-405.

1 J. Section 45-114, subsections A and B govern administrative
2 proceedings, rehearings or review and judicial review of final decisions of
3 the director under this section. If an administrative hearing is held, it
4 shall be conducted in the active management area in which the storage or
5 recovery is located.

6 K. On receipt of an application for a permit pursuant to this section,
7 the director shall provide written notice of the proposed permit to the city,
8 town or county that has land use jurisdiction over the site that is the
9 subject of the permit. The notice shall be given at the same time and in the
10 same manner as the notices prescribed by subsections D and F of this section
11 in order to provide the city, town or county with the opportunity to comment
12 on the proposed facility's or well's compliance with site planning and
13 operational requirements of the city, town or county. This subsection shall
14 not be construed to limit the exclusive authority of the director to
15 determine the issuance of the permit or the site of the facility or well or
16 to reduce the authority of the city, town or county to enforce its applicable
17 ordinances governing site planning and operational requirements.

18 Sec. 21. Section 45-874.01, Arizona Revised Statutes, is amended to
19 read:

20 45-874.01. Long-term storage credit recovery fee; amount;
21 notice; payment; penalty

22 A. The director shall levy and collect a long-term storage credit
23 recovery fee from each person who recovers long-term storage credits pursuant
24 to a recovery well permit issued under section 45-834.01. The amount of the
25 long-term storage credit recovery fee is equal to the amount of the
26 groundwater withdrawal fee levied for administration and enforcement of
27 chapter 2 of this title pursuant to section 45-611, subsection A,
28 paragraph 1.

29 B. Not later than October 1 of each year the director shall file in
30 the department an order setting the long-term storage credit recovery fee for
31 the following calendar year.

32 C. Within thirty days after the director sets the long-term storage
33 credit recovery fee for the following calendar year, the director shall give
34 written notice of the fee to all holders of recovery well permits issued
35 under this chapter.

36 D. A person shall pay the long-term storage credit recovery fee to the
37 department at the time the person holding a recovery well permit files an
38 annual report pursuant to section 45-875.01. If a person who is required to
39 pay a long-term storage credit recovery fee fails to pay the fee when due,
40 the director may assess and collect a penalty of ten per cent of the unpaid
41 fee, without compounding, for each month or portion of a month that the fee
42 is delinquent. The total penalty assessed under this subsection shall not
43 exceed sixty per cent of the unpaid fee.

44 E. The director shall deposit, pursuant to sections 35-146 and 35-147,
45 all monies collected pursuant to **SUBSECTION A OF** this section in the **state**

1 ~~general fund~~ WATER RESOURCES FUND ESTABLISHED BY SECTION 45-117 AND ALL
2 MONIES COLLECTED PURSUANT TO SUBSECTION D OF THIS SECTION IN THE STATE
3 GENERAL FUND.

4 Sec. 22. Section 45-1021, Arizona Revised Statutes, is amended to
5 read:

6 45-1021. Enrollment of water exchange contracts; fee

7 A. A water exchange contract may be enrolled by any party to the
8 contract by filing a statement of water exchange contract with the director
9 and complying with all of the following requirements:

10 1. The water exchange contract was in effect before January 1, 1992
11 and, if originally oral, is reduced to writing before December 31, 1994.

12 2. A water exchange actually was made after January 1, 1982 pursuant
13 to the contract unless the water to be exchanged by one of the parties is
14 central Arizona project water for which a subcontract was not offered by the
15 secretary of the interior by January 1, 1992.

16 3. Each statement of water exchange contract is filed on a separate
17 prescribed form not later than December 31, 1994.

18 4. Each statement of water exchange contract includes a description of
19 the legal basis for acquiring and using the water subject to the water
20 exchange.

21 5. If the water exchange involves water pumped from wells, each
22 statement of water exchange contract includes the well registration numbers
23 of the wells pumping water pursuant to the exchange.

24 6. A copy of the water exchange contract is attached to the statement
25 of water exchange contract.

26 7. Each blank in the prescribed form is completed legibly with the
27 required information pursuant to instructions furnished by the director.

28 8. The statement of water exchange contract is certified as true under
29 penalty of perjury.

30 9. The prescribed form is accompanied by a filing fee in an amount to
31 be determined by rule by the director to cover the cost of administering this
32 article.

33 B. The director shall not accept a statement of water exchange
34 contract that does not meet all of the requirements of subsection A **OF THIS**
35 **SECTION**. If the director determines that a statement of water exchange
36 contract fails to meet these requirements, the director shall return it to
37 the sender within ninety days specifying the deficiencies in the statement
38 and providing the sender with sixty days within which to revise or supplement
39 the statement in order to meet the requirements. The director may reject a
40 revised or supplemented statement if, on resubmittal, it is still deficient.
41 In such case, the director shall provide the sender an additional sixty days
42 in which to further revise or supplement the statement. The director shall
43 not accept a revised or supplemented statement of water exchange contract
44 after June 30, 1995.

