

**Arizona  
Department  
of  
Water Resources**  
[www.water.az.gov](http://www.water.az.gov)

**LEGISLATIVE  
IMPLEMENTATION  
PLAN**

**47<sup>th</sup> Legislature, 2nd Regular Session  
2006**

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**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**HB 2431 affidavit of disclosure; water service  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** HB 2431, Chapter 96

**SHORT TITLE:** Affidavit of Disclosure; Water Service

**PRIME SPONSOR(S):** Representatives: Mason  
Kirkpatrick  
Burns, J.  
Meza  
Sinema  
Burton-Cahill  
O'Halleran  
Allen, J.  
Chase  
Pearce  
Rios, P.  
Downing  
Quelland

Senators: Miranda, R.

**BILL SUMMARY:** HB 2431 contains the following additions to the disclosure affidavit that a seller of five or fewer parcels of land in an unincorporated area of a county must furnish to the buyer:

- Adds check boxes to the affidavit of disclosure to indicate that the property is served by a private water company or a municipal water provider.
- Requires the affidavit of disclosure to include a notice to the buyer that says the Arizona Department of Water Resources might not have made a water supply determination of a property if that property is serviced by a well, private water company or municipal water provider, and to contact the water provider for more information about the property's water supply.
- Adds check boxes to the affidavit of disclosure to indicate whether or not the water has to be transported to the property.

**SIGNIFICANCE TO AGENCY:** Although there is no direct significance to the Arizona Department of Water Resources, it is a means by which to increase public awareness regarding local water supplies and is a step toward improved consumer protection.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rule is required for the implementation of HB 2431.
- **Legislation**  
No legislation is required for the implementation of HB 2431.
- **Substantive Policy**  
No substantive policy is required for the implementation of HB 2431.

**ACTION(S) REQUIRED:**

No agency action is required by the Arizona Department of Water Resources.

**DIVISION STAFF SUPPORT REQUIRED:**

No agency staff support is required.

House Engrossed

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State of Arizona  
House of Representatives  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 96

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HOUSE BILL 2431  
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**AN ACT**

**AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO DISCLOSURE ON TRANSFER OF REAL PROPERTY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 33-422, Arizona Revised Statutes, is amended to read:

**33-422. Land divisions; recording; disclosure affidavit**

A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall furnish a written affidavit of disclosure to the buyer, at least seven days before the transfer of the property, and the buyer shall acknowledge receipt of the affidavit.

B. The affidavit must be written in twelve point type.

C. No release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is valid or binding on the buyer.

D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

F. The affidavit of disclosure shall meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Affidavit of Disclosure

Pursuant to A.R.S. §33-422

I, \_\_\_\_\_ (seller(s)) being  
duly sworn, hereby make this affidavit of disclosure relating to the real property  
situated in the unincorporated area of:

\_\_\_\_\_, County, State of Arizona, located at:

\_\_\_\_\_

and legally described as:

(Legal description attached hereto as exhibit "A")

(property).

1. There ( is ( is not....legal access to the property, as defined in A.R.S. § 11-809....( unknown

Explain: \_\_\_\_\_

\_\_\_\_\_

2. There ( is ( is not....physical access to the property. ( unknown

Explain: \_\_\_\_\_

\_\_\_\_\_

3. There ( is ( is not....a statement from a licensed surveyor or engineer  
available stating whether the property has physical access that is traversable by  
a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property ( is ( is not....the same....(  
unknown ( not applicable.

Explain: \_\_\_\_\_

\_\_\_\_\_

*If access to the parcel is not traversable by emergency vehicles, the county and  
emergency service providers may not be held liable for any damages resulting  
from the inability to traverse the access to provide needed services.*

5. The road(s) is/are ( publicly maintained ( privately maintained ( not  
maintained ( not applicable. If applicable, there ( is ( is not....a recorded road  
maintenance agreement.

*If the roads are not publicly maintained, it is the responsibility of the property  
owner(s) to maintain the roads and roads that are not improved to county  
standards and accepted for maintenance are not the county's responsibility.*

6. A portion or all of the property ( is ( is not....located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. The following services are currently provided to the property: ( water ( sewer ( electric ( natural gas ( single party telephone ( cable television services.

8. THE PROPERTY ( IS ( IS NOT....SERVED BY A WATER SUPPLY THAT REQUIRES THE TRANSPORTATION OF WATER TO THE PROPERTY.

~~8~~ 9. The property is served by ( A PRIVATE WATER COMPANY ( A MUNICIPAL WATER PROVIDER ( a private well ( a shared well ( no well. If served by a shared well, the shared well ( is ( is not....a public water system, as defined by the safe drinking water act (42 United States Code § 300f).

NOTICE TO BUYER: IF THE PROPERTY IS SERVED BY A WELL, PRIVATE WATER COMPANY OR A MUNICIPAL WATER PROVIDER THE ARIZONA DEPARTMENT OF WATER RESOURCES MAY NOT HAVE MADE A WATER SUPPLY DETERMINATION. FOR MORE INFORMATION ABOUT WATER SUPPLY, CONTACT THE WATER PROVIDER.

~~9~~ 10. The property ( does have ( does not have . . . . an on-site wastewater treatment facility (i.e., standard septic or alternative system to treat and dispose of wastewater). ( unknown. If applicable: a) The property ( will ( will not . . . . require installation of an on-site wastewater treatment facility; b) The on-site wastewater treatment facility ( has ( has not been inspected.

~~10~~ 11. The property ( has been ( has not been . . . . subject to a percolation test. ( unknown.

~~11~~ 12. The property ( does ( does not....meet the minimum applicable county zoning requirements of the applicable zoning designation.

~~12~~ 13. The sale of the property ( does ( does not...meet the requirements of A.R.S. § 11-809 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~13~~ 14. The property ( is ( is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's web site.)

~~14.~~ 15. The property ( is ( is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's web site.)

~~15.~~ 16. Notice: If the property is located within the territory in the vicinity of a military airport or ancillary military facility, the property is required to comply with sound attenuation standards as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at the state real estate department's web site.)

~~16.~~ 17. The property ( is ( is not located under military restricted airspace. ( unknown. (Maps are available at the state real estate department's web site.) This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

Dated this (date) day of (year) by:

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

State of Arizona )

) ss.

County of \_\_\_\_\_)

Subscribed and sworn before me this (date) day of (year), by

\_\_\_\_\_  
\_\_\_\_\_.

Notary public

My commission expires:

(date)

Buyer(s) hereby acknowledges receipt of a copy of this affidavit of disclosure this (date) day of (year)

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

G. For the purposes of this section, seller and subsequent seller do not include a trustee of a deed of trust who is selling property by a trustee's sale pursuant to title 33, chapter 6.1 or any officer who is selling property by execution sale pursuant to title 12, chapter 9 and title 33, chapter 6. If the seller is a trustee of a subdivision trust as defined in section 6-801, the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

APPROVED BY THE GOVERNOR APRIL 11, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**HB 2436 emergency water transfers; drought  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** HB 2436, Chapter 97

**SHORT TITLE:** Emergency Water Transfers; Drought

**PRIME SPONSOR(S):** Representatives: O'Halleran  
Kirkprick  
Mason

**BILL SUMMARY:** HB 2436 contains the following provisions:

- Requires the Director of the Arizona Department of Water Resources to approve a request to transport groundwater away from a groundwater basin that is outside an AMA if all the following apply:
  - The Governor declared an emergency due to lack of precipitation or a water shortage.
  - The groundwater will be withdrawn from an existing well.
  - A city or town has consented to the groundwater withdrawal if the well is located within the incorporated area of the city or town.
  - The county has consented to the groundwater withdrawal if the well is located within the county and the groundwater is to be transported outside of the county.
  - The district has consented to the withdrawal if the groundwater is withdrawn from within the boundaries of an Agricultural Improvement District or an Irrigation and Water Conservation District established pursuant to Arizona Revised Statutes, Title 48.
  - The groundwater will be moved only by motor vehicle or train.
  - The groundwater is necessary to provide supplies for domestic, stock watering or potable municipal water service purposes.
  - The water will be transported to a location included in the emergency declaration.
  - The county, city or town in which the transported groundwater is to be used has implemented an emergency conservation plan to prevent non-essential use of the groundwater.

- The water will not be used in an AMA.
- Limits transportation of groundwater to six months or until the Director determines that the groundwater transportation is no longer necessary; the Director may extend the request for an additional six months; upon revocation or expiration of approval, the transportation of the groundwater must stop.
- Requires the Director to post an application on the Department's website prior to approval and to approve or deny the application within 30 days of receipt of the application; this 30-day time frame is utilized instead of the licensing time frames established by agency rule.
- Stipulates that transfer of groundwater away from a basin outside an Active Management Area is subject to the payment of damages.
- Prohibits transportation of groundwater if it will be used to subsidize insufficient supplies due to continued growth or deficient base water supplies.
- States that this act is intended to provide interim water for true emergencies.
- Contains a retroactive effective date of April 30, 2006.
- Establishes a delayed repeal date of April 30, 2007.

**SIGNIFICANCE TO AGENCY:** HB 2436 provides an additional tool to the Arizona Department of Water Resources to more effectively manage and mitigate the impacts of drought.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rule is required for the implementation of HB 2436.
- **Legislation**  
No legislation is required for the implementation of HB 2436.
- **Substantive Policy**  
No substantive policy is required for the implementation of HB 2436.

**ACTION(S) REQUIRED:** The form that an applicant seeking to transfer groundwater across basin boundaries for drought emergencies has been developed. Upon receipt of an application, staff must post the application on the Department's web site before making a decision on the application. If approved, staff would be required to monitor groundwater transfers to assure that such transfers occur within statutory limitations.

**DIVISION STAFF SUPPORT REQUIRED:**

- Statewide Planning
- Legal

**TIMELINE:**

Water transfers would occur within statutorily specified timeframes.

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House Engrossed  
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State of Arizona  
House of Representatives  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 97  
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HOUSE BILL 2436  
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**AN ACT**

**RELATING TO DROUGHT EMERGENCY GROUNDWATER TRANSFERS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Drought emergency groundwater transfer

A. Notwithstanding section 45-544, subsection A, paragraph 2, Arizona Revised Statutes, in areas outside of active management areas, groundwater may be transported away from a groundwater basin on application to and approval by the director of the department of water resources. The director shall post the application on the department's web site before approving the application.

B. The director of the department of water resources shall approve a request to transport groundwater away from a groundwater basin outside of an active management area if the director finds that all of the following apply:

1. The governor has declared an emergency due to lack of precipitation or a water shortage pursuant to section 35-192, Arizona Revised Statutes.
2. The groundwater to be transported will be withdrawn from a well that is in existence as of the date of the governor's declaration of emergency.
3. If the groundwater to be transported will be withdrawn from a well within the incorporated area of a city or town, the city or town has consented to the groundwater withdrawal.
4. If the groundwater to be transported will be withdrawn from a well within the boundaries of a political subdivision, however designated, established pursuant to title 48, chapter 17 or 19, Arizona Revised Statutes, the political subdivision has consented to the groundwater withdrawal.
5. If the groundwater to be transported will be withdrawn from a well within the boundaries of a county for use in another county, the county from which the groundwater will be withdrawn has consented to the groundwater withdrawal.

6. The groundwater to be transported will be transported only by motor vehicle or train.
7. The groundwater transportation is necessary to provide water supplies for domestic, stock watering or potable municipal water service purposes in a location included in the emergency declaration.
8. The groundwater to be transported will be used only for domestic, stock watering or potable municipal water service purposes.
9. The county, city, town or other political subdivision within which the transported water is to be used has implemented an emergency conservation plan sufficient to prevent nonessential use of the groundwater.
10. The groundwater to be transported will not be used in an active management area.

C. If the director of the department of water resources approves the request to transport groundwater away from a groundwater basin outside of an active management area pursuant to subsection B of this section, the approval is valid for six months, or until the director determines that the groundwater transportation is no longer necessary to provide water supplies for domestic, stock watering or potable municipal water service purposes in a location experiencing a water shortage. On request, the director may extend the approval of the groundwater transportation for one additional six-month period on the expiration of the original approval period, if the director determines that all of the requirements of subsection B of this section continue to apply. On expiration or revocation of the approval to transport groundwater, the transportation of the groundwater shall immediately cease.

D. The director of the department of water resources shall approve or deny a request to transport groundwater away from a groundwater basin outside of an active management area within thirty days of the receipt of the request. Title 41, chapter 6, article 7.1, Arizona Revised Statutes, does not apply to this act.

E. Groundwater transported away from a groundwater basin outside of an active management area pursuant to this act is subject to the payment of damages.

F. Water transported pursuant to this section shall not be transported to subsidize insufficient supplies due to continued growth or deficient base water supplies.

#### Sec. 2. [Legislative intent](#)

It is the intent of this legislature by this act to provide interim water use for true emergencies.

#### Sec. 3. [Retroactivity](#)

Section 1 of this act is effective retroactively to April 30, 2006.

Sec. 4. [Delayed repeal](#)

Section 1 of this act is repealed on April 30, 2007.

APPROVED BY THE GOVERNOR APRIL 11, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**HB 2518 gray water use; incentives  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** HB 2518, Chapter 228

**SHORT TITLE:** Gray Water Use; Incentives

**PRIME SPONSOR(S):** Representatives: Gray  
Pierce  
Boone  
Sinema  
Chase  
Smith

**BILL SUMMARY:** HB 2518 contains the following provisions:

- Requires the Director of the Arizona Department of Water Resources to adopt rules by January 1, 2008, that provide for a reduction in water demand for an application for a Designation of Assured Water Supply or a Certificate of Assured Water Supply if an Arizona Department of Environmental Quality approved gray water reuse system is installed. If the application is for an Assured Water Supply Certificate, the land for which the Certificate is sought must qualify as member land in the Central Arizona Groundwater Replenishment District.
- Prohibits a city, town or county from further limiting the use of gray water by rule or ordinance if a permit for gray water use has been issued by the Arizona Department of Environmental Quality, unless the city, town or county is in the Prescott Active Management Area and both of the following apply:
  - Effluent has been included in an assured water supply determination.
  - The use of gray water would reduce the volume of effluent available to satisfy assured water supply requirements applicable to the determination.
- Defines “gray water” as wastewater that has been collected separately from a sewage flow and that originates from a clothes washer or a bathroom tub, shower or sink, but that does not include wastewater from a kitchen sink, dishwasher or toilet.

**SIGNIFICANCE TO AGENCY:** There is no major significance to the agency. The Arizona Department of Water Resources currently has the authority to consider gray

water reuse in calculating the demand for the purposes of determining the amount that must be secured for the purposes of an Assured Water Supply.

**REQUIRED OUTCOME(S):**

- **Rule**  
Requires the ADWR Director to adopt rules by January 1, 2008, that provide for a reduction in water demand for an application for a Designation of Assured Water Supply or a Certificate of Assured Water Supply if an ADEQ approved gray water reuse system is installed. If the application is for an Assured Water Supply Certificate, the land for which the certificate is sought must qualify as a member land in the Central Arizona Water Conservation District.
- **Legislation**  
No legislation is required for the implementation of this legislation.
- **Substantive Policy**  
No substantive policy is required for the implementation of this legislation.

**ACTION(S) REQUIRED:**

**DIVISION STAFF SUPPORT REQUIRED:**

- Water Management
- Legal

**TIMELINE:**

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Senate Engrossed House Bill  
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State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006  
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CHAPTER 228  
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HOUSE BILL 2518  
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**AN ACT**

**AMENDING SECTIONS 45-576 AND 49-201, ARIZONA REVISED STATUTES;  
AMENDING TITLE 49, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 49-204; AMENDING TITLE 49, CHAPTER 2, ARTICLE 10,  
ARIZONA REVISED STATUTES, BY ADDING SECTION 49-362; AMENDING  
SECTION 49-701, ARIZONA REVISED STATUTES; RELATING TO GRAY WATER.  
(TEXT OF BILL BEGINS ON NEXT PAGE)**

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

Section 1. Section 45-576, Arizona Revised Statutes, is amended to read:

**45-576. Certificate of assured water supply; designated cities, towns and private water companies; exemptions; definition**

A. A person who proposes to offer subdivided lands, as defined in section 32-2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the state real estate commissioner a notice of intention to offer such lands for sale or lease, pursuant to section 32-2181, unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section.

B. A city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the director or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the subdivider has obtained a written commitment of water service for the proposed subdivision from a city, town or

private water company designated as having an assured water supply pursuant to this section.

C. The state real estate commissioner may issue a public report authorizing the sale or lease of subdivided lands only on compliance with either of the following:

1. The subdivider, owner or agent has obtained a certificate of assured water supply from the director and has paid any activation fee required under section 48-3772, subsection A, paragraph 7, and any replenishment reserve fee required under section 48-3774.01, subsection A, paragraph 2.

2. If the subdivider has obtained a written commitment of water service for the lands from a city, town or private water company designated as having an assured water supply pursuant to this section and the subdivider, owner or agent has paid any activation fee required under section 48-3772, subsection A, paragraph 7.

D. The director shall designate private water companies in active management areas that have an assured water supply. If a city or town acquires a private water company that has contracted for central Arizona project water, the city or town shall assume the private water company's contract for central Arizona project water.

E. The director shall designate cities and towns in active management areas where an assured water supply exists. If a city or town has entered into a contract for central Arizona project water, the city or town is deemed to continue to have an assured water supply until December 31, 1997. Commencing on January 1, 1998, the determination that the city or town has an assured water supply is subject to review by the director and the director may determine that a city or town does not have an assured water supply.

