

R12-15-701. Definitions

[Add the following definitions to this Section:]

“Average historic depth-to-static water level” means, with respect to a water level monitoring location, the average of all historic depth-to-static water level measurements at the location.

“Historic depth-to-static water level measurements” means, with respect to a water level monitoring location, all depth-to-static water level measurements that were made at the location before calendar year 2007 and that are recorded in the Department’s groundwater site inventory database.

“Projected net monthly groundwater discharge” means the projected net groundwater discharge into the Santa Cruz River between the NIWTP and the USGS Tubac gage during any given calendar month in the 100 years following the date of application.

“NIWTP” means the Nogales International Wastewater Treatment Plant.

“Standard deviation” means the square root of the average squared deviation from the mean of all historic depth-to-static water level measurements for a water level monitoring location.

“USGS” means the United States Geological Survey.

“Water level monitoring location” means a well site where depth-to-static water level measurements have been made by Department personnel or USGS personnel and recorded in the Department’s groundwater site inventory database.

R12-15-716. Physical Availability

- A. The volume of a proposed source of water that is physically available to an applicant for a determination of assured water supply or a determination of adequate water supply is the amount determined by the Director to be physically available pursuant to subsections (B) through ~~(M)~~ of this Section.
- B. If the proposed source is groundwater, other than groundwater that will be withdrawn within the Santa Cruz AMA, the applicant shall submit a hydrologic study, using a method of analysis approved by the Director, that accurately describes the hydrology of the affected area. Except as provided in subsection (D) of this Section, the Director shall determine that the proposed volume of groundwater will be physically available for the proposed use if both of the following apply:
 - 1. The groundwater will be withdrawn as follows:

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- a. Except as provided in subsection (B)(1)(b) of this Section, from wells owned by the applicant or the proposed municipal provider that are located within the service area of the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for future uses of the applicant or the proposed municipal provider.
 - b. If the application is for a dry lot development, from wells that the Director determines are likely to be constructed on individual lots.
2. Except as provided in subsection (C) of this Section, the groundwater will be withdrawn from depths that do not exceed the applicable maximum 100-year depth-to-static water level according to the following:

Type and location of development	Maximum 100-year depth-to-static water level
a. Developments in Phoenix, Tucson, and Prescott AMAs, except dry lot developments	1000 feet below land surface
b. Developments in Pinal AMA, except dry lot developments	1100 feet below land surface
c. Developments outside AMAs, except dry lot developments	1200 feet below land surface
d. Dry lot developments	400 feet below land surface

3. The Director shall calculate the projected 100-year depth-to-static water level by adding the following for the area where groundwater withdrawals are proposed to occur:
- a. The depth-to-static water level on the date of application.
 - b. The projected declines caused by existing uses, using the projected decline in the 100-year depth-to-static water level during the 100-year period after the date of application, calculated using records of declines for the maximum period of time for which records are available up to 25 calendar years before the date of application. If evidence is provided to the Director of likely changes in pumpage patterns and aquifer conditions, as opposed to those patterns and conditions occurring historically, the Director may determine projected declines using a model rather than evidence of past declines.
 - c. The projected decline in the depth-to-static water level during the 100-year period after the date of application, calculated by adding the projected decline from each of the following that are not accounted for in subsection (B)(3)(b) of this Section:

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- i. The estimated water demand of issued certificates and water reports that will be met with groundwater or stored water recovered outside the area of impact of the stored water, not including the demand of subdivided lots included in abandoned plats;
 - ii. The estimated water demand of designations that will be met with groundwater or stored water recovered outside the area of impact of the stored water; and
 - iii. The groundwater reserved for developments for which the Director has issued an analysis pursuant to R12-15-703 or R12-15-712.
 - d. The projected decline in depth-to-static water level that the Director projects will result from the applicant's proposed use over a 100-year period.
- C. The Director shall lower the maximum 100-year depth-to-static water level requirement specified in subsection (B)(2) of this Section for an applicant seeking a determination of adequate water supply if the applicant demonstrates both of the following:
 1. Groundwater is available at the lower depth; and
 2. The applicant has the financial capability to obtain the groundwater at the lower depth, according to the criteria in R12-15-720.
- D. If the proposed source is groundwater that will be withdrawn from a groundwater basin outside an AMA and transported into an AMA, the Director shall determine that the proposed volume of groundwater will be physically available if both of the following apply:
 1. The groundwater will be withdrawn from wells owned by the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for the future uses of the applicant or the proposed municipal provider.
 2. Withdrawal of the groundwater will comply with any depth-to-static water level criteria, decline rate criteria, and volume limitation criteria prescribed by statute. If there are no applicable depth-to-static water level criteria prescribed by statute, withdrawal of the groundwater shall comply with the depth-to-static water level criteria in subsection (B)(2) of this Section.
- E. If the proposed source is water, other than stored water to be recovered within the area of impact, that will be withdrawn from wells within the Santa Cruz AMA:

1. The applicant shall prepare and run a series of 100 model simulations of the projected depth-to-static water level at all water level monitoring locations within the area of hydrologic impact of the proposed withdrawals for each month over the 100-year period from the date of application and, if the proposed withdrawals will be located in an area where groundwater is discharged to the Santa Cruz river, the projected net monthly groundwater discharge for each month over the 100-year period from the date of application. The director may reduce the number of required model simulations if the director determines that fewer than 100 model simulations will result in a statistically significant number of model simulations. For each model simulation the applicant shall use a modeling technique with input parameters and assumptions approved by the Director. The model simulations shall identify and adequately replicate the unique aquifer characteristics and hydrologic processes that affect groundwater conditions within the area of hydrologic impact of the proposed withdrawals and shall incorporate a set of statistically based projections of future streamflow conditions. The model simulations shall not include any effluent discharged into the Santa Cruz river from a wastewater treatment plant, unless the applicant demonstrates that the effluent is legally available pursuant to R12-15-718(H) and that the effluent is not committed for another use. The model simulations shall take into account the following demands for the area where withdrawals are proposed to occur:

- a. Existing demands met with withdrawals of water from non-exempt wells, based on records of reported withdrawals from non-exempt wells for the maximum period of time for which records are available, up to 25 calendar years before the date of application. If the Director determines that changes will likely occur in the pumping patterns or aquifer conditions, the model simulations shall take those changes into account.
- b. Existing demands met with withdrawals from exempt wells, based on a reasonable estimate of the withdrawals from the exempt wells. If the Director determines that changes will likely occur in the pumping patterns or aquifer conditions, the model simulations shall take those changes into account.
- c. The estimated water demand of issued certificates and water reports that will be met with water withdrawn from wells, other than stored water recovered within the area of impact, not including existing demands accounted for in subsection (E)(1)(a) and (E)(1)(b) or the demand of subdivided lots included in abandoned plats;
- d. The estimated water demand of designations that will be met with water withdrawn from wells, other than stored water recovered within the area of impact, not including existing demands accounted for in subsections (E)(1)(a) and (E)(1)(b);
- e. The demand of recorded lots that are not yet served water, not including demands accounted for in subsections (E)(1)(a) through (E)(1)(d);

- f. The groundwater reserved for developments for which the Director has issued an analysis pursuant to R12-15-703 or R12-15-712;
 - g. Existing riparian demand; and
 - h. The estimated water demand of the applicant's proposed use that will be met with water withdrawn from wells, other than stored water recovered within the area of impact.
2. The hydrologic study submitted by the applicant shall include:
- a. A modeling analysis, utilizing stochastic modeling techniques, that evaluates the results of the series of 100-year model simulations required by subsection (E)(1). The analysis shall describe the model assumptions and shall include the following for each model simulation:
 - i. For each water level monitoring location within the area of hydrologic impact of the proposed withdrawals, an identification of the months during the 100-year model projection period in which the projected depth-to-static water level is lower than one standard deviation below the average historic depth-to-static water level for the water level monitoring location.
 - ii. If the proposed withdrawals will be located in an area where groundwater is discharged to the Santa Cruz river, an identification of those model simulations in which the projected net monthly groundwater discharge is greater than zero for at least one month during the last ten years of the 100-year projection period.
3. The Director shall determine that the proposed volume of water to be withdrawn will be physically available for the proposed use if the applicant demonstrates that all of the following apply:
- a. In the series of 100-year model simulations required by subsection (E)(1), the projected depth-to-static water level at each water level monitoring location in the area of hydrologic impact of the proposed withdrawals is not lower than one standard deviation below the average historic depth-to-static water level for that location for more than:
 - i. 10 percent of the months in the series of simulations; or
 - ii. 12 consecutive months in any simulation.
 - b. In areas where groundwater is discharged to the Santa Cruz River, in at least 90% of the individual 100-year model simulations required by subsection (E)(1), the projected net monthly groundwater discharge is greater than zero

for at least one month during the last ten years of the 100-year projection period.