1 C. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
2 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
3 BY SECTION 45-117.

4 Sec. 23. Section 45-1041, Arizona Revised Statutes, is amended to
5 read:

6 45-1041. Water exchange permits; fee

7 A. A person who seeks to give surface water, other than Colorado river
8 water, in a water exchange to which neither section 45-1002, subsection A,
9 paragraph 1 nor 3 applies shall apply to the director for a water exchange
10 permit. The director shall issue either a specific use water exchange permit
11 or a general use water exchange permit, as applicable, if the applicant
12 demonstrates that all of the following apply:

13 1. The water exchange will be made pursuant to a written contract.

14 2. The water exchange will not affect vested rights to water.

15 3. Each party to the water exchange contract has a right to the water
16 the party will give in the water exchange.

17 4. If an applicant is not a city, town, private water company or
18 irrigation district, any new or increased pumping by the applicant from a
19 well within an active management area pursuant to the water exchange will not
20 unreasonably increase damage to surrounding land or other water users.

21 5. If an applicant is a city, town, private water company or
22 irrigation district with a service area located partly or wholly in an active
23 management area, any new or increased pumping by the applicant within the
24 applicant's service area pursuant to the water exchange is consistent with
25 the management plan and achievement of the management goal for the active
26 management area.

27 6. Each party to a water exchange contract either:

28 (a) Receives at least ninety per cent of the quantity of water that
29 the other party gives in the water exchange.

30 (b) Receives at least fifty per cent of the quantity of water that the
31 other party gives in the water exchange, unless otherwise authorized by law,
32 and the director determines the water exchange is beneficial to water
33 management in this state.

34 B. Subsection A of this section does not apply to the proposed
35 modification of a previously enrolled or permitted water exchange contract
36 that involves surface water other than Colorado river water, if the proposed
37 modification meets both of the following conditions:

38 1. The proposed modification involves the addition of one or more of
39 the following water sources as the only new or additional water source of
40 exchange:

41 (a) Colorado river water.

42 (b) Groundwater.

43 (c) Effluent.

44 (d) Surface water that is captured in the additional storage capacity
45 created by modified Roosevelt dam after April 9, 1986.

1 2. Notice of the proposed modification is filed by the person seeking
2 the modification pursuant to section 45-1051 and is subject to the
3 requirements of that section and the conditions prescribed by section
4 45-1052.

5 C. Any person may apply for a specific use water exchange permit. A
6 specific use permit allows the parties to exchange specific sources of water
7 in specific quantities for the uses and in the locations specified in the
8 permit.

9 D. Two or more political subdivisions of this state, or one or more
10 political subdivisions and one or more private water companies, Indian
11 communities, agencies of this state or agencies of the United States may
12 apply for a general use water exchange permit. A general use permit shall
13 specify that the holders may engage in one or more exchanges of water at any
14 time during the term of the permit. The water received pursuant to a general
15 use permit may be used for any lawful purpose specified in the permit.
16 Before making any exchange pursuant to a general use permit, the parties to
17 the permit shall notify the director of the amounts of water to be exchanged
18 and the specific uses to which each source of water will be applied.

19 E. An application for a water exchange permit shall be accompanied by
20 a filing fee in an amount to be determined by rule by the director to cover
21 the cost of administering this article.

22 F. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
23 ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED
24 BY SECTION 45-117.

25 Sec. 24. Section 45-1205, Arizona Revised Statutes, is amended to
26 read:

27 45-1205. Charges against irrigation projects; disposition of
28 proceeds

29 A. Upon all projects for which approval is required by the state
30 certification board, or which involve examination, supervision and inspection
31 by the director, whether in connection with the construction of a dam or
32 otherwise, the following shall be paid:

33 1. For irrigation projects of any kind involving twenty-five thousand
34 acres or less, an annual tax levy of ten cents per acre shall be levied and
35 collected.

36 2. For such irrigation projects in excess of twenty-five thousand
37 acres, an annual tax levy of five cents per acre shall be levied and
38 collected.

39 B. The levy shall be made only in the years required for construction
40 of the project, and shall be made and collected in the same manner as
41 provided for the levy and collection of taxes made for other expenses of the
42 particular district. Such collections shall be deposited, pursuant to
43 sections 35-146 and 35-147, in the ~~state general fund~~ WATER RESOURCES FUND
44 ESTABLISHED BY SECTION 45-117.