F. The director shall notify the mayors of all cities and towns in active management areas and the chairmen of the boards of supervisors of counties in which active management areas are located of the cities, towns and private water companies designated as having an assured water supply and any modification of that designation within thirty days of the designation or modification. If the service area of the city, town or private water company has qualified as a member service area pursuant to title 48, chapter 22, article 4, the director shall also notify the conservation district of the designation or modification and shall report the projected average annual replenishment obligation for the member service area based on the projected and committed average annual demand for water within the service area during the effective term of the designation or modification subject to any limitation in an agreement

between the conservation district and the city, town or private water company. For each city, town or private water company that qualified as a member service area under title 48, chapter 22 and was designated as having an assured water supply before January 1, 2004, the director shall report to the conservation district on or before January 1, 2005 the projected average annual replenishment obligation based on the projected and committed average annual demand for water within the service area during the effective term of the designation subject to any limitation in an agreement between the conservation district and the city, town or private water company. Persons proposing to offer subdivided lands served by those designated cities, towns and private water companies for sale or lease are exempt from applying for and obtaining a certificate of assured water supply.

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

H. The director shall adopt rules to carry out the purposes of this section ~~no later than January 1, 1995~~. ON OR BEFORE JANUARY 1, 2008, THE RULES SHALL PROVIDE FOR A REDUCTION IN WATER DEMAND FOR AN APPLICATION FOR A DESIGNATION OF ASSURED WATER SUPPLY OR A CERTIFICATE OF ASSURED WATER SUPPLY IF A GRAY WATER REUSE SYSTEM WILL BE INSTALLED THAT MEETS THE REQUIREMENTS OF THE RULES ADOPTED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR GRAY WATER SYSTEMS AND IF THE APPLICATION IS FOR A CERTIFICATE OF ASSURED WATER SUPPLY, THE LAND FOR WHICH THE CERTIFICATE IS SOUGHT MUST QUALIFY AS A MEMBER LAND IN A CONSERVATION DISTRICT PURSUANT TO TITLE 48, CHAPTER 22, ARTICLE 4. FOR THE PURPOSES OF THIS SUBSECTION, "GRAY WATER" HAS THE SAME MEANING PRESCRIBED IN SECTION 49-201.

~~+~~ I. If the director designates a municipal provider as having an assured water supply under this section and the designation lapses or otherwise terminates while the municipal provider's service area is a member service area of a conservation district, the municipal provider or its successor shall continue to comply with the consistency with management goal requirements in the rules adopted by the director under subsection H of this section as if the designation was still in effect with respect to the municipal provider's designation uses. When determining compliance by the municipal provider or its successor with the consistency with management goal requirements in the rules, the director shall consider only water delivered by the municipal provider or its successor to the

municipal provider's designation uses. A person is the successor of a municipal provider if the person commences water service to uses that were previously designation uses of the municipal provider. Any groundwater delivered by the municipal provider or its successor to the municipal provider's designation uses in excess of the amount allowed under the consistency with management goal requirements in the rules shall be considered excess groundwater for purposes of title 48, chapter 22. For the purposes of this subsection, "designation uses" means all water uses served by a municipal provider on the date the municipal provider's designation of assured water supply lapses or otherwise terminates and all recorded lots within the municipal provider's service area that were not being served by the municipal provider on that date but that received final plat approval from a city, town or county on or before that date. Designation uses do not include industrial uses served by an irrigation district under section 45-497.

† J. For the purposes of this section, "assured water supply" means all of the following:

1. Sufficient groundwater, surface water or effluent of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a member of the district, "sufficient groundwater" for the purposes of this paragraph means that the proposed groundwater withdrawals that the applicant will cause over a period of one hundred years will be of adequate quality and will not exceed, in combination with other withdrawals from land in the replenishment district, a depth to water of one thousand feet or the depth of the bottom of the aquifer, whichever is less. In determining depth to water for the purposes of this paragraph, the director shall consider the combination of:

- (a) The existing rate of decline.

- (b) The proposed withdrawals.

- (c) The expected water requirements of all recorded lots that are not yet served water and that are located in the service area of a municipal provider.

2. The projected groundwater use is consistent with the management plan and achievement of the management goal for the active management area.

3. The financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The director

may accept evidence of the construction assurances required by section 9-463.01, 11-806.01 or 32-2181 to satisfy this requirement.

Sec. 2. Section 49-201, Arizona Revised Statutes, is amended to read:

**49-201. Definitions**

In this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the United States environmental protection agency.
2. "Aquifer" means a geologic unit that contains sufficient saturated permeable material to yield usable quantities of water to a well or spring.
3. "Best management practices" means those methods, measures or practices to prevent or reduce discharges and includes structural and nonstructural controls and operation and maintenance procedures. Best management practices may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into receiving waters. Economic, institutional and technical factors shall be considered in developing best management practices.
4. "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".
5. "Clean closure" means implementation of all actions specified in a permit, if any, as closure requirements, as well as elimination, to the greatest degree practicable, of any reasonable probability of further discharge from the facility and of exceeding aquifer water quality standards at the applicable point of compliance. Clean closure also means postclosure monitoring and maintenance are unnecessary to meet the requirements of this chapter.
6. "Clean water act" means the federal water pollution control act amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1376), as amended.
7. "Closed facility" means:
  - (a) A facility that ceased operation before January 1, 1986, that is not, on August 13, 1986, engaged in the activity for which the facility was designed and that was previously operated and for which there is no intent to resume operation.
  - (b) A facility that has been approved as a clean closure by the director.
  - (c) A facility at which any postclosure monitoring and maintenance plan, notifications and approvals required in a permit have been completed.
8. "Concentrated animal feeding operation" means an animal feeding operation that meets the criteria prescribed in 40 Code of Federal Regulations part 122,

appendix B for determining a concentrated animal feeding operation for purposes of 40 Code of Federal Regulations sections 122.23 and 122.24, appendix C.

9. "Department" means the department of environmental quality.

10. "Direct reuse" means the beneficial use of reclaimed water for specific purposes authorized pursuant to section 49-203, subsection A, paragraph 6.

11. "Director" means the director of environmental quality or the director's designee.

12. "Discharge" means the direct or indirect addition of any pollutant to the waters of the state from a facility. For purposes of the aquifer protection permit program prescribed by article 3 of this chapter, discharge means the addition of a pollutant from a facility either directly to an aquifer or to the land surface or the vadose zone in such a manner that there is a reasonable probability that the pollutant will reach an aquifer.

13. "Discharge impact area" means the potential a real extent of pollutant migration, as projected on the land surface, as the result of a discharge from a facility.

14. "Discharge limitation" means any restriction, prohibition, limitation or criteria established by the director, through a rule, permit or order, on quantities, rates, concentrations, combinations, toxicity and characteristics of pollutants.

15. "Environment" means navigable waters, any other surface waters, groundwater, drinking water supply, land surface or subsurface strata or ambient air, within or bordering on this state.

16. "Existing facility" means a facility on which construction began before August 13, 1986 and which is neither a new facility nor a closed facility. For [THE](#) purposes of this definition, construction on a facility has begun if the facility owner or operator has either:

(a) Begun, or caused to begin, as part of a continuous on-site construction program any placement, assembly or installation of a building, structure or equipment.

(b) Entered a binding contractual obligation to purchase a building, structure or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering and design studies, do not constitute a contractual obligation for purposes of this definition.

17. "Facility" means any land, building, installation, structure, equipment, device, conveyance, area, source, activity or practice from which there is, or with reasonable probability may be, a discharge.

18. "GRAY WATER" MEANS WASTEWATER THAT HAS BEEN COLLECTED SEPARATELY FROM A SEWAGE FLOW AND THAT ORIGINATES FROM A CLOTHES WASHER OR A BATHROOM TUB, SHOWER OR SINK BUT THAT DOES NOT INCLUDE WASTEWATER FROM A KITCHEN SINK, DISHWASHER OR TOILET.

~~18:~~ 19. "Hazardous substance" means:

- (a) Any substance designated pursuant to sections 311(b)(2)(A) and 307(a) of the clean water act.
- (b) Any element, compound, mixture, solution or substance designated pursuant to section 102 of CERCLA.
- (c) Any hazardous waste having the characteristics identified under or listed pursuant to section 49-922.
- (d) Any hazardous air pollutant listed under section 112 of the federal clean air act (42 United States Code section 7412).
- (e) Any imminently hazardous chemical substance or mixture with respect to which the administrator has taken action pursuant to section 7 of the federal toxic substances control act (15 United States Code section 2606).
- (f) Any substance which the director, by rule, either designates as a hazardous substance following the designation of the substance by the administrator under the authority described in subdivisions (a) through (e) of this paragraph or designates as a hazardous substance on the basis of a determination that such substance represents an imminent and substantial endangerment to public health.

~~19:~~ 20. "Inert material" means broken concrete, asphaltic pavement, manufactured asbestos-containing products, brick, rock, gravel, sand and soil. Inert material also includes material that when subjected to a water leach test that is designed to approximate natural infiltrating waters will not leach substances in concentrations that exceed numeric aquifer water quality standards established pursuant to section 49-223, including overburden and wall rock that is not acid generating, taking into consideration acid neutralization potential, and that has not and will not be subject to mine leaching operations.

~~20:~~ 21. "Major modification" means a physical change in an existing facility or a change in its method of operation that results in a significant increase or adverse alteration in the characteristics or volume of the pollutants discharged, or the addition of a process or major piece of production equipment, building or structure that is physically separated from the existing operation and that causes a discharge, provided that:

(a) A modification to a groundwater protection permit facility as defined in section 49-241.01, subsection C that would qualify for an area-wide permit pursuant to section 49-243, subsection P consisting of an activity or structure listed in section 49-241, subsection B shall not constitute a major modification solely because of that listing.

(b) For a groundwater protection permit facility as defined in section 49-241.01, subsection C, a physical expansion that is accomplished by lateral accretion or upward expansion within the pollutant management area of the existing facility or group of facilities shall not constitute a major modification if the accretion or expansion is accomplished through sound engineering practice in a manner compatible with existing facility design, taking into account safety, stability and risk of environmental release. For a facility described in section 49-241.01, subsection C, paragraph 1, expansion of a facility shall conform with the terms and conditions of the applicable permit. For a facility described in section 49-241.01, subsection C, paragraph 2, if the area of the contemplated expansion is not identified in the notice of disposal, the owner or operator of the facility shall submit to the director the information required by section 49-243, subsection A, paragraphs 1, 2, 3 and 7.

~~21-~~ 22. "Navigable waters" means the waters of the United States as defined by section 502(7) of the clean water act (33 United States Code section 1362(7)).

~~22-~~ 23. "New facility" means a previously closed facility that resumes operation or a facility on which construction was begun after August 13, 1986 on a site at which no other facility is located or to totally replace the process or production equipment that causes the discharge from an existing facility. A major modification to an existing facility is deemed a new facility to the extent that the criteria in section 49-243, subsection B, paragraph 1 can be practicably applied to such modification. For **THE** purposes of this definition, construction on a facility has begun if the facility owner or operator has either:

(a) Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly or installation of a building, structure or equipment.

(b) Entered a binding contractual obligation to purchase a building, structure or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering and design studies, do not constitute a contractual obligation for purposes of this definition.

~~23-~~ 24. "Nonpoint source" means any conveyance which is not a point source from which pollutants are or may be discharged to navigable waters.

~~24-~~ 25. "On-site wastewater treatment facility" means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site.

~~25-~~ 26. "Permit" means a written authorization issued by the director or prescribed by this chapter or in a rule adopted under this chapter stating the conditions and restrictions governing a discharge or governing the construction, operation or modification of a facility.

~~26-~~ 27. "Person" means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity.

~~27-~~ 28. "Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged to navigable waters. Point source does not include return flows from irrigated agriculture.

~~28-~~ 29. "Pollutant" means fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances.

~~29-~~ 30. "Postclosure monitoring and maintenance" means those activities that are conducted after closure notification and that are necessary to:

(a) Keep the facility in compliance with aquifer water quality standards at the applicable point of compliance.

(b) Verify that the closure design has eliminated discharge to the extent intended.

(c) Perform any remedial or mitigative action necessary to comply with this chapter.

(d) Meet property use restrictions.

- ~~30-~~ 31. "Practicably" means able to be reasonably done from the standpoint of technical practicability and, except for pollutants addressed in section 49-243, subsection I, economically achievable on an industry-wide basis.
- ~~31-~~ 32. "Reclaimed water" means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.
- ~~32-~~ 33. "Regulated agricultural activity" means the application of nitrogen fertilizer or a concentrated animal feeding operation.
- ~~33-~~ 34. "Safe drinking water act" means the federal safe drinking water act, as amended (P.L. 93-523; 88 Stat. 1660; 95-190; 91 Stat. 1393).
- ~~34-~~ 35. "Standards" means water quality standards, pretreatment standards and toxicity standards established pursuant to this chapter.
- ~~35-~~ 36. "Standards of performance" means performance standards, design standards, best management practices, technologically based standards and other standards, limitations or restrictions established by the director by rule or by permit condition.
- ~~36-~~ 37. "Tank" means a stationary device, including a sump, that is constructed of concrete, steel, plastic, fiberglass, or other non-earthen material that provides substantial structural support, and that is designed to contain an accumulation of solid, liquid or gaseous materials.
- ~~37-~~ 38. "Toxic pollutant" means a substance that will cause significant adverse reactions if ingested in drinking water. Significant adverse reactions are reactions that may indicate a tendency of a substance or mixture to cause long lasting or irreversible damage to human health.
- ~~38-~~ 39. "Trade secret" means information to which all of the following apply:
- (a) A person has taken reasonable measures to protect from disclosure and the person intends to continue to take such measures.
  - (b) The information is not, and has not been, reasonably obtainable without the person's consent by other persons, other than governmental bodies, by use of legitimate means, other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding.
  - (c) No statute specifically requires disclosure of the information to the public.
  - (d) The person has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position.
- ~~39-~~ 40. "Vadose zone" means the zone between the ground surface and any aquifer.
- ~~40-~~ 41. "Waters of the state" means all waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding

reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state.

~~41.~~ 42. "Well" means a bored, drilled or driven shaft, pit or hole whose depth is greater than its largest surface dimension.

Sec. 3. Title 49, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 49-204, to read:

49-204. Gray water reuse

A CITY, TOWN OR COUNTY MAY NOT FURTHER LIMIT THE USE OF GRAY WATER BY RULE OR ORDINANCE IF THE GRAY WATER USE IS ALLOWED BY A PERMIT THAT IS ISSUED BY THE DEPARTMENT FOR THE DIRECT REUSE OF RECLAIMED WATER, UNLESS, IN AN INITIAL ACTIVE MANAGEMENT AREA THAT HAS A GROUNDWATER MANAGEMENT GOAL OF SAFE YIELD AND THAT DOES NOT CONTAIN A PART OF THE CENTRAL ARIZONA PROJECT AQUEDUCT, EFFLUENT HAS BEEN INCLUDED IN AN ASSURED WATER SUPPLY DETERMINATION PURSUANT TO SECTION 45-576 AND THE USE OF GRAY WATER WOULD REDUCE THE VOLUME OF EFFLUENT AVAILABLE TO SATISFY ASSURED WATER SUPPLY REQUIREMENTS APPLICABLE TO THAT DETERMINATION.

Sec. 4. Title 49, chapter 2, article 10, Arizona Revised Statutes, is amended by adding section 49-362, to read:

49-362. Calculation of wastewater treatment capacity; gray water; definition

A. THE DEPARTMENT MAY ADOPT RULES FOR CALCULATING A REDUCTION IN CAPACITY OR DESIGN FLOW FOR SEWAGE TREATMENT FACILITIES IF GRAY WATER REUSE INFRASTRUCTURE FOR A SUBDIVISION IS APPROVED BY THE DEPARTMENT.

B. FOR THE PURPOSES OF THIS SECTION, "SUBDIVISION" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-2101.

Sec. 5. Section 49-701, Arizona Revised Statutes, is amended to read:

49-701. Definitions

In this chapter, unless the context otherwise requires:

1. "Administratively complete plan" means an application for a solid waste facility plan approval that the department has determined contains each of the components required by statute or rule but that has not undergone technical review or public notice by the department.
2. "Administrator" means the administrator of the United States environmental protection agency.

3. "Closed solid waste facility" means any of the following:
  - (a) A solid waste facility that ceases storing, treating, processing or receiving for disposal solid waste before the effective date of design and operation rules for that type of facility adopted pursuant to section 49-761.
  - (b) A public solid waste landfill that meets any of the following criteria:
    - (i) Ceased receiving solid waste prior to July 1, 1983.
    - (ii) Ceased receiving solid waste and received at least two feet of cover material prior to January 1, 1986.
    - (iii) Received approval for closure from the department.
  - (c) A public composting plant or a public incinerating facility that closed in accordance with an approved plan.
4. "Conditionally exempt small quantity generator waste" means hazardous waste in quantities as defined by rules adopted pursuant to section 49-922.
5. "Construction debris" means solid waste derived from the construction, repair or remodeling of buildings or other structures.
6. "County" means:
  - (a) The board of supervisors in the context of the exercise of powers or duties.
  - (b) The unincorporated areas in the context of area of jurisdiction.
7. "Demolition debris" means solid waste derived from the demolition of buildings or other structures.
8. "Discharge" has the same meaning prescribed in section 49-201.
9. "Existing solid waste facility" means a solid waste facility that begins construction or is in operation on the effective date of the design and operation rules adopted by the director pursuant to section 49-761 for that type of solid waste facility.
10. "Facility plan" means any design or operating plan for a solid waste facility or group of solid waste facilities.
11. "40 C.F.R. part 257" means 40 Code of Federal Regulations part 257 in effect on May 1, 2004.
12. "40 C.F.R. part 258" means 40 Code of Federal Regulations part 258 in effect on May 1, 2004.
13. "Household hazardous waste" means solid waste as described in 40 Code of Federal Regulations section 261.4(b)(1) as incorporated by reference in the rules adopted pursuant to chapter 5 of this title.
14. "Household waste" means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger

stations, crew quarters, campgrounds, picnic grounds and day use recreation areas, not including construction debris, landscaping rubble or demolition debris.