c. The water will be withdrawn as follows:

i. Except as provided in subsection (E)(3)(c)(ii) of this Section, from wells owned by the applicant or the proposed municipal provider that are located within the service area of the applicant or the proposed municipal provider or from proposed wells that the Director determines are likely to be constructed for future uses of the applicant or the proposed municipal provider.

ii. If the application is for a dry lot development, from wells that the Director determines are likely to be constructed on individual lots.

F. Subject to subsections (E) and (M)(L) of this Section, if the proposed source of water is surface water, other than CAP water, or Colorado River water, the Director shall determine the annual volume of water that is physically available for the proposed use, taking into consideration the priority date of the right or claim, by calculating 120% of the firm yield of the proposed source at the point of diversion as limited by the capacity of the diversion works; except that if the applicant demonstrates that an alternative source of water will be physically available during times of shortage in the proposed surface water supply, the Director shall determine the annual volume of water available by calculating 100% of the median flow of the proposed source at the point of diversion as limited by the capacity of the diversion works. The Director shall determine the firm yield or median flow as follows:

1. By calculating the firm yield or median flow at the point of diversion based on at least 20 calendar years of flow records from the point of diversion, unless 20 calendar years of records are unavailable and the Director determines that a shorter period of record provides information necessary to determine the firm yield or median flow; or
2. By calculating the firm yield or median flow at the point of diversion using a hydrologic model that projects the firm yield or median flow, taking into account at least 20 calendar years of historic river flows, changes in reservoir storage facilities, and projected changes in water demand. The yield available to any applicant may be composed of rights to stored water, direct diversion, or normal flow rights. If the permit for the water right was issued less than five years before the date of application, the Director shall require the applicant to submit evidence, as applicable, in accordance with this subsection.

~~F.~~ G. Subject to subsection (L)(M) of this Section, if the proposed source of water is CAP water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:

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1. If the applicant or the proposed municipal provider has a non-declining, long-term municipal and industrial subcontract for CAP water, calculate 100% of the annual amount of water established in the subcontract.
2. If the applicant has a lease for Indian priority CAP water, calculate 100% of the annual amount of water established in the lease.
3. If the applicant has a subcontract for CAP water other than a non-declining, long-term municipal and industrial subcontract or a lease for Indian priority CAP water:
 - a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water established in the subcontract. The applicant may establish backup water supplies by one or more of the following:
 - i. A drought response plan;
 - ii. Long-term storage credits;
 - iii. A contract for water with a multi-county water conservation district; or
 - iv. Evidence of other backup supplies that are physically, continuously, and legally available.
 - b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection ~~(F)(3)(a)~~(G)(3)(a) of this Section, calculate the percentage of the annual amount of water established in the subcontract that reasonably reflects the reliability of the applicant's CAP water supply.

~~G.~~**H.** Subject to subsection ~~(L)~~(M) of this Section, if the proposed source of water is Colorado River water, the Director shall determine the annual volume of water that is physically available for the proposed use as follows:

1. If the priority of the contract for Colorado River water provides reliability equal to or better than CAP municipal and industrial water, calculate 100% of the annual amount of water established in the contract.
2. If the contract for Colorado River water provides reliability that is less than CAP municipal and industrial water:
 - a. If the applicant submits evidence of sufficient backup water supplies, calculate 100% of the annual amount of water in the contract. The applicant may establish backup water supplies by one or more of the following:
 - i. A drought response plan;

- ii. Long-term storage credits;
 - iii. A contract for water with a multi-county water conservation district; or
 - iv. Evidence of other backup supplies that are physically, continuously, and legally available.
- b. If the applicant does not submit evidence of sufficient backup water supplies pursuant to subsection ~~(G)(2)(a)~~~~(H)(2)(a)~~ of this Section, calculate the percentage of the annual amount of water established in the contract that reasonably reflects the reliability of the applicant's Colorado River water supply.