1 Sec. 25. Section 45-1212.01, Arizona Revised Statutes, is amended to
2 read:

3 45-1212.01. Dam repair fund

4 A. The dam repair fund is established consisting of monies
5 appropriated by the legislature, and monies collected by the director in full
6 or partial satisfaction of a lien created by section 45-1212, subsection D
7 and monies collected pursuant to section 45-1220.

8 B. Monies in the fund shall be used to ~~employ remedial measures~~
9 ~~necessary to protect life and property in accordance with section 45-1212~~
10 **CARRY OUT THE PURPOSES OF THIS CHAPTER.**

11 C. The director shall annually report to the legislature on the status
12 of the fund and the purposes for which monies were expended during the
13 preceding calendar year. The report shall be submitted pursuant to section
14 41-1178 no later than fifteen days after the commencement of each regular
15 session.

16 D. The director shall administer the fund. On notice from the
17 director, the state treasurer shall invest and divest monies in the fund as
18 provided by section 35-313, and monies earned from investment shall be
19 credited to the fund. Monies in the dam repair fund are exempt from **THE**
20 **PROVISIONS OF** section 35-190 relating to lapsing of appropriations.

21 Sec. 26. Section 45-1220, Arizona Revised Statutes, is amended to
22 read:

23 45-1220. Deposit of monies; dam repair fund

24 A. Monies appropriated by the legislature for nonemergency dam repair,
25 dam safety inspection fees collected pursuant to section 45-113, ~~filing fees~~
26 ~~collected pursuant to section 45-1204~~ and payments of principal and interest
27 collected by the director pursuant to section 45-1218 shall be deposited in
28 the dam repair fund established by section 45-1212.01.

29 B. Monies in the dam repair fund deposited pursuant to subsection A of
30 this section shall be used for loans and grants as provided in sections
31 45-1218 and 45-1219 **TO CARRY OUT THE PURPOSES OF THIS CHAPTER.** ~~Upon approval~~
32 ~~of the joint legislative budget committee, such monies may be transferred to~~
33 ~~pay necessary costs of remedial measures as provided in section 45-1212.~~

34 Sec. 27. Section 45-1603, Arizona Revised Statutes, is amended to
35 read:

36 45-1603. Application fee; statement accompanying application

37 A. At the time of applying for the license, the applicant shall pay to
38 the director a fee of one hundred dollars, and shall file an application in
39 the form prescribed by the director and furnish a statement showing:

40 1. The name and address of the applicant.

41 2. The names of the operating personnel, and if unincorporated all
42 individuals connected with the organization, or if a corporation the names of
43 each of the officers and directors thereof, together with the address of
44 each.

1 3. The scientific qualifications of all operating or supervising
2 personnel.

3 4. A statement of all other contracts completed or in process of
4 completion at the time the application is made, giving the names and
5 addresses of the persons to whom the services were furnished and the areas in
6 which such operations have been or are being conducted.

7 5. Methods of operation the licensee will use and the description of
8 the aircraft, ground and meteorological services to be utilized.

9 6. Names of the contracting parties within the state, including:

10 (a) The area to be served.

11 (b) The months in which operations will be conducted.

12 (c) The dates when evaluations will be submitted.

13 **B. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,**
14 **ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED**
15 **BY SECTION 45-117.**

16 Sec. 28. Section 45-1605, Arizona Revised Statutes, is amended to
17 read:

18 45-1605. Equipment license; fee; application; reports required;
19 revocation of license

20 A. Any individual or corporation engaging in manufacturing, selling or
21 offering for sale, leasing or offering to lease, licensing or offering to
22 license equipment and supplies designed for weather control or cloud
23 modification shall, before engaging in such manufacture, sale or offering for
24 sale, procure a license from the director. The license shall be issued upon
25 payment of a license fee of ten dollars and the filing of an application
26 which shall show:

27 1. The name and address of the applicant.

28 2. The full description of the type and design of the equipment and
29 supplies manufactured and sold by the applicant.

30 3. The operating technique of the equipment or supplies.

31 B. Within sixty days after issuance of an equipment license and
32 semiannually thereafter, the licensee shall file with the director a copy of
33 all advertising material used in selling or offering for sale, leasing or
34 offering for lease, licensing or offering for license the equipment and
35 supplies manufactured or sold by it.

36 C. The holder of a license shall within ten days after each sale of
37 equipment or supplies report to the director, in writing, the exact character
38 and quantity of equipment or supplies sold, the date of the sale and the
39 persons to whom the sale was made.

40 D. Failure to file a copy of advertising material or reports required
41 in this section constitutes grounds for immediate revocation of the equipment
42 license.

43 **E. THE DIRECTOR SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,**
44 **ALL FEES RECEIVED UNDER THIS SECTION IN THE WATER RESOURCES FUND ESTABLISHED**
45 **BY SECTION 45-117.**