15. "Inert material":

(a) Means material that satisfies all of the following conditions:

(i) Is not flammable.

(ii) Will not decompose.

(iii) Will not leach substances in concentrations that exceed applicable aquifer water quality standards prescribed by section 49-201, paragraph 49 20 when subjected to a water leach test that is designed to approximate natural infiltrating waters.

(b) Includes concrete, asphaltic pavement, brick, rock, gravel, sand, soil and metal, if used as reinforcement in concrete, but does not include special waste, hazardous waste, glass or other metal.

16. "Land disposal" means placement of solid waste in or on land.

17. "Landscaping rubble" means material that is derived from landscaping or reclamation activities and that may contain inert material and no more than ten per cent by volume of vegetative waste.

18. "Management agency" means any person responsible for the day-to-day operation, maintenance and management of a particular public facility or group of public facilities.

19. "Medical waste" means any solid waste which is generated in the diagnosis, treatment or immunization of a human being or animal or in any research relating to that diagnosis, treatment or immunization, or in the production or testing of biologicals, and includes discarded drugs but does not include hazardous waste as defined in section 49-921 other than conditionally exempt small quantity generator waste.

20. "Municipal solid waste landfill" means any solid waste landfill that accepts household waste, household hazardous waste or conditionally exempt small quantity generator waste.

21. "New solid waste facility" means a solid waste facility that begins construction or operation after the effective date of design and operating rules that are adopted pursuant to section 49-761 for that type of solid waste facility.

22. "On site" means the same or geographically contiguous property that may be divided by public or private right-of-way if the entrance and exit between the properties are at a crossroads intersection and access is by crossing the right-of-way and not by traveling along the right-of-way. Noncontiguous properties that are owned by the same person and connected by a right-of-way that is

controlled by that person and to which the public does not have access are deemed on site property. Noncontiguous properties that are owned or operated by the same person regardless of right-of-way control are also deemed on site property.

23. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, this state or any of its agencies, departments, political subdivisions, counties, towns or municipal corporations, as well as a natural person.

24. "Process" or "processing" means the reduction, separation, recovery, conversion or recycling of solid waste.

25. "Public solid waste facility" means a transfer facility and any site owned, operated or utilized by any person for the storage, processing, treatment or disposal of solid waste that is not generated on site.

26. "Recycling facility" means a solid waste facility that is owned, operated or used for the storage, treatment or processing of recyclable solid waste and that handles wastes that have a significant adverse effect on the environment.

27. "Salvaging" means the removal of solid waste from a solid waste facility with the permission and in accordance with rules or ordinances of the management agency for purposes of productive reuse.

28. "Scavenging" means the unauthorized removal of solid waste from a solid waste facility.

29. "Solid waste facility" means a transfer facility and any site owned, operated or utilized by any person for the storage, processing, treatment or disposal of solid waste, conditionally exempt small quantity generator waste or household hazardous waste but does not include the following:

(a) A site at which less than one ton of solid waste that is not household waste, household hazardous waste, conditionally exempt small quantity generator waste, medical waste or special waste and that was generated on site is stored, processed, treated or disposed in compliance with section 49-762.07, subsection F.

(b) A site at which solid waste that was generated on site is stored for ninety days or less.

(c) A site at which nonputrescible solid waste that was generated on site in amounts of less than one thousand kilograms per month per type of nonputrescible solid waste is stored and contained for one hundred eighty days or less.

- (d) A site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material and that is not a waste tire facility, a transfer facility or a recycling facility.
- (e) A site where sludge from a wastewater treatment facility is applied to the land as a fertilizer or beneficial soil amendment in accordance with sludge application requirements.
- (f) A closed solid waste facility.
- (g) A solid waste landfill that is performing or has completed postclosure care before July 1, 1996 in accordance with an approved postclosure plan.
- (h) A closed solid waste landfill performing a onetime removal of solid waste from the closed solid waste landfill, if the operator provides a written notice that describes the removal project to the department within thirty days after completion of the removal project.
- (i) A site where solid waste generated in street sweeping activities is stored, processed or treated prior to disposal at a solid waste facility authorized under this chapter.
- (j) A site where solid waste generated at either a drinking water treatment facility or a wastewater treatment facility is stored, processed, or treated on site prior to disposal at a solid waste facility authorized under this chapter, and any discharge is regulated pursuant to chapter 2, article 3 of this title.
- (k) A closed solid waste landfill where development activities occur on the property or where excavation or removal of solid waste is performed for maintenance and repair provided the following conditions are met:
  - (i) When the project is completed there will not be an increase in leachate that would result in a discharge.
  - (ii) When the project is completed the concentration of methane gas will not exceed twenty-five per cent of the lower explosive limit in on-site structures, or the concentration of methane gas will not exceed the lower explosive limit at the property line.
  - (iii) Protection has been provided to prevent remaining waste from causing any vector, odor, litter or other environmental nuisance.
  - (iv) The operator provides a notice to the department containing the information required by section 49-762.07, subsection A, paragraphs 1, 2 and 5 and a brief description of the project.
- (l) Agricultural on-site disposal as provided in section 49-766.

- (m) The use, storage, treatment or disposal of by-products of regulated agricultural activities as defined in section 49-201 and that are subject to best management practices pursuant to section 49-247 or by-products of livestock, range livestock and poultry as defined in section 3-1201, pesticide containers that are regulated pursuant to title 3, chapter 2, article 6 or other agricultural crop residues.
- (n) Household hazardous waste collection events held at a temporary site for not more than six days in any calendar quarter.
- (o) Wastewater treatment facilities as defined in section 49-1201.
- (p) An on-site single family household waste composting facility.
- (q) A site at which five hundred or fewer waste tires are stored.
- (r) A site at which mining industry off-road waste tires are stored or are disposed of as prescribed by rules in effect on February 1, 1996, until the director by rule determines that on-site recycling methods exist that are technically feasible and economically practical.
- (s) A site at which underground piping, conduit, pipe covering or similar structures are abandoned in place in accordance with applicable state and federal laws.

30. "Solid waste landfill" means a facility, area of land or excavation in which solid wastes are placed for permanent disposal. Solid waste landfill does not include a land application unit, surface impoundment, injection well, compost pile or waste pile or an area containing ash from the on-site combustion of coal that does not contain household waste, household hazardous waste or conditionally exempt small quantity generator waste.

31. "Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

32. "Solid waste management plan" means the plan which is adopted pursuant to section 49-721 and which provides guidelines for the collection, source separation, storage, transportation, processing, treatment, reclamation and disposal of solid waste in a manner that protects public health and safety and the environment and prevents and abates environmental nuisances.

33. "Storage" means the holding of solid waste.

34. "Transfer facility" means a site that is owned, operated or used by any person for the rehandling or storage for ninety days or less of solid waste that

was generated off site for the primary purpose of transporting that solid waste. Transfer facility includes those facilities that include significant solid waste transfer activities that warrant the facility's regulation as a transfer facility.

35. "Treatment" means any method, technique or process used to change the physical, chemical or biological character of solid waste so as to render that waste safer for transport, amenable for processing, amenable for storage or reduced in volume.

36. "Vegetative waste" means waste derived from plants, including tree limbs and branches, stumps, grass clippings and other waste plant material. Vegetative waste does not include processed lumber, paper, cardboard and other manufactured products that are derived from plant material.

37. "Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

38. "Waste tire" does not include tires used for agricultural purposes as bumpers on agricultural equipment or as ballast to maintain covers at an agricultural site, or any tire disposed of using any of the methods in section 44-1304, subsection D, paragraphs 1, 2, 3, 5 through 8 and 11 and means any of the following:

(a) A tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(b) A tire that is removed from a motor vehicle and is retained for further use.

(c) A tire that has been chopped or shredded.

39. "Waste tire facility" means a solid waste facility at which five thousand or more waste tires are stored outdoors on any day.

APPROVED BY THE GOVERNOR APRIL 26, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**HB 2521 water systems; interim operators  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** HB 2521, Chapter 194

**SHORT TITLE:** Water Systems; Interim Operators

**PRIME SPONSOR(S):** Representatives: Alvarez  
Garcia, M.  
Burns, J.  
Kirkpatrick  
Downing  
Sinema

**BILL SUMMARY:** HB 2521 contains the following provisions:

- Allows WIFA to administer the Small Water Systems Fund, if designated by DEQ.
- Allows WIFA to provide emergency grants to interim operators or managers of small water systems that are approved by the ACC.
- Permits WIFA, upon ACC recommendation, to approve grants to interim operators or managers, if immediate financial assistance is required to repair or rehabilitate a public water system in order to correct or avoid an interruption in water service.
- Includes an emergency clause.

**SIGNIFICANCE TO AGENCY:** There is no direct significance to the Arizona Department of Water Resources, however, it does provide a water management tool to rural Arizona to help to better meet rural Arizona residents' water needs.

**REQUIRED OUTCOME(S):** The Arizona Department of Water Resources has no role regarding the implementation of this legislation

- **Rule**  
No rules are required for the implementation of HB 2521.

- **Legislation**  
No legislation is required for the implementation of HB 2521.
- **Substantive Policy**  
No substantive policy is required for the implementation of HB 2521.

**ACTION(S) REQUIRED:**

No action by the Arizona Department of Water Resources is required.

**DIVISION STAFF SUPPORT REQUIRED:**

- **Statewide Planning:** Should be aware of the legislation, however, no specific action is required by this division.

**TIMELINE:**

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Senate Engrossed House Bill  
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State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006  
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CHAPTER 194  
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HOUSE BILL 2521  
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**AN ACT**

**AMENDING SECTION 49-355, ARIZONA REVISED STATUTES; RELATING TO POTABLE WATER SYSTEMS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 49-355, Arizona Revised Statutes, is amended to read:

**49-355. Small water systems fund**

A. A small water systems fund is established in the department of environmental quality. **ON DESIGNATION OF THE DIRECTOR OF ENVIRONMENTAL QUALITY, THE FUND MAY BE ADMINISTERED BY THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.** The fund consists of monies appropriated by the legislature. Monies in the fund are exempt from lapsing under section 35-190. Interest earned on monies in the fund shall be credited to the fund.

B. Monies from the small water systems fund shall be used to:

1. Develop public education and information programs for owners, operators and customers of small water systems.
2. Provide advice and assistance in managerial, accounting, engineering and other technical areas for owners and operators of small water systems.
3. Integrate and coordinate information ~~data-bases~~ **DATABASES** among the government agencies involved in regulating small water systems.
4. Develop other programs which would benefit the owners, operators and customers of small water systems.

**5. PROVIDE EMERGENCY GRANTS TO INTERIM OPERATORS OR INTERIM MANAGERS OF SMALL WATER SYSTEMS THAT ARE APPOINTED BY THE ARIZONA CORPORATION COMMISSION TO REPAIR WATER INFRASTRUCTURE.**

**C. ON RECOMMENDATION OF THE ARIZONA CORPORATION COMMISSION THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA MAY APPROVE A GRANT TO AN INTERIM OPERATOR OR AN INTERIM MANAGER OF A SMALL**

WATER SYSTEM PURSUANT TO SUBSECTION B, PARAGRAPH 5 OF THIS SECTION ONLY IF THE OPERATOR OR MANAGER DEMONSTRATES THAT IT REQUIRES IMMEDIATE FINANCIAL ASSISTANCE TO MAKE REPAIRS TO OR TO REHABILITATE THE PUBLIC WATER SYSTEM THAT IS OPERATED BY THE INTERIM OPERATOR OR MANAGER IN ORDER TO CORRECT OR AVOID AN INTERRUPTION IN WATER SERVICE.

Sec. 2. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR APRIL 24, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**HB 2835 Arizona water settlements act; implementation  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** HB 2835, Chapter 114

**SHORT TITLE:** Arizona Water Settlements Act; Implementation

**PRIME SPONSOR(S):** Representative: Weiers, J.

**BILL SUMMARY:** HB 2835 contains the following provisions:

- Authorizes the Arizona Water Banking Authority to act as the agent of the state for purposes of implementing and meeting the state's obligations relating to firming the Indian settlement water supplies, and specifically allows the Arizona Water Banking Authority to:
  - Deliver water directly to Indian communities.
  - Store additional sources of water, specifically effluent and surface water other than Colorado River water.
  - Distribute long-term storage credits to meet tribal water needs as required by the Indian firming program.
  - Establish a subaccount within the Arizona Water Banking Fund to implement the Indian firming program.
  - Clarifies that groundwater withdrawal fees can be used to firm municipal and industrial supplies, as well as Indian firming purposes.
  - Enter into leasing agreements or contracts with various, specified entities to store, recover, lease and deliver water.
- Clarifies that long-term storage credits may be used to meet the needs of Central Arizona Water Conservation District subcontractors during times of shortage or in the event the Central Arizona Project Canal operations are disrupted.
- Allows groundwater to be transferred from McMullen Valley and the Harquahala Irrigation Non-expansion Area for use by the Arizona Water Banking Authority to meet Indian firming obligations; current law prohibits the transfer of groundwater from rural areas to active management areas, unless specifically permitted.
- Allows a portion of the groundwater withdrawal fees collected in the Phoenix, Pinal and Tucson Active Management Areas to be used to meet Indian firming obligations.

- Authorizes the use of General Fund appropriations and groundwater withdrawal fees to implement the Indian firming program. Requires the Arizona Water Banking Authority to use General Fund appropriations before using groundwater withdrawal fees.
- Revises a current legislative intent section of law to add a statement that says it is in the best interest of the state to facilitate storage and delivery of water to settle Indian water rights claims.
- Modifies the definition of *municipal provider* to include all special taxing districts that supply water for non-irrigation uses.
- Corrects several references to *eastern protection zones* and to *water stored and recovered on an annual basis* for purposes of properly calculating replenishment obligations.
- Provides a conditional enactment for several sections of HB 2835; certain sections of HB 2835 amend statutes that do not become effective until the Secretary of Interior finalizes the water settlement agreement.

**SIGNIFICANCE TO AGENCY:** HB 2835 establishes the Arizona Water Banking Authority as the agent of the State with the responsibility for firming water for Indian Water Rights Settlements and provides a mechanism for funding for those supplies. Providing a firming mechanism is an important component in finalizing the Arizona Water Rights Settlement Act in 2007.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rules are required for the implementation of HB 2835.
- **Legislation**  
No legislation is required for the implementation of HB 2835.
- **Substantive Policy**  
No substantive policy is required for the implementation of HB 2835.

**ACTION(S) REQUIRED:**

Prior to the Enforceability Date (December 31, 2007 or earlier), the Department, the Arizona Water Banking Authority and the Secretary of the Interior must agree on firming plans. The Arizona Water Banking Authority will implement the agreed upon plan.

The Recharge staff of the Arizona Department of Water Resources will work with the Arizona Water Banking Authority to develop the necessary permits to complete the firming obligation.

**DIVISION STAFF SUPPORT REQUIRED:**

- Legal
- Arizona Water Banking Authority
- Water Management Recharge Group

**TIMELINE:**

Agreement between the Secretary of the Interior and the Director of the Department of Water Resources pursuant to P.L. 108-451 must be completed by December 2006.

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House Engrossed

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State of Arizona  
House of Representatives  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 114

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HOUSE BILL 2835  
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AN ACT

AMENDING SECTIONS 45-552 AND 45-554, ARIZONA REVISED STATUTES;  
AMENDING SECTION 45-611, ARIZONA REVISED STATUTES, AS AMENDED BY  
LAWS 2005, CHAPTER 143, SECTION 1; AMENDING SECTIONS 45-2401 AND 45-  
2402, ARIZONA REVISED STATUTES; AMENDING SECTION 45-2423, ARIZONA  
REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 4;  
AMENDING SECTION 45-2425, ARIZONA REVISED STATUTES, AS AMENDED BY  
LAWS 2005, CHAPTER 143, SECTION 5 AND CHAPTER 332, SECTION 1;  
AMENDING SECTION 45-2457, ARIZONA REVISED STATUTES, AS AMENDED BY  
LAWS 2005, CHAPTER 143, SECTION 6; AMENDING TITLE 45, CHAPTER 14,  
ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS  
45-2601, 45-2611, 45-2622 AND 45-2626, ARIZONA REVISED STATUTES;  
RELATING TO WATERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-552, Arizona Revised Statutes, is amended to read:

45-552. [Transportation of groundwater withdrawn in McMullen valley basin to an active management area; definitions](#)

A. A city that purchased land before January 1, 1988 in the McMullen valley groundwater basin or a person who purchased land before January 1, 1988 that was in that basin and that was in the same county as an adjacent initial active management area ~~may~~, either directly or in exchange for central Arizona project water allocated for agricultural purposes, **MAY** transport groundwater from that land to an adjacent initial active management area for use by any city, town, private water company or groundwater replenishment district. A city, town, private water company or groundwater replenishment district that purchases any land in the McMullen valley groundwater basin from that city or land that was in

that basin and that was in the same county as an adjacent initial active management area from that person **may**, either directly or in exchange for central Arizona project water allocated for agricultural purposes, **MAY** transport groundwater from that land to the adjacent initial active management area only for use by a city, town, private water company or groundwater replenishment district **OR THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491**. The amount of groundwater that may be transported away from the basin shall be determined pursuant to subsection B of this section but shall not exceed:

1. In any year, two times the annual transportation allotment for the land determined pursuant to subsection B of this section.
2. For any period of ten consecutive years computed in continuing progressive series beginning in the year transportation of groundwater from the land begins, ten times the annual transportation allotment for the land determined pursuant to subsection B of this section.
3. Six million acre-feet in total.