~~H-I~~ Subject to subsection ~~(I)(J)~~ of this Section, if the proposed source of water is effluent, the Director shall determine the annual volume of water that will be physically available by evaluating the current, metered production or the projected production of effluent. The volume of effluent that is physically available shall not include the following:

1. If the effluent will be delivered directly from a wastewater treatment plant, the volume of effluent that exceeds the applicant's estimated water demand that will be met with effluent; and
2. The volume of effluent that does not comply with any applicable water quality requirements for the proposed use of the effluent.

~~I-J~~ If the proposed source of water is stored water to be recovered from recovery wells, the Director shall determine the volume of water that is physically available for the proposed use as follows:

1. If the stored water is represented by long-term storage credits in existence on the date of application, the amount that is physically available is the amount that may be recovered pursuant to the credits in a manner consistent with A.R.S. Title 45, Chapter 3.1, subject to subsection ~~(I)(3)~~~~(J)(3)~~ of this Section.
2. If the applicant proposes to use long-term storage credits that do not exist on the date of application or recover stored water on an annual basis pursuant to A.R.S. § 45-851.01, the Director shall evaluate the following in determining whether to include the proposed credits or the water proposed to be stored and recovered annually in the amount of water that is physically available for the applicant's proposed use:
 - a. The terms of a contract to obtain water to store in a storage facility;

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- b. The physical, continuous, and legal availability of the water proposed to be stored;
 - c. The presence of an existing storage facility that will be available for use for the proposed storage;
 - d. The existence of all required permits of an adequate duration; and
 - e. Whether recovery of the stored water will comply with subsection ~~(I)(3)~~(J)(3) of this Section.
3. If the applicant proposes to recover the stored water from recovery wells located outside the area of impact of storage, the stored water will be considered physically available only if sufficient water exists for the withdrawals consistent with both of the following:
- a. The maximum 100-year depth-to-static water level requirements established in subsection (B)(2) or subsection (E) of this Section, as applicable; and
 - b. Any criteria for the withdrawals prescribed in the management plan in effect at the time of the application.

~~J.~~ K. If the applicant will obtain the source of water through a water exchange agreement, the Director shall determine that the water is physically available for the proposed use if the applicant submits evidence that the source of water the applicant or the applicant's customers will use will be physically available in accordance with the terms of this Section.

~~K.~~ L. In the case of two or more pending, conflicting, complete and correct applications for determinations of assured water supply or determinations of adequate water supply, the Director shall give priority to the application with the earliest priority date. The priority date of an application for a determination of assured water supply or determination of adequate water supply shall be the date that a complete and correct application is filed with the Director. The Director shall consider an application complete and correct if it contains all the information required and the Director verifies that the information is accurate.

~~L.~~ M. For a certificate applicant that proposes to use surface water, the Director shall determine that the proposed source is physically available only if the applicant demonstrates one of the following:

1. The land that is the subject of the application is a member land of the CAGR.
2. The applicant has independently obtained the surface water supply.

3. The proposed municipal provider would satisfy the criteria in R12-15-722 if the municipal provider were subject to those requirements.

R12-15-717. Continuous Availability

- A. The Director shall determine that an applicant will have sufficient supplies of water that will be continuously available for 100 years if the applicant submits sufficient evidence that adequate delivery, storage, and treatment works will be in place in a timely manner to make the water available to the applicant or the applicant's customers for 100 years and the applicant meets any applicable requirements in subsections (B) through (G) of this Section.
- B. If the proposed source of water is groundwater, or, within the Santa Cruz AMA, water, other than stored water, that will be withdrawn from a well, the applicant shall demonstrate that wells of a sufficient capacity will be constructed in a timely manner to serve the proposed uses on a continuous basis for 100 years.
- C. If the proposed source of water is surface water, other than CAP water, ~~or~~ Colorado River water, or within the Santa Cruz AMA, surface water that will be withdrawn from a well, the applicant shall demonstrate that a continuous supply will exist because of one or more of the following:
 1. The projected volume to be diverted from the source is perennial at the point of diversion;
 2. Adequate storage facilities will be available to the applicant in a timely manner to store water for use when a volume of surface water is not available at the point of diversion to satisfy the applicant's water demands;
 3. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to supplement the applicant's proposed surface water supplies;
 4. The applicant or the proposed municipal provider will withdraw surface water from wells of sufficient capacity to meet the applicant's estimated water demand on a continuous basis for 100 years; or
 5. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume of water that is subject to drought.
- D. If the proposed source of water is CAP water or Colorado River water, the applicant shall demonstrate that a continuous supply is available because of one or more of the following:

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1. Adequate storage facilities will be available to the applicant in a timely manner to store water when a volume of CAP water or Colorado River water is not available to meet the applicant's water demands;
 2. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed CAP water or Colorado River water supplies; or
 3. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume subject to drought.
- E.** If the proposed source of water is effluent, the applicant shall demonstrate that the capability to use the effluent to meet the demands of the proposed use will not be affected by any fluctuations in the supply of the effluent.
- F.** If the proposed source of water is stored water to be recovered from recovery wells, the applicant shall demonstrate that recovery wells of a sufficient capacity will be constructed in a timely manner to serve the proposed use on a continuous basis for 100 years.
- G.** If an applicant will obtain the source of water through a water exchange agreement, the applicant shall demonstrate that the source of water the applicant or the applicant's customers will use will be continuously available in accordance with the terms of this Section.
- H.** If the proposed source of water is water, other than stored water, that will be withdrawn from a well within the Santa Cruz AMA, the applicant shall demonstrate that a continuous supply is available because of one or more of the following:
1. Historic and other hydrologic data demonstrate that the proposed source of water will be available throughout the 100-year period, regardless of drought;
 2. Adequate storage facilities will be available to the applicant in a timely manner to store water for use when a volume of the proposed source of water is not available to satisfy the applicant's water demands;
 3. The applicant has presented evidence of supplies of other sources of water that the Director has determined will be physically, continuously, and legally available to the applicant to supplement the proposed water supplies; or
 4. The applicant has submitted a drought response plan that the Director has determined will conserve or augment a volume of water equal to the volume subject to drought.

R12-15-718. Legal Availability

- A.** The Director shall determine that an applicant will have sufficient supplies of water that will be legally available for at least 100 years if the applicant submits all of the applicable information required by this Section.
- B.** If the applicant is an applicant for a certificate or a water report, the applicant shall submit the following, as applicable:
1. A Notice of Intent to Serve agreement between the owner of the land to be included in the subdivision and the proposed municipal provider, stating the proposed municipal provider's intent to serve the subdivision;
 2. If the proposed municipal provider is a city or town, evidence indicating that the proposed subdivision is located within the incorporated limits of the city or town or evidence of the legal right of the city or town to serve water to the subdivision outside the city or town's incorporated limits; or
 3. If the proposed municipal provider is a private water company, one of the following:
 - a. Evidence that the proposed municipal provider has a certificate of convenience and necessity approved by the Arizona Corporation Commission and the subdivision is located within the geographic area described in the certificate of convenience and necessity or any other area in which the Arizona Corporation Commission authorizes the private water company to serve water;
 - b. Evidence that the proposed municipal provider has an order preliminary issued by the Arizona Corporation Commission authorizing the municipal provider to provide water service and the proposed subdivision is located within the area described in the order preliminary; or
 - c. Evidence that the proposed municipal provider is not a public service corporation regulated by the Arizona Corporation Commission.
- C.** If the applicant is a private water company applying for a designation, the applicant shall submit evidence that the applicant has a certificate of convenience and necessity approved by the Arizona Corporation Commission, or has been issued an order preliminary by the Arizona Corporation Commission for a certificate of convenience and necessity, authorizing the applicant to serve the proposed use.
- D.** If a proposed source of water is groundwater to be withdrawn within an AMA, the applicant shall submit evidence that the applicant or the proposed municipal provider has one or more of the following:

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1. A service area right;
 2. An applicable non-irrigation grandfathered right to withdraw groundwater, in an amount sufficient to serve the proposed use; or
 3. A pending notice of intent to establish a new service area and all of the following apply:
 - a. The notice of intent to establish a new service area identifies the proposed subdivision,
 - b. The applicant or the proposed municipal provider has obtained a permit for any wells used to establish the service area right,
 - c. The proposed municipal provider has obtained a water right or recovery well permit to establish the service area right, and
 - d. The water right is of sufficient volume and duration to meet the estimated water demand of the proposed subdivision until the anticipated date of issuance of a service area right.
- E.** If a proposed source of water is surface water other than CAP water or Colorado River water:
1. The applicant shall submit evidence that the applicant or the proposed municipal provider has a certificated surface water right, decreed water right, or a pre-1919 claim for the proposed source. If the applicant or the proposed municipal provider does not hold a surface water right or claim, but will receive water pursuant to a water right or claim that is appurtenant to the land that is the subject of the application, the applicant shall submit evidence of the water right or claim and evidence that the water right or claim may neither be legally withheld nor severed and transferred by the right holder or claimant.
 2. If the certificated surface water right or decreed water right pre-dates the date of application by at least five years, or the applicant submits a pre-1919 claim, the applicant shall submit one of the following:
 - a. Evidence that the surface water supply has been used pursuant to the applicable water right or claim within the five years before the date of application;
 - b. Evidence that a court has determined that the right has not been abandoned; or
 - c. Evidence that the non-use would not have resulted in an abandonment of the right pursuant to A.R.S. § 45-189.

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3. The Director shall determine that the volume of water that is legally available pursuant to a certificated surface water right, a decreed water right, or a pre-1919 claim is equal to the face value of the right or claim. If the right or claim is subsequently adjudicated, the Director shall determine the volume of water that is legally available based on the adjudicated amount of water.
- F.** Subject to subsections (M) and (N) of this Section, if a proposed source of water is CAP water, the applicant shall submit evidence that the applicant or the proposed municipal provider has entered into a subcontract with a multi-county water conservation district for the proposed volume of CAP water. The Director shall presume that a 50-year long-term, non-declining municipal and industrial subcontract is sufficient evidence of the legal availability of the volume of CAP water specified in the subcontract for 100 calendar years.
- G.** Subject to subsections (M) and (N) of this Section, if a proposed source of water is Colorado River water, the applicant shall submit evidence of one of the following:
1. The applicant or the proposed municipal provider has a contract with the United States Secretary of the Interior for the proposed supply; or
 2. The applicant has obtained an allocation of Colorado River water from an entity to which all of the following apply:
 - a. The entity holds a contract for Colorado River water with the United States Secretary of the Interior;
 - b. The entity provides Colorado River water to the proposed municipal provider;
 - c. The entity has allocated a sufficient volume of the Colorado River water to the subdivision; and
 - d. The area that the entity may serve, described in the contract with the United States Secretary of the Interior, includes the subdivision.
- H.** If a proposed source of water is effluent, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the effluent.
- I.** If the applicant will obtain a proposed source of water through a written contract other than a water exchange agreement, a contract between a certificate applicant and the municipal provider proposed to serve the applicant, a contract with the United States Secretary of the Interior for Colorado River water, or a subcontract with a multi-county water conservation district, the applicant shall submit evidence that the person providing the water under the contract has a legal right to the water in accordance with the terms of this Section and that the terms of the contract will ensure that the proposed source of water will be delivered to the applicant or to the proposed subdivision. The Director shall determine the term of years for which the

proposed source of water is legally available based on the term of years remaining in the contract. The Director shall determine the quantity of water legally available based on the volume established in the contract.

- J.** If the applicant will obtain a proposed source of water through a water exchange agreement, the applicant shall submit evidence that the water exchange agreement satisfies the requirements of A.R.S. Title 45, Chapter 4.
- K.** If the Director can determine the proposed source of water to be physically and continuously available only because of the use of storage facilities by the applicant or by the proposed municipal provider, the applicant shall submit evidence of the applicant's or the proposed municipal provider's legal right to store water in the storage facilities.
- L.** If the applicant proposes to use long-term storage credits, the applicant shall submit evidence that the applicant or the proposed municipal provider has the legal right to use the credits under A.R.S. Title 45, Chapter 3.1.
- M.** If a proposed supply of water is Colorado River water or CAP water leased from an Indian community, the applicant shall submit evidence that the water leased has a priority equal to or higher than CAP municipal and industrial water, evidence that the Indian community is expressly authorized by an Act of Congress to lease the water for use off Indian community lands, evidence of the lease, and evidence of one of the following:
 - 1. The proposed water supply is available under the lease for at least 100 years from any time during the year in which the applicant submits the application.
 - 2. The term of the lease has less than 100 years remaining in the year in which the applicant submits the application and a supplemental water supply, together with the leased water, provides a 100-year water supply. The applicant shall demonstrate that the supplemental water supply is physically, continuously, and legally available and, if such supplemental supply is groundwater, that use of the groundwater is consistent with the management goal of the AMA. If the supplemental supply is water recovered through the use of long-term storage credits, the applicant shall also submit the following, as applicable:
 - a. If the applicant is to use the long-term storage credits before the beginning of the lease term, evidence that the applicant or the proposed municipal provider has obtained a recovery well permit that allows the applicant or the proposed municipal provider to recover water pursuant to the long-term storage credits; or
 - b. If the long-term storage credits will be accrued in the future, evidence that the applicant or the proposed municipal provider will accrue the long-term storage credits within 20 years after the effective date of the designation, certificate,