B. The director shall determine the annual transportation allotment for land that is subject to this section as follows:

1. Determine each farm or portion of a farm on that land.
2. For each such farm or portion of a farm, determine the historically irrigated acres.
3. Multiply the sum of those historically irrigated acres for all such farms or portions of farms by three acre-feet per acre.

C. In an initial active management area, for purposes of determining whether to issue a certificate of assured water supply or to designate or redesignate a city, town or private water company as having an assured water supply, pursuant to section 45-576, based in whole or in part on groundwater transported from the groundwater basin under this section, the director shall consider only the amount of groundwater that can be withdrawn in the groundwater basin from a depth to one thousand two hundred feet at the site or sites of the proposed withdrawals at a rate that, when added to the existing rates of withdrawal in the area, is not expected to cause the groundwater table at the site or sites to decline more than an average of ten feet per year during the one hundred year evaluation period and does not exceed forty per cent of the groundwater that can be withdrawn in the groundwater basin, less the sum of the following amounts of groundwater in the groundwater basin:

1. The total amount on which the director has already based certificates or designations of assured water supply in an initial active management area.
2. The total amount transported to an initial active management area for other purposes.

D. For **THE** purposes of this section:

1. Land that is owned by a city, town, private water company or groundwater replenishment district includes land that is owned indirectly through a nonprofit corporation or other entity that is owned or controlled by the city, town, private water company or groundwater replenishment district.

~~3-~~ 2. "Historically irrigated acres" means land overlying an aquifer that was irrigated with groundwater from that aquifer before January 1, 1988.

~~2-~~ 3. "Person" means person as defined in section 45-402 and a person who purchased land before January 1, 1988 includes any successor in interest of that person if the successor acquires an interest in the land by means of either of the following:

(a) Inheritance, devise or intrafamily gift or conveyance directly or in trust.

(b) The reorganization of a closely held corporation, a partnership or a limited liability company that is and remains owned by or controlled by or for the benefit of individuals related to that person.

Sec. 2. Section 45-554, Arizona Revised Statutes, is amended to read:

45-554. [Transportation of groundwater withdrawn in Harquahala irrigation non-expansion area to an initial active management area](#)

A. A groundwater replenishment district established under title 48, chapter 27 may lease from an irrigation district located entirely within the Harquahala irrigation non-expansion area the use of one or more of the wells in the irrigation district to withdraw the groundwater that can be withdrawn from a depth to one thousand feet, at a rate that, when added to the existing rates of withdrawal in the area, does not cause the groundwater table at the site or sites to decline more than ten feet per year, for transportation to an initial active management area. The lease payments shall be made to the members of the irrigation district on a pro rata basis, per acre of land that is eligible to be irrigated under section 45-437, subsection B, minus the irrigation district's administrative costs. Wells leased under this subsection are exempt from well spacing requirements under section 45-559.

B. **THIS STATE OR** a political subdivision **OF THIS STATE** that owns land eligible to be irrigated under section 45-437, subsection B in the Harquahala irrigation non-expansion area may withdraw groundwater from the land for transportation

to an initial active management area [FOR ITS OWN USE OR USE BY THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491](#) only:

1. If the groundwater is withdrawn:

(a) From a depth to one thousand feet at the site or sites of the proposed withdrawals.

(b) At a rate that, when added to the existing rate of withdrawals in the area, does not cause the groundwater table at the site or sites of the withdrawals to decline more than an average of ten feet per year during the one hundred year evaluation period.

2. In an amount either:

(a) Per acre of the eligible land, not to exceed:

(i) Six acre-feet in any year.

(ii) Thirty acre-feet for any period of ten consecutive years computed in continuing progressive series beginning in the year transportation of groundwater from the land begins.

(b) Established by the director, but only if the director determines that withdrawals in an amount greater than that permitted by subdivision (a) of this paragraph will not unreasonably increase damage to residents of surrounding land and other water users in the irrigation non-expansion area, or that one or more of the entities withdrawing the groundwater will mitigate the damage to the residents and other water users.

C. If this state or one or more political subdivisions of this state own eighty per cent or more of the land that is eligible to be irrigated under section 45-437, subsection B in the irrigation non-expansion area, each of the entities may withdraw groundwater from the eligible land it owns for transportation to an initial active management area:

1. From a depth to one thousand feet at the site or sites of withdrawals.

2. From a depth between one thousand and one thousand two hundred feet at the site or sites of the withdrawals only if the director determines either that the withdrawals will not unreasonably increase damage to residents of surrounding land or that one or more of the entities withdrawing the groundwater will mitigate the damage to the residents.

Sec. 3. Section 45-611, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 1, is amended to read:

[45-611. Groundwater withdrawal fee; amounts and purposes of fee; exception](#)

A. Except as provided in subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person withdrawing

groundwater in the Prescott active management area or the person who owns the right to withdraw the groundwater, in an amount not to exceed five dollars per acre-foot of groundwater withdrawn and beneficially used. The director shall levy and collect an annual withdrawal fee from each person withdrawing water, other than stored water, from a well in the Santa Cruz active management area or the person who owns the right to withdraw the water, in an amount not to exceed five dollars per acre-foot of water, other than stored water, that is withdrawn and beneficially used. For purposes of this article, the annual withdrawal fee levied and collected in the Santa Cruz active management area shall be considered a groundwater withdrawal fee. The actual amount of the fee levied and collected by the director pursuant to this subsection shall be set by the director as follows:

1. For administration and enforcement of this chapter, an amount not less than fifty cents and not greater than one dollar per acre-foot per year. The initial fee for administration and enforcement shall be levied as soon as practicable after the active management area is established.
  2. For augmentation of the water supply of the active management area, conservation assistance to water users within the active management area and monitoring and assessing water availability within the active management area, an amount not greater than two dollars per acre-foot per year.
  3. For purchasing and retiring grandfathered rights, an amount not greater than two dollars per acre-foot per year. The initial fee for purchasing and retiring grandfathered rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of grandfathered rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee under this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for a non-irrigation use in the district.
- B. A person, other than an irrigation district, who withdraws groundwater in an active management area from a non-exempt well for use pursuant to an irrigation grandfathered right that is appurtenant to ten or fewer irrigation acres and the person who owns the right to withdraw the groundwater are exempt from the groundwater withdrawal fee requirements of subsections A and C of this section for those withdrawals unless the irrigation acres are part of an integrated farming operation.
- C. Except as provided in section 45-411.01, subsection C and subsection B of this section, the director shall levy and collect an annual groundwater withdrawal

fee from each person who withdraws groundwater in the Tucson, Phoenix and Pinal active management areas or the person who owns the right to withdraw the groundwater, in an amount of not more than five dollars per acre-foot of groundwater withdrawn and beneficially used. The director shall set the actual amount of the fee as follows:

1. In the Tucson and Phoenix active management areas, beginning in 2017, for administration and enforcement of this chapter, an amount of at least fifty cents but not more than one dollar per acre-foot per year. In the Pinal active management area, beginning in 2017, for administration and enforcement of this chapter, an amount of not more than one dollar per acre-foot per year.
2. Through 2016, for augmentation of the water supply of the active management area, conservation assistance to water users within the active management area and monitoring and assessing water availability within the active management area, an amount of not more than fifty cents per acre-foot per year, and after 2016, an amount of not more than two dollars per acre-foot per year. If a permanent board of directors of an active management area water district assumes office under section 48-4831, the fee for augmentation under this paragraph shall not be levied in that active management area.
3. In the Tucson and Phoenix active management areas, ~~through 2016~~, for Arizona water banking purposes, the amount of two dollars fifty cents per acre-foot per year. In the Pinal active management area, through 2016, for Arizona water banking purposes, including replenishment under chapter 15, article 3 of this title, the amount of two dollars fifty cents per acre-foot per year and, beginning in 2017, for Arizona water banking purposes, including replenishment under chapter 15, article 3 of this title, an amount of not more than two dollars fifty cents per acre-foot per year.
4. For purchasing and retiring grandfathered rights, an amount of not more than two dollars per acre-foot per year. The initial fee for purchasing and retiring grandfathered rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of grandfathered rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee pursuant to this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for non-irrigation use in the district.

Sec. 4. Section 45-2401, Arizona Revised Statutes, is amended to read:

[45-2401. Declaration of policy and purpose](#)

A. The legislature finds that this state is currently and temporarily underutilizing both the entitlement to Colorado river water confirmed to it by the United States supreme court in Arizona v. California, 373 U.S. 546 (1963), and the central Arizona project, which has the capacity to divert into this state a significant portion of this state's entitlement to Colorado river water. The legislature further finds that, due to the low priority on the Colorado river of the central Arizona project and other Arizona Colorado river water users, the susceptibility of this state to future shortages of water on the Colorado river is a threat to the general economy and welfare of this state and its citizens.

B. The legislature further finds that water users within the central Arizona project service area also rely on other surface water supplies, that these supplies are susceptible to future shortages of water and that these shortages are a threat to the general economy and welfare of this state and its citizens.

C. The legislature further finds that future water needs in the states of California and Nevada could exceed the entitlements of those states to Colorado river water. Those future water needs could thereby affect the general economy and welfare of this state and its citizens because of the close economic ties among Arizona, California and Nevada.

D. The legislature further finds that Arizona water users could more efficiently manage, distribute and use available water resources through the storage of water supplies and through stored water lending arrangements, but that not all of these Arizona water users have the opportunities or resources needed to store water or enter into stored water lending arrangements.

E. The legislature further finds that for the purposes of this chapter diverting Colorado river water for storage off of the Colorado river system is a consumptive use of that water.

F. The legislature further finds that water banking is complimentary and compatible with existing water management efforts. The Arizona water banking authority will compliment and assist the activities of the central Arizona water conservation district in its mission to provide a dependable and cost-effective water supply.

G. The legislature therefore finds that it is in the best interest of the general economy and welfare of this state and its citizens to:

1. Use the central Arizona project to store otherwise unused Arizona entitlement to Colorado river water within this state to meet future water needs within this state.

2. Provide the opportunity to the states of California and Nevada to store currently unused Colorado river water in Arizona to meet future needs in those states.

3. Provide the opportunity to facilitate the storage of water and stored water lending arrangements by entities in Arizona that may not have the opportunities or resources needed to store water.

#### 4. PROVIDE THE OPPORTUNITY TO FACILITATE THE SETTLEMENT OF INDIAN WATER RIGHTS CLAIMS BY DELIVERING AND STORING WATER.

H. The public policy and general purposes of this chapter are to:

1. Increase utilization of Arizona's Colorado river entitlement that was confirmed to Arizona by the United States supreme court in article ii(b)(1), (2) and (6) of the decree entered at Arizona v. California, 376 U.S. 340 (1964), and that would otherwise be unused in Arizona, by delivering that water into this state through the central Arizona project aqueducts.

2. Store water brought into this state through the central Arizona project to protect Arizona municipal and industrial water users against future water shortages on the Colorado river and disruptions of operation of the central Arizona project.

3. Store water brought into this state through the central Arizona project to fulfill the water management objectives of this state set forth in chapter 2 of this title.

4. Provide the opportunity for storing water brought into this state through the central Arizona project to be available to implement the settlement of water right claims by Indian communities within Arizona.

5. Provide the opportunity to authorized agencies in the states of California and Nevada to store otherwise unused Colorado river water in Arizona to assist those states in meeting future water needs.

6. Provide the opportunity to facilitate the storage of water and stored water lending arrangements by entities in Arizona that may not have the opportunities or resources needed to store water.

Sec. 5. Section 45-2402, Arizona Revised Statutes, is amended to read:

#### 45-2402. Definitions

Unless the context otherwise requires, the terms defined in sections 45-101, 45-402 and 45-802.01 have the same meaning in this chapter and for purposes of this chapter:

1. "Authority" means the Arizona water banking authority.

2. "Banking fund" means the Arizona water banking fund.

3. "Central Arizona water conservation district" or "CAWCD" means the multi-county water conservation district established under title 48, chapter 22.

4. "Commission" means the Arizona water banking authority commission.

5. "Decree" means the decree entered by the United States supreme court in Arizona v. California, 376 U.S. 340 (1964).

6. "INDIAN FIRING" MEANS MEASURES TAKEN TO ENSURE THAT CENTRAL ARIZONA PROJECT NON-INDIAN AGRICULTURAL PRIORITY WATER THAT IS MADE AVAILABLE TO INDIAN TRIBES PURSUANT TO PUBLIC LAW 108-451 MAY BE DELIVERED DURING WATER SHORTAGES IN THE SAME MANNER THAT WATER WITH A MUNICIPAL AND INDUSTRIAL PRIORITY IN THE CENTRAL ARIZONA PROJECT SYSTEM IS DELIVERED DURING WATER SHORTAGES.

~~6.~~ 7. "Water banking services" means services provided by the authority to persons and Indian communities in this state to facilitate for those persons and Indian communities storage of water and stored water lending arrangements. WATER BANKING SERVICES INCLUDE THE DIRECT DELIVERY OF WATER TO INDIAN COMMUNITIES IN THIS STATE IN REPLACEMENT OF OR SUPPLEMENTAL TO THE ACCRUAL OF LONG-TERM STORAGE CREDITS PURSUANT TO ARTICLE 5 OF THIS CHAPTER. Water banking services include only arrangements by which water will be made available for use in this state. Water banking services do not include interstate water banking undertaken by the authority pursuant to article 4 of this chapter. Water banking services may include:

(a) Storage of water.

(b) Obtaining water storage permits.

(c) Accruing, exchanging and assigning long-term storage credits.

(d) Lending and obtaining repayment of long-term storage credits.

~~7.~~ 8. "Water banking services agreement" means an agreement entered into between the authority and a person or Indian community in this state under which the authority will provide water banking services to that person or Indian community.

Sec. 6. Section 45-2423, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 4, is amended to read:

**45-2423. Powers and duties of authority**

A. The authority, acting through its commission, shall:

1. Administer the Arizona water banking fund in accordance with this chapter.

2. Coordinate its staffing needs with the director and CAWCD.

3. Coordinate the storage of water and distribution and extinguishment of long-term storage credits with the director in accordance with this chapter and the water management objectives set forth in chapter 2 of this title.
  4. Coordinate with CAWCD for the purchase, delivery and storage of Colorado river water delivered through the central Arizona project in accordance with this chapter.
  5. Coordinate and confer with state agencies, municipal corporations, special districts, authorities, other political subdivisions, private entities, Indian communities and the United States on matters within their jurisdiction relating to the policy and purposes of this chapter.
  6. Determine, on an annual basis, the quantity of Colorado river water, [SURFACE WATER OTHER THAN COLORADO RIVER WATER AND EFFLUENT](#) to be stored by the authority and where that storage will occur.
  7. Account for, hold and distribute or extinguish long-term storage credits in accordance with this chapter.
  8. Comply with all aspects of chapter 3.1 of this title.
  9. Perform the authority's replenishment responsibilities under chapter 15, article 3 of this title with monies appropriated from the state general fund by the legislature for that purpose and to the extent that monies appropriated by the legislature for that purpose are not available, with monies collected in the Pinal active management area pursuant to section 45-611, subsection C, paragraph 3.
  - [10. CARRY OUT THE OBLIGATIONS OF THIS STATE UNDER SECTION 105 OF PUBLIC LAW 108-451 AS AGENT FOR THIS STATE, INCLUDING THE DIRECT DELIVERY OF WATER TO INDIAN COMMUNITIES IN THIS STATE AND THE LEASING OF NON-INDIAN AGRICULTURAL PRIORITY AND INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER AS PRESCRIBED BY ARTICLE 5 OF THIS CHAPTER.](#)
  - ~~10~~ 11. Adopt an official seal for the authentication of its records, decisions and resolutions.
  - ~~11~~ 12. Keep the minutes of its meetings and all records, reports and other information relating to its work and programs in permanent form, systematically indexed and filed.
- B. The authority, acting through its commission, may:
1. Apply for and hold water storage permits.
  2. Accrue, exchange, assign, lend and hold long-term storage credits in accordance with this chapter.

3. Exchange Colorado river water for any type of water in accordance with chapter 4 of this title.
4. Enter into water banking services agreements.
5. Charge fees for water banking services.
6. Apply for and hold any water quality permit required for water storage by the department of environmental quality under title 49, chapter 2, article 3 or by federal law.
7. Make and execute all contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, that shall be signed by the chairperson, or in the chairperson's absence the vice-chairperson, and attested by the secretary, necessary to:
  - (a) Obtain for storage Colorado river water delivered through the central Arizona project. Agreements by which the authority obtains Colorado river water are exempt from the requirements of title 41, chapter 23.
  - (b) Obtain effluent **OR SURFACE WATER OTHER THAN COLORADO RIVER WATER** for storage but only after the authority has stored all available excess Central Arizona project water or when central Arizona project water is otherwise unavailable or undeliverable.
  - (c) Affiliate water storage permits held by the authority with storage facility permits.
  - (d) Store ~~Colorado river~~ water **FOR PURPOSES OF THIS CHAPTER** at permitted storage facilities.
  - (e) Distribute long-term storage credits earned by the authority to make water available to municipal and industrial users of Colorado river water in this state that are inside or outside of the CAWCD service area, in accordance with the provisions of this chapter.
  - (f) Store Colorado river water in Arizona on behalf of appropriately authorized agencies in California and Nevada.
  - (g) Cause a decrease in Arizona diversions from the Colorado river, ensuring that Arizona will use less than its full entitlement to Colorado river water in years in which California and Nevada agencies are contractually authorized to call on the water stored on their behalf by the authority.
  - (h) Distribute long-term storage credits earned by the authority on behalf of agencies in California and Nevada to Colorado river water users in Arizona to use in place of Colorado river water that would have otherwise been used by those Arizona users.

(i) Replenish water pursuant to chapter 15, article 3 of this title, including entering into an intergovernmental agreement with the Gila river Indian community pursuant to section 45-2624.

(j) **DISTRIBUTE LONG-TERM STORAGE CREDITS EARNED BY THE AUTHORITY TO MAKE WATER AVAILABLE TO INDIAN COMMUNITIES IN THIS STATE FOR INDIAN FIRING MEASURES PURSUANT TO ARTICLE 5 OF THIS CHAPTER.**

8. Sue and be sued.

9. Perform all other acts necessary for the authority to carry out its purposes, powers and duties in accordance with this chapter.

10. Submit a request for a general fund appropriation to the legislature each year. A request shall be accompanied by a budget detailing how the appropriation would be used and justifying the need for the appropriation.

11. Form temporary committees as deemed necessary by the authority to provide the authority with advice on issues identified by the authority. Advisory committees may consist of members of the public selected by the authority, members of the authority and authority staff.

12. Purchase long-term storage credits accrued by an Indian community pursuant to section 45-841.01, provided such long-term storage credits are distributed or extinguished in accordance with the rules of operation specified in section 45-2457 for the funds used by the authority to purchase the credits.

Sec. 7. Section 45-2425, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 5 and chapter 332, section 1, is amended to read:

**45-2425. Arizona water banking fund**

A. The Arizona water banking fund is established and shall include subaccounts based on funding sources. The authority shall administer the banking fund in accordance with this chapter.

B. The banking fund consists of all of the following:

1. Monies appropriated from the state general fund by the legislature for water banking purposes other than replenishment under chapter 15, article 3 of this title.

2. Monies appropriated from the state general fund by the legislature for replenishment under chapter 15, article 3 of this title.

3. Reimbursement for the distribution of long-term storage credits, collected by the authority in accordance with section 45-2457, subsection B, paragraph 2.

4. Monies paid to the authority by the recipients of in lieu water at a groundwater savings facility, in accordance with section 45-2455, subsection C.

5. Monies collected in accordance with section 45-611, subsection C, paragraph 3.

6. Monies deposited in the banking fund in accordance with section 48-3715.03, subsection B.

7. Monies paid to the authority by agencies that have entered into interstate water banking agreements with the authority in accordance with section 45-2471. All monies received through an interstate water banking agreement with the state of Nevada that are not used to purchase or store water or otherwise fulfill contractual obligations with the state of Nevada are subject to legislative appropriation.

8. Monies paid to the authority by persons and Indian communities in this state that have entered into water banking services agreements with the authority in accordance with section 45-2458.

C. In addition to the monies prescribed in this section, the authority may accept any gifts, grants or donations and deposit those monies in the banking fund.

D. Monies in the banking fund are exempt from ~~lapsing under~~ THE PROVISIONS OF section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. On notice from the authority, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the banking fund. The authority may invest the monies paid to the authority in accordance with section 45-2471, ~~Arizona Revised Statutes~~, with the state treasurer pursuant to section 35-326, ~~Arizona Revised Statutes~~.

E. The authority may use the banking fund to pay all reasonable expenses incurred in carrying out its duties and responsibilities in accordance with this chapter.

F. THE AUTHORITY SHALL ESTABLISH A RESERVE SUBACCOUNT IN THE FUND FOR THE DEPOSIT OF MONIES TO BE USED FOR THE PURPOSES OF ARTICLE 5 OF THIS CHAPTER.

Sec. 8. Section 45-2457, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 6, is amended to read:

45-2457. Accounting; rules of operation

A. The authority shall develop an accounting system for the long-term storage credits accrued by the authority. The accounting system shall be designed to allow the authority to determine which funding source of the banking fund paid for each long-term storage credit accrued by the authority.

B. The authority shall operate in accordance with all of the following rules of operation:

1. The authority shall reserve a reasonable number of long-term storage credits accrued with general fund appropriations, other than general fund appropriations for replenishment under chapter 15, article 3 of this title, for the benefit of municipal and industrial users of Colorado river water in this state that are outside of the service area of CAWCD.
2. The authority may distribute long-term storage credits accrued with general fund appropriations, other than general fund appropriations for replenishment under chapter 15, article 3 of this title, for both of the following:
  - (a) To make water available to a municipal and industrial user of Colorado river water in this state that is outside of the service area of CAWCD, if both of the following apply:
    - (i) The municipal and industrial user would otherwise suffer a water shortage. The authority may distribute long-term credits to the extent reasonably necessary to offset the water shortage.
    - (ii) The authority collects reimbursement for the cost to the authority of replacing the long-term storage credits distributed. The authority may replace the long-term storage credits in any year it deems appropriate but shall use good faith efforts to replace the long-term storage credits at a reasonable cost to the person who is responsible for reimbursing the authority for the credits distributed.
  - (b) To make water available to CAWCD to the extent necessary for CAWCD to meet the demands of its municipal and industrial subcontractors, if all of the following apply:
    - (i) CAWCD's normal diversions from the Colorado river have been or will be disrupted by shortages on the river or by disruptions in the operation of the central Arizona project.
    - (ii) The authority does not distribute for this purpose the long-term storage credits reserved in accordance with paragraph 1.
    - (iii) The authority collects reimbursement from CAWCD for the cost to the authority of replacing the long-term storage credits distributed. The authority may replace the long-term storage credits in any year it deems appropriate but shall use good faith efforts to replace the long-term storage credits at a reasonable cost to CAWCD.
3. The authority may distribute or extinguish long-term storage credits accrued with general fund appropriations, other than general fund appropriations for replenishment under chapter 15, article 3 of this title, to implement the settlement of water right claims by Indian communities in this state.

4. On request from the director, the authority may extinguish long-term storage credits accrued with general fund appropriations, other than general fund appropriations for replenishment under chapter 15, article 3 of this title, to fulfill the water management objectives set forth in chapter 2 of this title.
5. The authority may exchange long-term storage credits accrued with general fund appropriations for long-term storage credits held by other persons if the long-term storage credits received by the authority were stored in a location that better enables the authority to fulfill the purposes and policies of this chapter than were the long-term storage credits exchanged by the authority. For the purposes of this paragraph, the authority may make exchanges of long-term storage credits stored in one active management area for long-term storage credits stored in a different active management area or of long-term storage credits stored in one groundwater basin for long-term storage credits stored in a different groundwater basin.
6. The authority shall distribute or extinguish long-term storage credits accrued with monies collected in accordance with section 45-611, subsection C, paragraph 3 only for the benefit of the active management area in which the monies were collected. The authority may distribute or extinguish these long-term storage credits **TO THE EXTENT NECESSARY TO MEET THE DEMANDS OF CAWCD'S MUNICIPAL AND INDUSTRIAL SUBCONTRACTORS DURING TIMES IN WHICH CAWCD'S DIVERSIONS FROM THE COLORADO RIVER HAVE BEEN OR WILL BE DISRUPTED BY SHORTAGES ON THE COLORADO RIVER OR BY DISRUPTIONS IN OPERATION OF THE CENTRAL ARIZONA PROJECT**, to implement the settlement of water right claims by Indian communities in this state or, on request from the director, to meet the **OTHER** water management objectives set forth in chapter 2 of this title. The authority may use the monies collected in the Pinal active management area under section 45-611, subsection C, paragraph 3 to acquire long-term storage credits for replenishment purposes under chapter 15, article 3 of this title.
7. The authority shall distribute long-term storage credits accrued with monies deposited in the fund in accordance with section 48-3715.03, subsection B only for the benefit of the county in which the monies were collected. The authority shall distribute these long-term storage credits to CAWCD to the extent necessary to meet the demands of CAWCD's municipal and industrial subcontractors during times in which CAWCD's diversions from the Colorado river have been or will be disrupted by shortages on the Colorado river or by disruptions in operation of the central Arizona project.

8. For each county within the CAWCD service area, on a determination by the authority that the number of long-term storage credits accrued with monies deposited in the fund in accordance with section 48-3715.03, subsection B exceeds the needs specified in paragraph 7 for that county, the authority shall distribute those excess long-term storage credits to municipal water providers within that county that are at the time of distribution experiencing surface water supply shortages not associated with the central Arizona project. The authority shall distribute to each such municipal water provider the lesser of the following number of long-term storage credits:

(a) The total number of credits determined to be available by the authority under this paragraph multiplied by the percentage produced by dividing a numerator equaling the amount of revenues paid pursuant to section 48-3715.02, subsections B and C by taxpayers that are within both the boundaries of the municipal provider that is experiencing the shortage and the boundaries of the surface water supply system that is experiencing the shortage by a denominator equaling the total revenues paid pursuant to section 48-3715.02, subsections B and C by all taxpayers that are located within both the boundaries of a municipal water provider and the boundaries of a surface water supply system in the county. In making these computations, the authority shall use the amounts of revenue paid by taxpayers during the most recent tax year for which this information is available.

(b) Twenty per cent of the total surface water shortage that the municipal and industrial water provider is experiencing.

9. The authority shall distribute or replace long-term storage credits accrued with monies collected pursuant to water banking services agreements in accordance with the terms of those agreements.

10. The authority shall acquire sufficient water supplies to perform its replenishment responsibilities under chapter 15, article 3 of this title. The authority shall acquire those water supplies with monies appropriated from the state general fund by the legislature for replenishment under chapter 15, article 3 of this title and to the extent that monies appropriated by the legislature for that purpose are not available, with monies collected in the Pinal active management area under section 45-611, subsection C, paragraph 3. The authority shall use the water supplies acquired pursuant to this paragraph for any replenishment activity authorized by section 45-2623 and for implementation of the southside replenishment bank established by section 45-

2624, including delivering water directly to the Gila river Indian community for those purposes.

C. Any other long-term storage credits accrued by the authority may be distributed or extinguished by the authority in accordance with the policy and purposes of this chapter.

D. Except as provided by subsection B, paragraph 7 of this section and except as provided by agreements entered into by the authority, the decision to distribute or extinguish any long-term storage credit accrued by the authority is at the complete discretion of the authority.

Sec. 9. Title 45, chapter 14, Arizona Revised Statutes, is amended by adding article 5, to read:

#### ARTICLE 5. INDIAN FIRING MEASURES

##### 45-2491. State commitments to firm Indian settlement water

A. THE AUTHORITY SHALL ACT AS AGENT FOR THIS STATE IN MEETING THIS STATE'S OBLIGATION TO DELIVER WATER IN TIMES OF SHORTAGE PURSUANT TO PUBLIC LAW 108-451, FULFILLING THE REQUIREMENTS OF SECTIONS 105, 207(c)(1)(ii) AND 302(b)(8), AND THE INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS ARTICLE. IN CARRYING OUT THIS OBLIGATION THE AUTHORITY MAY:

1. STORE WATER AT PERMITTED RECHARGE FACILITIES FOR THE PURPOSE OF INDIAN FIRING.
2. ENTER INTO CONTRACTS OR AGREEMENTS WITH THE UNITED STATES AND INDIAN COMMUNITIES FOR STORAGE, RECOVERY OR DIRECT DELIVERY OF WATER FOR INDIAN FIRING.
3. ENTER INTO LEASING AGREEMENTS WITH ONE OR MORE INDIAN COMMUNITIES IN PARTNERSHIP WITH OTHER ENTITIES FOR NON-INDIAN AGRICULTURAL PRIORITY OR INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER.
4. ENTER INTO CONTRACTS FOR THE USE OF WATER SOURCES INCLUDING COLORADO RIVER WATER, SURFACE WATER OTHER THAN COLORADO RIVER WATER AND EFFLUENT.
5. ENTER INTO CONTRACTS WITH ELIGIBLE ENTITIES FOR THE USE OF IMPORTED GROUNDWATER FROM ALLOWABLE GROUNDWATER BASINS PURSUANT TO SECTIONS 45-552, 45-553 AND 45-554 FOR THE PURPOSES OF INDIAN FIRING.

6. ENTER INTO AGREEMENTS WITH A MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR DELIVERY OF WATER TO INDIAN COMMUNITIES.

7. SUBJECT TO PERIODIC REVIEW OF PROGRESS TOWARD MEETING THIS STATE'S INDIAN FIRING OBLIGATION, ALLOW FOR THE USE OF EXISTING LONG-TERM STORAGE CREDITS DEVELOPED FROM WITHDRAWAL FEES COLLECTED PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPH 3.

8. TRANSFER LONG-TERM STORAGE CREDITS TO A MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR RECOVERY AND SUBSEQUENT DELIVERY TO INDIAN COMMUNITIES IN TIMES OF SHORTAGE.

9. ENTER INTO AGREEMENTS FOR THE RECOVERY OF LONG-TERM STORAGE CREDITS FOR PURPOSES OF INDIAN FIRING.

B. INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS ARTICLE SHALL INCLUDE FUNDING FROM THE FOLLOWING SOURCES:

1. LEGISLATIVE APPROPRIATIONS PROVIDED FOR INDIAN FIRING ON AN ANNUAL BASIS TO CARRY OUT INDIAN FIRING MEASURES.

2. TO THE EXTENT NECESSARY TO CARRY OUT INDIAN FIRING MEASURES AFTER EXPENDITURE OF LEGISLATIVE APPROPRIATIONS, THE AUTHORITY MAY USE WITHDRAWAL FEES COLLECTED FROM THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREA WATER MANAGEMENT ACCOUNTS.

Sec. 10. Section 45-2601, Arizona Revised Statutes, is amended to read:

**45-2601. Definitions**

Unless the context otherwise requires, the terms defined in sections 45-402 and 45-802.01 have the same meaning in this chapter and for the purposes of this chapter:

1. "Central protection zone" means the central protection zone established under section 45-2602.

2. "Community" means the Gila river Indian community, a government composed of members of the Pima tribe and the Maricopa tribe and organized under section 16 of the act of June 18, 1934 (25 United States Code section 476).

3. "Dam" has the meaning prescribed in section 45-1201 on January 1, 2005.

4. "Designed storage capacity" means the storage capacity in acre-feet of a reservoir at the elevation of the lowest spillway in the dam impounding water in the reservoir, as the dam was originally constructed.

5. "Eastern protection zone" means the eastern protection zone north or the eastern protection zone south.
6. "Eastern protection zone north" means the eastern protection zone north established under section 45-2602, subsection A.
7. "Eastern protection zone south" means the eastern protection zone south established under section 45-2602, subsection A.
8. "Gila river maintenance area" means the Gila river maintenance area established under section 45-2603, subsection A.
9. "Gila river maintenance area impact zone" means the Gila river maintenance area impact zone established under section 45-2603, subsection B.
10. "Globe equity decree" means the decree dated June 29, 1935 and entered in United States of America v. Gila valley irrigation district, Globe equity No. 59, et al. by the United States district court for the district of Arizona and includes all court orders and decisions supplemental to that decree.
11. "Industrial use" means all of the following:
  - (a) A nonirrigation use of water commenced after December 31, 2002 that is not supplied by a municipal provider, including animal industry use and expanded animal industry use.
  - (b) A use of groundwater commenced before January 1, 2003 by a holder of a type 1 nonirrigation grandfathered right in existence on December 31, 2002, other than a type 1 nonirrigation grandfathered right held by a municipal provider and other than a use under another groundwater right or permit, in excess of the amount allowed under the type 1 nonirrigation grandfathered right.
  - (c) A use of groundwater commenced before January 1, 2003 by a holder of a type 2 nonirrigation grandfathered right in existence on December 31, 2002, other than a type 2 nonirrigation grandfathered right held by a municipal provider, in excess of the amount allowed under the right and for which the holder has no other groundwater right.
  - (d) A use of groundwater commenced before January 1, 2003 by a holder of a general industrial use permit issued under section 45-515 and in existence on December 31, 2002, other than a use under another groundwater right or permit, in excess of the amount allowed under the general industrial use permit.
12. "Irrigation use" means the use of water on two or more acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as defined in section 3-1201.
13. "Municipal acre" means the acre or acres of land within a protection zone, on which water pumped from within a protection zone is supplied by a municipal

provider, on which water use was first commenced after December 31, 2002 and for which the water use is reported pursuant to section 45-632, 45-875.01 or 45-2602.

14. "Municipal provider" means a city, town, private water company or ~~irrigation district~~ SPECIAL TAXING DISTRICT ESTABLISHED PURSUANT TO TITLE 48 that supplies water for nonirrigation use.

15. "Municipal use" means a nonirrigation use of water commenced after December 31, 2002 and supplied by a municipal provider on municipal acres.

16. "Nonirrigation use" means a use of water withdrawn from a well, other than an irrigation use.

17. "Reservation" means the Gila river Indian community reservation.

18. "Settlement agreement" means the agreement entitled the "Gila river Indian community water rights settlement agreement", dated February 4, 2003 between the community, this state and other parties, as amended before ~~the effective date of this section~~ DECEMBER 21, 2005, a copy of which is on file in the department.

19. "Southside protection zones" means the eastern protection zone north, the eastern protection zone south, the western municipal protection zone, the western municipal and industrial protection zone and the central protection zone.

20. "Stockpond" means a pond that has a capacity of not more than fifteen acre-feet and that is used solely for watering livestock or wildlife. Stockpond does not include a pond used primarily for fishing or for the culturing of fish.

21. "Stored water" means water that has been stored or saved underground pursuant to a storage permit issued under chapter 3.1 of this title.

22. "Underground water" means water, other than stored water, withdrawn from a well.

23. "Water company" means either of the following:

(a) A private water company that as of January 1, 2000 was regulated as a public service corporation by the Arizona corporation commission and was withdrawing underground water from lands now within the eastern protection zone north.