or water report by storing the water under an issued water storage permit at a permitted storage facility and that no more than 20 years of the applicant's supplemental water supply will be provided by the long-term storage credits.

N. If the Director previously determined that Colorado River water or CAP water leased from an Indian community was legally available to a designated provider for 100 years, the Director shall determine that the designated provider continues to have a legally available supply of water for 100 years for the annual amount of water available under the lease if:

1. The lease has at least 50 years remaining in its term or the lease has at least 40 years remaining in its term and the designated provider submits evidence to the Director of active and ongoing negotiations with the Indian community to renew or re-negotiate the lease; and
2. One of the following applies:
 - a. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;
 - b. Groundwater will be physically, continuously, and legally available to the designated provider at the end of the lease term to substitute for the leased water for the remainder of the 100-year period, and the projected use of groundwater is consistent with the management goal of the AMA. For purposes of this subsection, the designated provider may demonstrate that the proposed use is consistent with the management goal by entering into a written agreement with the Director under which the designated provider agrees to replace through replenishment or underground storage any groundwater used at the end of the lease term if groundwater use is not consistent with the management goal. The written agreement shall provide that specific performance is the only remedy in the event of default;
 - c. A non-groundwater source of water will be physically, continuously, and legally available at the end of the lease term to substitute for the leased water for the remainder of the 100-year period; or
 - d. The designated provider's governing board or council submits a resolution requesting that the designated provider be allowed to increase its projected use of Indian lease water from 15%, as allowed by subsection (N)(2)(a) of this Section, to 20%, and the Director finds that all of the following apply:
 - i. No more than 20% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through leases with Indian communities;

- ii. No more than 15% of the total water supplies that the designated provider establishes as physically, continuously, and legally available during any year are obtained through any single lease with an Indian community; and
- iii. The designated provider does not meet the requirements of subsections (N)(2)(a), (b), or (c) of this Section.

O. If the proposed source of water is water, other than stored water, withdrawn from a well within the Santa Cruz AMA and the applicant or the applicant's predecessor in interest has asserted legal rights to use the proposed source of water both as groundwater and as surface water, then the applicant shall submit all of the information required by subsections (D) and (E) of this Section. The Director shall determine that a volume of water equal to the lesser of the two rights or claims is legally available according to the criteria in subsections (D) and (E) of this Section. The water that the Director determines is legally available under this subsection shall not be legally available for any other use, regardless of whether the proposed source of the water is groundwater or surface water.

R12-15-722. Consistency with Management Goal

- A.** For the Phoenix, Prescott, or Tucson AMAs, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA in which the proposed use is located for at least 100 years by adding the following:
 1. The amount of the groundwater allowance, according to R12-15-724(A), R12-15-726(A), or R12-15-727(A).
 2. The amount of any extinguishment credits pledged to the certificate or designation, according to R12-15-724(B), R12-15-726(B), or R12-15-727(B).
 3. Any groundwater that is consistent with the management goal pursuant to A.R.S. Title 45, Chapter 2.
- B.** The Director shall determine that a proposed groundwater use in the Phoenix, Prescott, or Tucson AMA is consistent with the management goal of the AMA if the volume calculated in subsection (A) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.
- C.** For a certificate in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the AMA for at least 100 years by adding the following:
 1. The amount of the groundwater allowance, according to R12-15-725(A)(1).
 2. The amount of any extinguishment credits pledged to the certificate for a