(b) Any successor of a private water company described in subdivision (a) of this paragraph.

24. "Western municipal and industrial protection zone" means the western municipal and industrial protection zone established under section 45-2602, subsection A.

25. "Western municipal protection zone" means the western municipal protection zone established under section 45-2602, subsection A.

26. "Western protection zones" means the western municipal protection zone and the western municipal and industrial protection zone.

Sec. 11. Section 45-2611, Arizona Revised Statutes, is amended to read:

[45-2611. Transportation of underground water and stored water away from an eastern protection zone or western protection zone prohibited; exceptions](#)

A. Except as provided in subsection B of this section, beginning on the effective date of this section, underground water or stored water withdrawn in an eastern protection zone or a western protection zone may not be transported away from the protection zone in which the water was withdrawn if the transportation is for a nonirrigation use.

B. Subsection A of this section does not apply to any of the following:

1. The transportation of underground water or stored water away from an eastern protection zone or a western protection zone for a nonirrigation use in an annual amount that does not exceed the highest annual volume of underground water or stored water transported away from the same protection zone for that use during calendar years 1999 through 2001.

2. The transportation of underground water or stored water away from an eastern protection zone or a western protection zone for a nonirrigation use if the person transporting the underground water or stored water replenishes the water as provided in section 45-2625 within twenty-four months after the end of the calendar year in which the transportation occurs.

3. The transportation of underground water or stored water away from an eastern protection zone or a western protection zone for a nonirrigation use if the person transporting the underground water or stored water replaces the water with an equivalent amount of water imported into that protection zone within the same calendar year in which the transportation occurs.

4. The transportation of stored water away from an eastern protection zone or a western protection zone if the stored water was originally stored in the protection zone from which the water was recovered.

5. The transportation of underground water or stored water between the eastern protection zone north and the eastern protection zone south.

6. The transportation of underground water or stored water between the western municipal and industrial protection zone and the western municipal protection zone if the water is transported for a municipal use on municipal acres.

7. Through 2023, the transportation of underground water and stored water withdrawn by a water company within an eastern protection zone and transported by the water company for municipal uses outside of the eastern protection zones. For the purposes of this paragraph, stored water does not include any water stored within an eastern protection zone and recovered within that protection zone.

8. Beginning with calendar year 2024, the annual transportation of up to one thousand two hundred seventy-five acre-feet of underground water and stored water withdrawn by a water company within ~~an~~ THE eastern protection ~~zone~~ ZONES and transported by the water company for municipal uses outside of the eastern protection zones. For the purposes of this paragraph, stored water does not include any water stored within an eastern protection zone and recovered within that protection zone.

Sec. 12. Section 45-2622, Arizona Revised Statutes, is amended to read:

45-2622. Annual southside replenishment obligations

A. No later than October 1 of each calendar year following the year in which this section becomes effective, the director shall calculate the southside replenishment obligations for the preceding calendar year and notify the authority of the amount of the obligations.

B. The director shall calculate the southside replenishment obligations for a calendar year as follows:

1. The director shall calculate the municipal and industrial replenishment obligation for the western municipal and industrial protection zone for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the western municipal and industrial protection zone for municipal uses within a western protection zone and the total amount of underground water and stored water withdrawn during the year from within the western municipal and industrial protection zone for industrial uses within the western municipal and industrial protection zone, as reported to the director under sections 45-632, 45-875.01 and 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the western municipal and industrial protection zone ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(b) Divide the volume of water determined in subdivision (a) of this paragraph by the total number of municipal acres and industrial acres within the western protection zones on which the water was used during the year.

(c) Multiply the total number of municipal acres and industrial acres within the western protection zones on which the water determined in subdivision (a) of this paragraph was used during the year by two acre-feet.

(d) Subtract the product in subdivision (c) of this paragraph from the quotient in subdivision (b) of this paragraph. The result is the municipal and industrial replenishment obligation for the western municipal and industrial protection zone for the year, except that if the result is less than zero, there is no replenishment obligation.

2. The director shall calculate the municipal replenishment obligation for the western municipal protection zone for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the western municipal protection zone for municipal uses within a western protection zone, as reported to the director under sections 45-632, 45-875.01 and 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the western municipal protection zone ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(b) Divide the volume of water determined in subdivision (a) of this paragraph by the total number of municipal acres within the western protection zones on which the water was used during the year.

(c) Multiply the total number of municipal acres within the western protection zones on which the water determined in subdivision (a) of this paragraph was used during the year by two acre-feet.

(d) Subtract the product in subdivision (c) of this paragraph from the quotient in subdivision (b) of this paragraph. The result is the municipal replenishment obligation for the western municipal protection zone for the year, except that if the result is less than zero, there is no replenishment obligation.

3. The director shall calculate the municipal and industrial replenishment obligation for the eastern protection zone north for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the eastern protection zone north for municipal uses and industrial uses within an eastern protection zone, as reported to the director under sections 45-632, 45-875.01 and 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the eastern protection zone north ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(b) Determine the total amount of underground water and stored water withdrawn during the year by a water company from within the eastern protection zone south and used for municipal uses within the eastern protection zone north. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the eastern protection zone south ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(c) Add the volumes of water in subdivisions (a) and (b) of this paragraph and then divide the sum by the total number of municipal acres and industrial acres within the eastern protection zones on which the water was used during the year.

(d) Multiply the total number of municipal acres and industrial acres within the eastern protection zones on which the water determined in subdivision (c) of this paragraph was used during the year by 2.33 acre-feet.

(e) Subtract the product in subdivision (d) of this paragraph from the quotient in subdivision (c) of this paragraph. The result is the municipal and industrial replenishment obligation for the eastern protection zone north for the year, except that if the result is less than zero, there is no replenishment obligation.

4. The director shall calculate the municipal and industrial replenishment obligation for the eastern protection zone south for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the eastern protection zone south for municipal uses and industrial uses within an eastern protection zone, as reported to the director under sections 45-632, 45-875.01 and 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the eastern protection zone south ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(b) Determine the total amount of underground water and stored water withdrawn during the year by a water company from within the eastern protection zone south and used for municipal uses within the eastern protection zone north. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the eastern protection zone south ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

(c) Subtract the volume in subdivision (b) of this paragraph from the volume in subdivision (a) of this paragraph and then divide the difference by the total number of municipal acres and industrial acres within the eastern protection

zones on which the water determined in subdivision (a) of this paragraph other than water determined in subdivision (b) of this paragraph was used during the year.

(d) Multiply the total number of municipal acres and industrial acres within the eastern protection zones on which the water determined in subdivision (a) of this paragraph other than water determined in subdivision (b) of this paragraph was used during the year by 2.33 acre-feet.

(e) Subtract the product in subdivision (d) of this paragraph from the quotient in subdivision (c) of this paragraph. The result is the municipal and industrial replenishment obligation for the eastern protection zone south for the year, except that if the result is less than zero, there is no replenishment obligation.

5. The director shall calculate the irrigation replenishment obligation for the western municipal and industrial protection zone and the western municipal protection zone for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the western municipal and industrial protection zone and the western municipal protection zone and used for the irrigation of lands within those protection zones, as reported to the director on the annual reports required by sections 45-632, 45-875.01 and 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the western municipal and industrial protection zone or the western municipal protection zone.

(b) For each farm within the western municipal and industrial protection zone and the western municipal protection zone for which an annual report is filed under section 45-632, 45-875.01 or 45-2602 for the year, calculate the maximum amount of groundwater that may be used on the farm for irrigation purposes during the year without causing the flexibility account for the farm to be in arrears in excess of the amount allowed under section 45-467, subsection I. In making this calculation, the director shall use the irrigation water duty established for the farm for the third management period pursuant to section 45-566, subsection A, paragraph 1.

(c) Add together the amount calculated for each farm under subdivision (b) of this paragraph.

(d) Subtract the amount in subdivision (c) of this paragraph from the amount in subdivision (a) of this paragraph. The difference is the irrigation replenishment obligation for the year for the western municipal and industrial protection zone

and the western municipal protection zone, except that if the difference is less than zero, there is no replenishment obligation.

6. The director shall calculate the irrigation replenishment obligation for the eastern protection zone north and the eastern protection zone south for the year as follows:

(a) Determine the total amount of underground water and stored water withdrawn during the year from within the eastern protection zone north and the eastern protection zone south and used for the irrigation of lands within those protection zones, as reported to the director on the annual reports required by section 45-632, section 45-875.01, subsection D and section 45-2602. For the purposes of this subdivision, stored water does not include any water stored at a storage facility located within the eastern protection zone north or the eastern protection zone south.

(b) For each farm within the eastern protection zone north and the eastern protection zone south for which an annual report is filed under section 45-632, 45-875.01 or 45-2602 for the year, calculate the maximum amount of groundwater that may be used on the farm for irrigation purposes during the year without causing the flexibility account for the farm to be in arrears in excess of the amount allowed under section 45-467, subsection I. In making this calculation, the director shall use the irrigation water duty established for the farm for the third management period pursuant to section 45-566, subsection A, paragraph 1.

(c) Add together the amount calculated for each farm under subdivision (b) of this paragraph.

(d) Subtract the amount in subdivision (c) of this paragraph from the amount in subdivision (a) of this paragraph. The difference is the irrigation replenishment obligation for the year for the eastern protection zone north and the eastern protection zone south, except that if the difference is less than zero, there is no replenishment obligation.

7. Through 2023, the director shall calculate the water company replenishment obligation for the year by determining the amount of underground water and stored water withdrawn during the year from within ~~an~~ THE eastern protection ~~zone~~ ZONES by a water company and transported for municipal uses outside of the eastern protection zones and then subtracting from that amount one thousand two hundred seventy-five acre-feet. The difference is the water company replenishment obligation for the year, except that if the difference is less than zero, there is no replenishment obligation. For the purposes of this

paragraph, stored water does not include any water stored at a storage facility located within an eastern protection zone and recovered within that protection zone.

Sec. 13. Section 45-2626, Arizona Revised Statutes, is amended to read:

45-2626. Individual replenishment obligations of persons using underground water or stored water within an eastern protection zone or a western protection zone for industrial use; enforcement action; notice

A. If there is a municipal and industrial replenishment obligation for the eastern protection zone north for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within an eastern protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user's type 1 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the eastern protection zone north ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

B. If there is a municipal and industrial replenishment obligation for the eastern protection zone south for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within an eastern protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user's type 1 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the eastern

protection zone south ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

C. If there is a municipal and industrial replenishment obligation for the western municipal and industrial protection zone for any year, as calculated under section 45-2622, subsection B, any person who withdraws underground water or stored water from within that protection zone during the year for an industrial use within that protection zone in an amount that exceeds a volume calculated by multiplying the number of industrial acres associated with the industrial use by three and one-half acre-feet shall have an individual replenishment obligation for that year in the amount of the excess, except that if the industrial use was commenced prior to January 1, 2003, the replenishment obligation shall be limited to the volume of groundwater withdrawn in excess of the amount allowed under the industrial user's type 1 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right or general industrial use permit issued under section 45-515. For the purposes of this subsection, stored water does not include any water stored at a storage facility located within the western municipal and industrial protection zone ~~or any water stored and recovered on an annual basis pursuant to section 45-851.01.~~

D. A person who has an individual replenishment obligation under subsection A, B or C of this section shall satisfy the obligation no later than twelve months after the authority sends written notice of the obligation to the person as provided in subsection E of this section. The person shall satisfy the obligation by performing one of the following replenishment activities in an amount equivalent to the replenishment obligation:

1. Pay the authority the actual or estimated cost of replenishing the water under section 45-2623, subsection C as determined by the authority and included in the notice described in subsection E of this section.
2. If approved by the authority, deliver water or long-term storage credits to the authority in the amount of the replenishment obligation.

E. No later than December 31 of each year, the authority shall send written notice to each person who has an individual replenishment obligation for the preceding year. The notice shall be sent by first-class mail to the person's mailing address on file with the department. The notice shall specify the amount of the replenishment obligation, the authority's actual or estimated cost of replenishing the water under section 45-2623, subsection C, the date by which the person must satisfy the replenishment obligation and the manner in which the person may satisfy the replenishment obligation.

F. If a person with an individual replenishment obligation fails to satisfy the replenishment obligation by the date specified in the written notice received from the authority, the person shall be subject to an enforcement action by the department pursuant to article 6 of this chapter.

G. The director shall include written notice of the requirements of this section in any groundwater withdrawal permit, nonirrigation grandfathered right authorization to drill a nonexempt well under section 45-596 or recovery well permit issued in an eastern protection zone or the western municipal and industrial protection zone after the effective date of this section.

Sec. 14. Effective date; condition

The following are effective as prescribed in Laws 2005, chapter 143, section 15:

1. Section 45-611, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 1 and this act.
2. Section 45-2423, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 4 and this act.
3. Section 45-2425, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 5 and chapter 332, section 1 and this act.
4. Section 45-2457, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 6 and this act.
5. Sections 45-2611, 45-2622 and 45-2626, Arizona Revised Statutes, as amended by this act.

APPROVED BY THE GOVERNOR APRIL 12, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 12, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**SB 1249 water improvement districts; notice  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** SB 1249, Chapter 52

**SHORT TITLE:** Water Improvement Districts; Notice

**PRIME SPONSOR(S):** Senator: Flake

**BILL SUMMARY:** SB 1249 contains the following provisions:

- Requires the petition for a domestic water or wastewater improvement district to specify if the boundaries are wholly or partially within:
  - The boundaries of the existing service territory of a public service corporation that provides domestic water or wastewater services as defined by a certificate of Convenience and Necessity issued by the Arizona Corporation Commission.
  - The boundaries of the proposed service territory of a public service corporation that provides domestic water or wastewater service as defined in an application for a Certificate of Convenience and Necessity pending before the Arizona Corporation Commission or that has been considered by the Arizona Corporation Commission within one year before the petition to form the improvement district is filed.
- Requires the Arizona Corporation Commission to provide a township, range and section map showing the appropriate service areas of public service corporations within 15 days of a request from the petitioner.
- Requires the Board of Supervisors to hold a hearing regarding the establishment of a water improvement district that lies wholly or partially within the service territory of an existing or proposed domestic water or wastewater service provider.
- Requires the Board of Supervisors to hold a hearing on a petition to form a domestic water or wastewater district, and to notify the Arizona Corporation Commission by mail of the hearing at least 20 days before the hearing, if the proposed district lies wholly or partially within the existing or proposed service territory of a public service corporation that provides domestic water or wastewater service.

**SIGNIFICANCE TO AGENCY:** Monitoring the formation of such districts in areas in which the Arizona Department of Water Resources has determined that there is an inadequate water supply may be helpful in the development of tools for regional water management.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rules are required for the implementation of SB 1249.
- **Legislation**  
No legislation is required for the implementation of SB 1249.
- **Substantive Policy**  
No substantive policy is required for the implementation of SB 1249.

**ACTION(S) REQUIRED:** No action by the Arizona Department of Water Resources is required.

**DIVISION STAFF SUPPORT REQUIREMENT:**

**TIMELINE:**

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Senate Engrossed  
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State of Arizona  
Senate  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 52  
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SENATE BILL 1249  
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AN ACT

AMENDING SECTIONS 48-903, 48-905 AND 48-908, ARIZONA REVISED  
STATUTES; RELATING TO COUNTY IMPROVEMENT DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 48-903, Arizona Revised Statutes, is amended to read:

**48-903. Petition to establish district; elected board; verification; plat**

A. A petition addressed to the board of supervisors requesting the establishment of an improvement district may be filed with the clerk of the board, if signed by a majority of the persons owning real property or by the owners of fifty-one per cent or more of the real property within the limits of the proposed district.

B. A petition with the required number of signatures shall not be declared void on account of any alleged defect, but the board of supervisors shall allow the petition to be amended in form and substance to conform to the requirements of this article. One or more similar petitions, or copies of the same petition with additional signatures, for the establishment of any improvement district may be filed prior to the time of the hearing on the first petition, and shall be considered as though filed with the first petition. The petition shall be presumed to contain the signatures of the persons whose signatures appear thereon, unless the contrary is proved.

C. The petition shall set forth:

1. The name of the proposed improvement district.
2. The necessity for the proposed district.
3. That the public convenience, necessity or welfare will be promoted by the establishment of the district and that the property to be included in such district will be benefited.
4. The boundaries of the proposed district.

5. A general outline of the proposed improvement.
6. Such other matters as are required by this article.

D. IN ADDITION TO THE INFORMATION REQUIRED PURSUANT TO SUBSECTION C OF THIS SECTION, A PETITION REQUESTING THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT FOR THE PURPOSES DESCRIBED IN SECTION 48-909, SUBSECTION A, PARAGRAPH 5 OR 6 SHALL STATE WHETHER THE BOUNDARIES OF THE PROPOSED DISTRICT ARE WHOLLY OR PARTIALLY WITHIN EITHER OF THE FOLLOWING:

1. THE BOUNDARIES OF THE EXISTING SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED BY A CERTIFICATE OF CONVENIENCE AND NECESSITY ISSUED BY THE CORPORATION COMMISSION.
2. THE BOUNDARIES OF THE PROPOSED SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED IN AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY THAT IS PENDING BEFORE THE CORPORATION COMMISSION OR THAT HAS BEEN CONSIDERED BY THE COMMISSION WITHIN ONE YEAR BEFORE THE DATE THE PETITION FOR AN IMPROVEMENT DISTRICT IS FILED WITH THE CLERK OF THE BOARD.

E. THE PETITIONER SHALL OBTAIN THE INFORMATION PRESCRIBED BY SUBSECTION D OF THIS SECTION FROM THE CORPORATION COMMISSION. A REQUEST SUBMITTED TO THE COMMISSION PURSUANT TO THIS SUBSECTION SHALL INCLUDE A TOWNSHIP, RANGE AND SECTION MAP SHOWING THE BOUNDARIES OF THE PROPOSED DISTRICT. THE COMMISSION SHALL PROVIDE TO THE PETITIONER A TOWNSHIP, RANGE AND SECTION MAP THAT SHOWS THE APPROPRIATE SERVICE AREAS WITHIN FIFTEEN BUSINESS DAYS OF THE REQUEST.

~~D.~~ F. A petition requesting the establishment of an improvement district for the purpose of purchasing an existing domestic water delivery system shall provide that the district be governed by a board of directors elected pursuant to article 4 of this chapter. Establishment of an improvement district with an elected board of directors shall be subject to the approval of the board of supervisors.

~~E.~~ G. Upon compliance with the requirements prescribed by subsection A OF THIS SECTION, the owners of real property and qualified electors within the limits of an existing district formed for the purpose of purchasing an existing domestic water delivery system may petition the board of supervisors to allow an elected board of directors to govern the district.

~~F~~. H. Each copy of the petition shall be verified by one of the petitioners and shall be accompanied by a plat or sketch indicating the approximate area and boundaries of the district.

Sec. 2. Section 48-905, Arizona Revised Statutes, is amended to read:

48-905. Hearing on petition; summary establishment; notice

A. Except as provided in subsection C of this section, upon receipt of a petition for the establishment of a district, or for an addition to an existing district, the board of supervisors shall set a date for a hearing on the petition not later than forty days after presentation of the petition. At the hearing all interested property owners may appear and be heard on any matter relating to the establishment of the proposed improvement district, or addition to an existing district. Any person wishing to object to the establishment of the district or addition may **FILE**, before the date set for the hearing, ~~file~~ the person's objections with the clerk of the board of supervisors.

B. Notice announcing the hearing and stating the boundaries of the proposed district or addition shall be published twice in a newspaper of general circulation in the county within which the proposed district or addition is located. The publications shall be one week apart, and the first publication shall be not less than ten days prior to the date of the hearing. The notice shall also be mailed by first class mail at least twenty days before the hearing to:

1. The owners of the real property within the area of the proposed district according to the names and addresses that appear on the most recent property tax assessment roll.

2. THE CORPORATION COMMISSION, IF THE PETITION REQUESTS THE ESTABLISHMENT OF A DISTRICT OR AN ADDITION TO AN EXISTING DISTRICT FOR THE PURPOSES DESCRIBED IN SECTION 48-909, SUBSECTION A, PARAGRAPH 5 OR 6 AND THE BOUNDARIES OF THE PROPOSED DISTRICT OR ADDITION ARE WHOLLY OR PARTIALLY WITHIN EITHER OF THE FOLLOWING:

(a) THE BOUNDARIES OF THE EXISTING SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED BY A CERTIFICATE OF CONVENIENCE AND NECESSITY ISSUED BY THE CORPORATION COMMISSION.

(b) THE BOUNDARIES OF THE PROPOSED SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED IN AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY THAT IS PENDING BEFORE THE CORPORATION COMMISSION OR THAT HAS BEEN CONSIDERED BY THE COMMISSION WITHIN

ONE YEAR BEFORE THE DATE THE PETITION FOR AN IMPROVEMENT DISTRICT IS FILED WITH THE CLERK OF THE BOARD.

C. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, if the petition is signed by the owners of all of the real property in the proposed district and if the petitioners provide a copy of a record search that shows the names of the owners of all the property in the proposed district, the board of supervisors may summarily order the formation of the district and a hearing is not required.

D. The clerk shall retain all notices that are mailed pursuant to subsection B of this section and that are returned to the clerk as undeliverable or that indicate that the address is incorrect. The clerk shall prepare a list of the names and addresses on the returned notices and shall deliver that list to the county recorder or a searcher of records.

E. The county recorder or a searcher of records shall determine from the records in the office of the county recorder whether the listed owner has another address or whether a different person is shown as the owner of the parcel. The county recorder or a searcher of records shall provide to the clerk the new information on the owners and the addresses as shown in the records. The new information shall be used by the clerk for purposes of sections 48-916, 48-917, 48-924 and 48-928 until a new assessment roll is approved by the board of supervisors of the county. The recorder may charge up to three dollars for each record search. The charges of the recorder or of a searcher of records are incidental expenses pursuant to section 48-927.

F. A district may be formed or its boundaries may be changed without mailing notice to new owners or new addresses that are provided to the clerk pursuant to subsection E of this section.

G. THE BOARD OF SUPERVISORS SHALL HOLD A HEARING PURSUANT TO SUBSECTION A OF THIS SECTION IF THE PETITION REQUESTS THE ESTABLISHMENT OF A DISTRICT OR AN ADDITION TO AN EXISTING DISTRICT FOR THE PURPOSES DESCRIBED IN SECTION 48-909, SUBSECTION A, PARAGRAPH 5 OR 6 AND THE BOUNDARIES OF THE PROPOSED DISTRICT OR ADDITION ARE WHOLLY OR PARTIALLY WITHIN THE SERVICE AREA OR PROPOSED SERVICE AREA OF A PUBLIC SERVICE CORPORATION AS PRESCRIBED IN SECTION 48-903, SUBSECTION D.

Sec. 3. Section 48-908, Arizona Revised Statutes, is amended to read:

48-908. Board of directors; expenses

Unless established pursuant to section 48-903, subsection ~~D~~-F, districts organized under this article shall be governed by the board of supervisors of the

county in which the district is situated and the board of supervisors shall be deemed to be the board of directors of the district. The directors shall receive no compensation for their services as such except as provided pursuant to section 48-1013 but shall be reimbursed for their necessary expenses in attending district meetings.

APPROVED BY THE GOVERNOR APRIL 6, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**SB 1255 lot splits; fissures  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** SB 1255, Chapter 36

**SHORT TITLE:** Lot Splits; Fissures

**PRIME SPONSOR(S):** Senator: Flake  
Representatives: Nelson  
Nichols

**BILL SUMMARY:** SB 1255 contains the following provisions:

- Requires a seller of five or fewer parcels in an unincorporated area of a county to note on the affidavit of disclosure if the property is subject to fissures or expansive soils if the information is known.

**SIGNIFICANCE TO AGENCY:**

The requirement that the seller of property that is subject to known earth fissures or expansive soils disclose these conditions would add an additional resources for information related to areas of subsidence and possible groundwater table decline.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rules are required for the implementation of SB 1255.
- **Legislation**  
No legislation is required for the implementation of SB 1255.
- **Substantive Policy**  
No substantive policy is required for the implementation of SB 1255.

**ACTION(S) REQUIRED:**

No agency action is required.

**DIVISION STAFF SUPPORT REQUIRED:**

**TIMELINE:**

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Senate Engrossed  
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State of Arizona  
Senate  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 36  
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SENATE BILL 1255  
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AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO  
CONVEYANCES AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 33-422, Arizona Revised Statutes, is amended to read:

**33-422. Land divisions; recording; disclosure affidavit**

- A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall furnish a written affidavit of disclosure to the buyer, at least seven days before the transfer of the property, and the buyer shall acknowledge receipt of the affidavit.
- B. The affidavit must be written in twelve point type.
- C. No release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is valid or binding on the buyer.
- D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.
- E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.
- F. The affidavit of disclosure shall meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Affidavit of Disclosure

Pursuant to A.R.S. §33-422

I, \_\_\_\_\_ (seller(s)) being  
duly sworn, hereby make this affidavit of disclosure relating to the real property  
situated in the unincorporated area of:

\_\_\_\_\_, County, State of Arizona, located at:

\_\_\_\_\_

and legally described as:

(Legal description attached hereto as exhibit "A")  
(property).

1. There ( is ( is not....legal access to the property, as defined in A.R.S. § 11-  
809....( unknown

Explain: \_\_\_\_\_

\_\_\_\_\_

2. There ( is ( is not....physical access to the property. ( unknown

Explain: \_\_\_\_\_

\_\_\_\_\_

3. There ( is ( is not....a statement from a licensed surveyor or engineer  
available stating whether the property has physical access that is traversable by  
a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property ( is ( is not....the same....(  
unknown ( not applicable.

Explain: \_\_\_\_\_

\_\_\_\_\_

*If access to the parcel is not traversable by emergency vehicles, the county and  
emergency service providers may not be held liable for any damages resulting  
from the inability to traverse the access to provide needed services.*

5. The road(s) is/are ( publicly maintained ( privately maintained ( not  
maintained ( not applicable. If applicable, there ( is ( is not....a recorded road  
maintenance agreement.

*If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.*

6. A portion or all of the property ( is ( is not...located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. THE PROPERTY ( IS ( IS NOT SUBJECT TO ( FISSURES OR ( EXPANSIVE SOILS. ( UNKNOWN

EXPLAIN: \_\_\_\_\_

\_\_\_\_\_

~~7.~~ 8. The following services are currently provided to the property: ( water ( sewer ( electric ( natural gas ( single party telephone ( cable television services.

~~8.~~ 9. The property is served by ( a private well ( a shared well ( no well. If served by a shared well, the shared well ( is ( is not...a public water system, as defined by the safe drinking water act (42 United States Code § 300f).

~~9.~~ 10. The property ( does have ( does not have . . . . an on-site wastewater treatment facility (i.e., standard septic or alternative system to treat and dispose of wastewater). ( unknown. If applicable: a) The property ( will ( will not . . . . require installation of an on-site wastewater treatment facility; b) The on-site wastewater treatment facility ( has ( has not been inspected.

~~10.~~ 11. The property ( has been ( has not been . . . . subject to a percolation test. ( unknown.

~~11.~~ 12. The property ( does ( does not....meet the minimum applicable county zoning requirements of the applicable zoning designation.

~~12.~~ 13. The sale of the property ( does ( does not...meet the requirements of A.R.S. § 11-809 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit. The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: \_\_\_\_\_

\_\_\_\_\_

~~13.~~ 14. The property ( is ( is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's web site.)

~~14.~~ 15. The property ( is ( is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. § 28-8461. (Maps are available at the state real estate department's web site.)

~~15.~~ 16. Notice: If the property is located within the territory in the vicinity of a military airport or ancillary military facility the property is required to comply with sound attenuation standards as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at the state real estate department's web site.)

~~16.~~ 17. The property ( is ( is not located under military restricted airspace. ( unknown. (Maps are available at the state real estate department's web site.) This affidavit of disclosure supersedes any previously recorded affidavit of disclosure.

I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.

Dated this (date) day of (year) by:

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Seller's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

State of Arizona )

) ss.

County of \_\_\_\_\_)

Subscribed and sworn before me this (date) day of (year), by

\_\_\_\_\_  
\_\_\_\_\_.

Notary public

My commission expires:

(date)

Buyer(s) hereby acknowledges receipt of a copy of this affidavit of disclosure this (date) day of (year)

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

Buyer's name (print): \_\_\_\_\_ Signature: \_\_\_\_\_

G. For the purposes of this section, seller and subsequent seller do not include a trustee of a deed of trust who is selling property by a trustee's sale pursuant to title 33, chapter 6.1 or any officer who is selling property by execution sale pursuant to title 12, chapter 9 and title 33, chapter 6. If the seller is a trustee of a subdivision trust as defined in section 6-801 the disclosure affidavit required by this section shall be provided by the beneficiary of the subdivision trust.

APPROVED BY THE GOVERNOR MARCH 31, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**SB 1256 multispecies conservation program  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** SB1256, Chapter 54

**SHORT TITLE:** Multispecies Conservation Program

**PRIME SPONSOR(S):** Senators: Flake  
Blendu  
Representatives: Aguirre, A.  
Jones  
O'Halleran

**BILL SUMMARY:** SB 1256 contains the following provision:

- Clarifies that users of Colorado River water who make payments and are current in their payments under agreements with CAWCD for participation in the lower Colorado River Multispecies Conservation Program are not required to pay fees for MSCP assessed by ADWR.

**SIGNIFICANCE TO AGENCY:**

The legislation clarifies language that some stakeholders believed was unclear. This amendment helps to assure continued support of the implementation of the Lower Colorado River Multispecies Conservation Program.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rule is required for the implementation of SB 1256.
- **Legislation**  
No statutory change is required for the implementation of SB 1256.
- **Substantive Policy**  
No substantive policy is required for the implementation of SB 1256.

**ACTION(S) REQUIRED:**

No agency action is required.

**DIVISION STAFF SUPPORT REQUIRED:**

**TIMELINE:**

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Senate Engrossed  
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State of Arizona  
Senate  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 54  
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SENATE BILL 1256  
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AN ACT

AMENDING SECTION 45-333, ARIZONA REVISED STATUTES; RELATING TO  
COLORADO RIVER WATER USE FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-333, Arizona Revised Statutes, is amended to read:

**45-333. Colorado river water use fee; purpose**

A. The director may assess and collect annual Colorado river water use fees from each person who diverts and consumptively uses water in this state from the mainstream of the Colorado river as recorded in the final accounting. This fee does not apply to persons who ~~have entered into, and are in compliance with,~~ **ARE PAYING FEES AND ARE CURRENT IN THEIR PAYMENTS UNDER** agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program with respect to the use of Colorado River water.

B. The director shall set the amount of a fee under this section each year according to the guidelines in section 45-334.

C. Any monies collected pursuant to this section shall be segregated from other revenues and deposited, pursuant to sections 35-146 and 35-147, in a fund designated as the Colorado river water use fee clearing account. Each month, on notification by the director, the state treasurer shall pay all of the monies in the clearing account to an account designated by a multi-county water conservation district established under title 48, chapter 22 to be used solely for the lower Colorado river multispecies conservation program and for no other purpose.

APPROVED BY THE GOVERNOR APRIL 6, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2006.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
LEGISLATIVE IMPLEMENTATION PLAN**

**SB 1334 well drilling; time extension  
47<sup>th</sup> Legislature, 2nd Regular Session (2006)**

**BILL NUMBER:** SB 1334, Chapter 56

**SHORT TITLE:** Well Drilling; Time Extension

**PRIME SPONSOR(S):** Senator: Flake  
Representative: Chase

**BILL SUMMARY:** SB 1334 contains the following provisions:

- Allows the Director of the Arizona Department of Water Resources to extend the completion period to drill a replacement well to more than one year, but not more than five years, of the date the drilling card was issued if:
  - The proposed well is a non-exempt well within an Active Management Area and is a replacement well in approximately the same area as the original well, and
  - Evidence is submitted that either:
    - the state or a political subdivision of the state has acquired or begun a condemnation action to acquire the land where the original well is located.
    - the original well is inoperable due to extraordinary physical circumstances beyond the control of the owner.
- Contains a conditional enactment clause, based on final federal regulations relating to a Colorado River water determination.

**SIGNIFICANCE TO AGENCY:**

The well rules stakeholders group as consensus legislation proposed the legislation. There was general agreement that the legislation would address a situation in which an extension of a Notice of Intent to drill a well was justified. There are no significant implications for water management policy or for agency operations.

**REQUIRED OUTCOME(S):**

- **Rule**  
No rule is required for the implementation of SB 1334.
- **Legislation**  
No statutory change is required for the implementation of SB 1334.
- **Substantive Policy**  
No substantive policy is required for the implementation of SB 1334.

**ACTION(S) REQUIRED:**

Revise NOI form 55-41 (Notice of Intent to Deepen, Replace or Modify an Existing Non-Exempt Well at Approximately the Same Location in an Active Management Area) and instructions to provide that a person may request an extension of the completion date for drilling an replacement well in approximately the same location under the statutory criteria.

**DIVISION STAFF SUPPORT REQUIRED:**

- Legal
- Water Management

**TIMELINE:**

The effective date for SB 1334 is 90 days following the adjournment of the Legislature.

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Senate Engrossed  
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State of Arizona  
Senate  
Forty-seventh  
Legislature  
Second Regular Session  
2006  
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CHAPTER 56  
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SENATE BILL 1334  
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AN ACT

AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 254, SECTION 2; AMENDING SECTION 45-596, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 133, SECTION 5; RELATING TO WELLS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-596, Arizona Revised Statutes, as amended by Laws 2005, chapter 254, section 2, is amended to read:

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

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

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

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

1. The name and mailing address of the person filing the notice.

2. The legal description of the land upon which the well is proposed to be drilled and the name and mailing address of the owner of the land.
  3. The legal description of the location of the well on the land.
  4. The depth, diameter and type of casing of the proposed well.
  5. Such legal description of the land upon which the groundwater is proposed to be used as may be required by the director to administer this chapter.
  6. When construction is to begin.
  7. The proposed uses to which the groundwater will be applied.
  8. The name and well driller's license number of the well driller who is to construct the well.
  9. The design pumping capacity of the well.
  10. If for a replacement well, the maximum capacity of the original well and the distance of the replacement well from the original well.
  11. Proof that the director determines to be satisfactory that the person proposing to construct the well holds a valid license issued by the registrar of contractors pursuant to title 32, chapter 10 and that the license is of the type necessary to construct the well described in the notice of intention to drill. If the proposed well driller does not hold a valid license, the director may accept proof that the proposed well driller is exempt from licensing as prescribed by section 32-1121.
  12. If any water from the proposed well will be used for domestic purposes as defined in section 45-454, evidence of compliance with the requirements of subsection F of this section.
  13. If for a second exempt well at the same location for the same use pursuant to section 45-454, subsection I, proof that the requirements of that subsection are met.
  14. If for a well to obtain geophysical, mineralogical or geotechnical data within a single section of land, the information prescribed by this subsection for each well that will be included in that section of land before each well is drilled.
  15. Such other information as the director may require.
- D. Upon receiving a notice of intention to drill and the fee required by subsection I of this section, the director shall endorse on the notice the date of its receipt. The director shall then determine whether all information that is required has been submitted and whether the requirements of subsection C, paragraphs 11 and 12 of this section have been met. If so, within fifteen days of receipt of the notice, the director shall record the notice, mail a drilling card that authorizes the drilling of the well to the well driller identified in the notice and mail written

notice of the issuance of the drilling card to the person filing the notice of intention to drill at the address stated in the notice. Upon receipt of the drilling card, the well driller may proceed to drill or deepen the well as described in the notice of intention to drill. If the director determines that the required information has not been submitted or that the requirements of subsection C, paragraphs 11 and 12 of this section have not been met, the director shall mail a statement of the determination to the person giving the notice to the address stated in the notice, and the person giving the notice may not proceed to drill or deepen the well.