- grandfathered right that was extinguished on or after the effective date of R12-15-725, according to R12-15-725(B).
3. The amount of any extinguishment credits pledged to the certificate for a grandfathered right that was extinguished before the effective date of R12-15-725. The Director shall calculate the amount of the extinguishment credits by multiplying the annual amount of the credits by 100.
 4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- D.** For a certificate in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the AMA if the volume calculated in subsection (C) of this Section is equal to or greater than the portion of the applicant's estimated water demand to be met with groundwater.
- E.** For a designation in the Pinal AMA, the Director shall calculate the volume of groundwater that may be used consistent with the management goal of the Pinal AMA on an annual basis by adding the following:
1. The amount of the groundwater allowance, according to R12-15-725(A)(2). If any of the groundwater allowance is not used during a year, the unused groundwater allowance shall not be added to the volume calculated under this subsection for the following year.
 2. The amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished on or after the effective date of R12-15-725, according to R12-15-725(B), divided by 100. Extinguishment credits for a grandfathered right that was extinguished on or after the effective date of R12-15-725 may be used in any year.
 3. The annual amount of any extinguishment credits pledged to the designation for a grandfathered right that was extinguished before the effective date of R12-15-725. The following shall apply if any of the extinguishment credits are not used during a calendar year:
 - a. If the extinguishment credits were pledged to the designation before the effective date of R12-15-725, any extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.
 - b. If the extinguishment credits are pledged to the designation on or after the effective date of R12-15-725, any of the extinguishment credits not used during a calendar year shall not be added to the volume calculated under this subsection for the following calendar year, except that if the extinguishment credits were originally pledged to a certificate before the effective date of

R12-15-725 and are used to support the municipal provider's designation pursuant to R12-15-723(G)(2), any of the extinguishment credits not used during a calendar year shall be added to the volume calculated under this subsection for the following calendar year.

4. Any groundwater that is consistent with the achievement of the management goal pursuant to A.R.S. Title 45, Chapter 2.
- F.** For a designation in the Pinal AMA, the Director shall determine that the proposed groundwater use is consistent with the management goal of the Pinal AMA if the annual volume calculated in subsection (E) of this Section is equal to or greater than the portion of the applicant's annual estimated water demand to be met with groundwater.
- G.** The Director shall determine that water, other than stored water, proposed to be withdrawn from a well in the Santa Cruz AMA is consistent with the management goal of the AMA according to the requirements set forth in R12-15-728.
- H.** Upon application, the following volumes of groundwater used by an applicant are considered consistent with the management goal:
1. If the Director determines that a surface water supply is physically available under R12-15-716 and the volume of the supply actually available during a calendar year is equal to or less than the drought volume for the supply, the volume of groundwater, other than the groundwater that is accounted for under subsection (A), (C), or (E) of this Section, withdrawn within the AMA that, when combined with the available surface water supply, is equal to or less than the drought volume.
 2. Any volume of groundwater withdrawn within a portion of an AMA that is exempt from conservation requirements under A.R.S. Title 45 due to waterlogging. The Director shall review the application of this exclusion on a periodic basis, not to exceed 15 years.
 3. Remedial groundwater that is consistent with the management goal according to the requirements of R12-15-729.
- H.-I.** An applicant for a certificate of assured water supply for a dry lot subdivision of 20 lots or fewer is exempt from the requirements of this Section.

R12-15-728. ~~Reserved~~ Santa Cruz AMA Consistency with Management Goal

A. If the proposed source of supply is water, other than stored water to be recovered within the area of impact, that will be withdrawn from wells within the Santa Cruz

AMA, the applicant shall prepare and run the series of model simulations required by R12-15-716(E)(1) and submit the hydrologic study required by R12-15-716(E)(2).

B. The Director shall determine that water, other than stored water to be recovered within the area of impact, proposed to be withdrawn from wells will be consistent with the management goal if the applicant demonstrates that all of the following apply:

1. In the series of 100-year model simulations required by R12-15-716(E)(1), the projected depth-to-static water level at each water level monitoring location in the area of hydrologic impact of the proposed withdrawals is not lower than one standard deviation below the average historic depth-to-static water level for that location for more than:

a. 10 percent of the months in the series of simulations; or

b. 12 consecutive months in any simulation.

2. In areas where groundwater is discharged to the Santa Cruz River, in at least 90% of the individual 100-year model simulations required by R12-15-716(E)(1), the projected net monthly groundwater discharge is greater than zero for at least one month during the last ten years of the 100-year projection period.