E. The well shall be completed within one year after the date of the notice **UNLESS THE DIRECTOR APPROVES A LONGER PERIOD OF TIME PURSUANT TO THIS SUBSECTION.** If the well is not completed within one year **OR WITHIN THE TIME APPROVED BY THE DIRECTOR PURSUANT TO THIS SUBSECTION,** the person shall file a new notice before proceeding with further construction. **AT THE TIME THE DRILLING CARD FOR THE WELL IS ISSUED, THE DIRECTOR MAY PROVIDE FOR AND APPROVE A COMPLETION PERIOD THAT IS GREATER THAN ONE YEAR BUT NOT TO EXCEED FIVE YEARS FROM THE DATE OF THE NOTICE IF BOTH OF THE FOLLOWING APPLY:**

- 1. THE PROPOSED WELL IS A NONEXEMPT WELL WITHIN AN ACTIVE MANAGEMENT AREA AND QUALIFIES AS A REPLACEMENT WELL IN APPROXIMATELY THE SAME LOCATION AS PRESCRIBED IN RULES ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-597.**
- 2. THE APPLICANT HAS SUBMITTED EVIDENCE THAT DEMONSTRATES ONE OF THE FOLLOWING:**
  - (a) THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE HAS ACQUIRED OR HAS BEGUN A CONDEMNATION ACTION TO ACQUIRE THE LAND ON WHICH THE ORIGINAL WELL IS LOCATED.**
  - (b) THE ORIGINAL WELL HAS BEEN RENDERED INOPERABLE DUE TO FLOODING, SUBSIDENCE OR OTHER EXTRAORDINARY PHYSICAL CIRCUMSTANCES THAT ARE BEYOND THE CONTROL OF THE WELL OWNER.**

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

The site plan shall:

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

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

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

G. Before approving a well site plan submitted pursuant to subsection F of this section, the county or local health authority or the department of water resources, as applicable, pursuant to subsection F of this section, shall review the well site plan and determine whether the proposed well location complies with applicable local laws, ordinances and regulations and any laws or rules adopted under this title and title 49 regarding the placement of wells and the proximity of wells to septic tanks or sewer systems. If the health authority or the department of water resources, as applicable, pursuant to subsection F of this section, finds that the proposed well location complies with this title and title 49 and with local requirements, it shall endorse the site plan and the proposed well placement in a manner indicating approval. On endorsement, the director of water resources shall approve the construction of the well, if all remaining requirements have been met. If the health authority is unable to determine whether the proposed well location complies with this title and title 49 and local requirements, it shall indicate this on the site plan and the decision to approve or reject the proposed construction rests with the director of water resources. If parcel size, geology or location of improvements on the property prevents the well from being drilled in accordance with this title and title 49 or local requirements, the property owner may apply for a variance. The property owner shall make the request for a variance to the county or local authority if a county or local law, ordinance or regulation prevents the proposed construction. If a law or rule adopted under this title or title 49 prevents the proposed construction, the property owner shall make the request for a variance directly to the department of water resources. The request for a variance shall be in the form and shall contain the information that the department of water resources, county or local authority may require. The department of water resources, or the county or local authority whose law, ordinance or regulation prevents the proposed

construction, may expressly require that a particular variance shall include certification by a registered professional engineer or geologist that the location of the well will not pose a health hazard to the applicant or surrounding property or inhabitants. If all necessary variances are obtained, the director of water resources shall approve the construction of the well if all remaining requirements have been met.

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

I. A notice of intention to drill filed under this section shall be accompanied by a filing fee of one hundred fifty dollars, except that a notice filed for a proposed well that will not be located within an active management area or an irrigation nonexpansion area, that will be used solely for domestic purposes as defined in section 45-454 and that will have a pump with a maximum capacity of not more than thirty-five gallons per minute shall be accompanied by a filing fee of fifty dollars if filed before July 1, 2004, seventy-five dollars if filed from July 1, 2004 through June 30, 2005 and one hundred dollars if filed on or after July 1, 2005. The director shall deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant to this subsection in the well administration and enforcement fund established by section 45-606.

Sec. 2. Section 45-596, Arizona Revised Statutes, as amended by Laws 2002, chapter 133, section 5, is amended to read:

**45-596. Notice of intention to drill**

A. In an area not subject to active management, a person may not drill or cause to be drilled any well or deepen an existing well without first filing notice of intention to drill pursuant to subsection C of this section or obtaining a permit pursuant to section 45-834.01.

B. In an active management area, a person may not drill or cause to be drilled an exempt well, a replacement well in approximately the same location or any other well for which a permit is not required under this article, article 7 of this chapter or section 45-834.01 or deepen an existing well without first filing a notice of intention to drill pursuant to subsection C of this section.

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

1. The name and mailing address of the person filing the notice.
  2. The legal description of the land upon which the well is proposed to be drilled and the name and mailing address of the owner of the land.
  3. The legal description of the location of the well on the land.
  4. The depth, diameter and type of casing of the proposed well.
  5. Such legal description of the land upon which the groundwater is proposed to be used as may be required by the director to administer this chapter.
  6. When construction is to begin.
  7. The proposed uses to which the groundwater will be applied.
  8. The name and well driller's license number of the well driller who is to construct the well.
  9. The design pumping capacity of the well.
  10. If for a replacement well, the maximum capacity of the original well and the distance of the replacement well from the original well.
  11. If the proposed well would pump Colorado river water, proof that the director determines to be satisfactory that the person who files the notice has the legal right to use Colorado river water. This paragraph does not apply to a proposed well that will have a pump with a maximum capacity of not more than thirty-five gallons per minute and that will be used for the supply, service and activities of households and private residences, including the application of water to less than two acres of land to produce plants or parts of plants for sale or human consumption or for use as feed for livestock, range livestock or poultry, as those terms are defined in section 3-1201.
  12. Proof that the director determines to be satisfactory that the person proposing to construct the well holds a valid license issued by the registrar of contractors pursuant to title 32, chapter 10, and that the license is of the type necessary to construct the well described in the notice of intention to drill. If the proposed well driller does not hold a valid license, the director may accept proof that the proposed well driller is exempt from licensing as prescribed by section 32-1121.
  13. If any water from the proposed well will be used for domestic purposes as defined in section 45-454, evidence of compliance with the requirements of subsection F of this section.
  14. Such other information as the director may require.
- D. Upon receiving a notice of intention to drill, the director shall endorse on the notice the date of its receipt. The director shall determine whether all information that is required has been submitted and, if applicable, whether the

requirements of subsection C, paragraphs 11, 12 and 13 of this section have been met. If so, within fifteen days of receipt of the notice, the director shall record the notice, mail a drilling card that authorizes the drilling of the well to the well driller identified in the notice and mail written notice of the issuance of the drilling card to the person filing the notice of intention to drill at the address stated in the notice. Upon receipt of the drilling card, the well driller may proceed to drill or deepen the well as described in the notice of intention to drill. If the director determines that the required information has not been submitted or, if applicable, that the requirements of subsection C, paragraphs 11, 12 and 13 of this section have not been met, the director shall mail a statement of the determination to the person giving the notice to the address stated in the notice, and the person giving the notice may not proceed to drill or deepen the well.

E. The well shall be completed within one year after the date of the notice **UNLESS THE DIRECTOR APPROVES A LONGER PERIOD OF TIME PURSUANT TO THIS SUBSECTION.** If the well is not completed within one year **OR WITHIN THE TIME APPROVED BY THE DIRECTOR PURSUANT TO THIS SUBSECTION,** the person shall file a new notice before proceeding with further construction. **AT THE TIME THE DRILLING CARD FOR THE WELL IS ISSUED, THE DIRECTOR MAY PROVIDE FOR AND APPROVE A COMPLETION PERIOD THAT IS GREATER THAN ONE YEAR BUT NOT TO EXCEED FIVE YEARS FROM THE DATE OF THE NOTICE IF BOTH OF THE FOLLOWING APPLY:**

- 1. THE PROPOSED WELL IS A NONEXEMPT WELL WITHIN AN ACTIVE MANAGEMENT AREA AND QUALIFIES AS A REPLACEMENT WELL IN APPROXIMATELY THE SAME LOCATION AS PRESCRIBED IN RULES ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-597.**
- 2. THE APPLICANT HAS SUBMITTED EVIDENCE THAT DEMONSTRATES ONE OF THE FOLLOWING:**
  - (a) THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE HAS ACQUIRED OR HAS BEGUN A CONDEMNATION ACTION TO ACQUIRE THE LAND ON WHICH THE ORIGINAL WELL IS LOCATED.**
  - (b) THE ORIGINAL WELL HAS BEEN RENDERED INOPERABLE DUE TO FLOODING, SUBSIDENCE OR OTHER EXTRAORDINARY PHYSICAL CIRCUMSTANCES THAT ARE BEYOND THE CONTROL OF THE WELL OWNER.**

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

1. Include the county assessor's parcel identification number.
2. Show the proposed well location and the location of any septic tank or sewer system that is either located on the property or within one hundred feet of the proposed well site.
3. Show written approval by the county health authority that controls the installation of septic tanks or sewer systems in the county, or by the local health authority in areas where the authority to control installation of septic tanks or sewer systems has been delegated to a local authority. In areas where there is no local or county authority that controls the installation of septic tanks or sewer systems, the applicant shall apply for approval directly to the department of water resources.

G. Before approving a well site plan submitted pursuant to subsection F of this section, the county or local health authority or the department of water resources, as applicable, pursuant to subsection F of this section, shall review the well site plan and determine whether the proposed well location complies with applicable local laws, ordinances and regulations and any laws or rules adopted under this title and title 49 regarding the placement of wells and the proximity of wells to septic tanks or sewer systems. If the health authority or the department of water resources, as applicable, pursuant to subsection F of this section, finds that the proposed well location complies with this title, title 49 and with local requirements, it shall endorse the site plan and the proposed well placement in a manner indicating approval. On endorsement, the director of water resources shall approve the construction of the well, if all remaining requirements have been met. If the health authority is unable to determine whether the proposed well location complies with this title, title 49 and local requirements, it shall indicate this on the site plan and the decision to approve or reject the proposed construction rests with the director of water resources. If parcel size, geology or location of improvements on the property prevents the well from being drilled in accordance with this title, title 49 or local requirements, the property owner may apply for a variance. The property owner shall make the request for a variance to the county or local authority if a county or local law, ordinance or regulation prevents the proposed construction. If a law or rule adopted under this title or title 49 prevents the proposed construction, the property owner shall make the request for a variance directly to the department of water resources. The request for a variance shall be in the form and shall contain the information that the department of water resources, county or local authority may require. The department of water resources, or the county or local

authority whose law, ordinance or regulation prevents the proposed construction, may expressly require that a particular variance shall include certification by a registered professional engineer or geologist that the location of the well will not pose a health hazard to the applicant or surrounding property or inhabitants. If all necessary variances are obtained, the director of water resources shall approve the construction of the well if all remaining requirements have been met.

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

Sec. 3. [Effective date; condition](#)

Section 45-596, Arizona Revised Statutes, as amended by Laws 2002, chapter 133, section 5 and section 2 of this act, is effective as prescribed in Laws 2002, chapter 133, section 15.

APPROVED BY THE GOVERNOR APRIL 6, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2006.

**Arizona Department of Water Resources  
Budget Summary**

Appropriations

HB 2863, general appropriations; fiscal year 2006-2007 provides the following appropriation for the Arizona Department of Water Resources (ADWR):

FTE Positions: 212.7

Appropriation	
Operating Lump Sum Appropriation	\$15,185,600
Assured and Adequate Water Supply Administration	2,800,000*
Rural Water Studies	1,911,000
Adjudication Support	500,000
Automated Groundwater Monitoring	500,000
Total Appropriation	\$20,896,600
Fund Sources	
General Fund	\$19,796,600
Assured and Adequate Water Supply Fund	1,100,000
<b>Total Funds</b>	<b>\$20,896,600</b>

\*Includes \$1,100,000 from the Assured and Adequate Water Supply Administration Fund.

HB 2863 includes \$13,500,000 for the Arizona Water Bank Authority (AWBA) for the purposes of carrying out the state's obligations related to Indian firming.

HB 2865, capital outlay; fiscal year 2006-2007, contains \$1,500,000 for the repair of Williams City Dam that shall be used with \$136,000 of local monies and in-kind contributions for the repair.

Legislative Implementation Plans

**Adjudication Support**

HB 2863 contains a \$500,000 line item appropriation for adjudication support.

**SIGNIFICANCE TO AGENCY:** HB 2863 provides the Arizona Department of Water Resources the funding needed to provide technical support to the adjudication courts.

**REQUIRED OUTCOME(S):**

- Rule  
No rule is required for the implementation of HB 2863.
- Legislation  
No legislation is required for the implementation of HB 2863.
- Substantive Policy  
No substantive policy is required for the implementation of HB 2863.

**ACTION(S) REQUIRED:**

- Support Zuni, Gila River Indian Community (GRIC) And Southern Arizona Water Rights Settlement Act (SAWRSA) settlements.
- Complete Initial Draft of the Hopi Hydrologic Study Report (HSR).
- Initiate sub-flow zone mapping/analysis for San Pedro deliverables.
- Support Settlement negotiations: Navajo, San Carlos Apache Tribe, White Mountain Apache Tribe.

**DIVISION STAFF SUPPORT REQUIRED:**

- Statewide Planning
- Legal

**TIMELINE:**

September 2006

- Prepare technical report for GRIC Settlement

November 2006

- Prepare technical report for SAWRSA Settlement

December 2006

- Prepare work plan for mapping the San Pedro sub-flow zone

January 2007

- Implement work plan for mapping the San Pedro sub-flow zone

December 2008

- Complete initial draft report for the Hopi HSR

**Automated Well Monitoring**

HB 2863 contains the following provisions related to the automated well monitoring program:

- Requires the Director of the Arizona Department of Water Resources to establish automated groundwater monitoring sites that monitor hydrologic behavior of groundwater basins and assess groundwater levels over time.

- Stipulates that \$325,000 shall be used for costs associated with the installation, operation and maintenance of field equipment.
- Stipulates that \$175,000 shall be used to fund 2 FTE positions.

**SIGNIFICANCE TO AGENCY:** HB 2863 provides the Arizona Department of Water Resources the funding needed to establish sites in areas of the state where data is currently lacking and improve our understanding of the water supplies in these areas. Access to such information by local communities will allow for more effective planning for current and future water needs as well as provide critical information to manage and mitigate drought impacts.

**REQUIRED OUTCOME(S):**

- Rule  
No rule is required for the implementation of HB 2863.
- Legislation  
No legislation is required for the implementation of HB 2863.
- Substantive Policy  
No substantive policy is required for the implementation of HB 2863.

**ACTION(S) REQUIRED:** The Department will be required to establish automated groundwater monitoring sites across the state, monitor water levels within groundwater basins and to assess hydrologic behavior over time.

**DIVISION STAFF SUPPORT REQUIRED:**

- Hydrology
- ITD
- Legal

**TIMELINE:**

June 2007

- Install five sites

Reporting Requirements

HB 2863, General Appropriations; Fiscal Year 2006-2007, prescribes a number of new reporting requirements which include:

- Prior to August 1, 2006, the Department [of Water Resources] shall submit an expenditure plan to the Joint Legislative Budget Committee describing how the monies in the Assured and Adequate Water Supply Program special line item will be used to accelerate the Assured and Adequate Water Supply Program application process. The expenditure plan shall include information on the number and processing time of applications received by the program.

- Full-time equivalent (FTE) positions contained in this act are subject to appropriation. The Director of the Department of Administration shall account for the use of all appropriated FTE positions excluding those in the Department of Economic Security, the universities and the Department of Environmental Quality. The Director shall submit Fiscal Year 2006-2007 reports by February 1, 2007, and August 1, 2007, to the Director of the Joint Legislative Budget Committee. The reports shall compare the level of FTE usage in each fiscal year to the appropriated level. The Director of the Department of Administration shall notify the director of each budget unit if the budget unit has exceeded its number of appropriated FTE positions. The above excluded agencies shall each report to the Director of the Joint Legislative Budget Committee in a manner comparable to the Department of Administration reporting.
- By October 1, 2006, each agency, including the judiciary and universities, shall submit a report to the Director of the Joint Legislative Budget Committee on the number of filled, appropriated full-time equivalent positions by fund source. The number of filled appropriated full-time equivalent positions reported shall be as of September 1, 2006.
- As part of its Fiscal Year 2007-2008 budget request, agencies shall submit the Fiscal Year 2005-2006 result for the performance measures listed in this act. Agencies receiving Fiscal Year 2006-2007 budgets in Laws 2005, chapter 286, shall submit the Fiscal Year 2005-2006 result for the performance measures listed in that act as a part of their Fiscal Year 2006-2007 budget request. If an agency fails to submit this information, it shall submit a report to the Joint legislative Budget Committee staff and the Office of Strategic Planning and Budgeting as part of its Fiscal Year 2007-2008 budget request on why the agency failed to submit its results for the performance measure.