

## **APPLICATION REVIEW PROCESS**

### **APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES**

In accordance with Arizona Revised Statutes (A.R.S.) § 41-1008 and 41-1079, the Arizona Department of Water Resources (ADWR), Surface Water Permitting Unit, provides the following information regarding the application review process to assist applicants with obtaining a Permit to Appropriate Public Water of the State of Arizona for Instream Flow Purposes.

#### **I. FEES**

The initial application fee for an APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES is \$1,000.00. Total fees for this application are based upon an hourly billable rate, which can be found on the ADWR website located at [www.azwater.gov](http://www.azwater.gov). If the costs of reviewing your application exceed \$1,000.00, you will be invoiced for the difference, up to a maximum total fee of \$10,000.00. Payment may be made by cash, check, or credit card (if you wish to pay by credit card, please contact the Surface Water Permitting Unit at 602-771-8621). Checks should be made payable to the Arizona Department of Water Resources. In addition to the hourly application fee, the applicant shall pay: (1) mileage expenses for traveling to and from a site inspection calculated at the rate set by the Arizona Department of Administration for state travel by motor vehicle and (2) the actual cost of mailing or publishing any legal notice of the application. Failure to enclose the initial application fee will cause the application to be returned. Fees for an APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES are authorized by Arizona Administrative Code (A.A.C) R12-15-103.

#### **II. STEPS FOR PROCESSING YOUR APPLICATION AND OBTAINING APPROVAL**

Before filing your application ADWR encourages you to contact the Surface Water Permitting Unit to schedule a meeting to discuss the application process and review criteria. To assist you in understanding the substantive requirements for this application, a copy of A.R.S. §§ 45-152, 45-152.01 and 45-153 is provided for your information.

It is imperative that you complete the application form in its entirety. An incomplete or incorrect application may result in a delay in processing your application. Please send the application to the address indicated on the form along with any required fees and supporting documentation. ADWR suggests that you retain a copy of all documents that are submitted for review. The first step in perfecting a water right is to obtain a permit. This is initiated by filing an APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES. The Licensing Time Frame associated with this process is 581 days. The second step in perfecting a water right is to obtain a certificate of water right. This is initiated by filing an APPLICATION FOR CERTIFICATE OF WATER RIGHT (PROOF OF APPROPRIATION) FOR INSTREAM FLOW PURPOSES with the initial application fees authorized by A.A.C. R12-15-103.

#### **III. TIME FRAMES FOR REVIEW OF YOUR APPLICATION**

Within 581 days after receipt of your application, ADWR will determine whether your application should be granted or denied, unless this time is extended as described below. In processing your application, ADWR will first determine whether the application is

administratively complete (administrative completeness review) and then whether the application meets the substantive criteria established by statute or rule (substantive review). Each of these reviews will be completed within the times stated below. The time for the administrative completeness review plus the time for the substantive review is referred to as the overall time frame.

#### **A. Administrative Completeness Review Time Frame**

Within 51 days after receipt of your application, ADWR will determine whether your application is complete and will issue a written notice of administrative completeness or deficiencies. After your application is complete, ADWR will proceed with substantive review.

If ADWR sends you a Notice of Deficiency, ADWR will include a comprehensive list of specific deficiencies. Until the missing information is received, both the administrative completeness review and the overall time frames will be suspended. When ADWR receives the missing information, the administrative completeness review and overall time frames will resume. Your application will not be complete until all of the requested information is received. If you do not supply the missing information within 60 days, ADWR may deem your application withdrawn and close the file.

#### **B. Substantive Review Time Frame**

Within 530 days after the application is complete, ADWR will review your application to determine whether it meets the substantive criteria required by statute or rule. By mutual written agreement between you and ADWR, the time for substantive review may be extended by up to 145 days. In cases where a hearing is necessary prior to a decision, the substantive review time frame will be increased by 120 days.

During the substantive review, ADWR may make one written request for additional information. You may also agree in writing to allow ADWR to submit supplemental requests for additional information. If additional information is requested by ADWR, both the substantive review and overall time frames will be suspended. When the additional information is received, the substantive review and overall time frames will resume.

At the end of the ADWR's substantive review, ADWR will send you a written notice either granting or denying your application. If your application is denied, the notice will include the justification for the denial and an explanation of your right to appeal the denial.

### **AGENCY CONTACT**

Please direct any questions, comments, or requests for further assistance the Surface Water Permitting Unit at (602) 771-8621.

## ARIZONA REVISED STATUTES §§ 45-152 and 45-153

### § 45-152 - Application for Permit to Appropriate Water

- A. Any person, including the United States, the state or a municipality, intending to acquire the right to the beneficial use of water, shall make an application to the director of water resources for a permit to make an appropriation of the water. The application shall state:
1. The name and address of the applicant.
  2. The water supply from which the appropriation is applied for.
  3. The nature and amount of the proposed use.
  4. The location, point of diversion and description of the proposed works by which the water is to be put to beneficial use.
  5. The time within which it is proposed to begin construction of such works and the time required for completion of the construction and the application of the water to the proposed use.
- B. The application also shall set forth:
1. If for agricultural purposes, the legal subdivisions of the land and the acreage to be irrigated.
  2. If for power purposes, the nature of the works by which power is to be developed, the pressure head and amount of water to be utilized, the points of diversion and release of the water and the uses to which the power is to be applied.
  3. If for the construction of a reservoir, the dimensions and description of the dam, the capacity of the reservoir for each foot in depth, the description of the land to be submerged and the uses to be made of the impounded waters.
  4. If for municipal uses, the population to be served, and an estimate of the future population requirements.
  5. If for mining purposes, the location and character of the mines to be served and the methods of supplying and utilizing the waters.
  6. If for recreation or wildlife, including fish, the location and the character of the area to be used and the specific purposes for which such area shall be used.
- C. The application shall be accompanied by maps, drawings and data prescribed by the director.

### § 45-152.01 – Instream flow applications; process; definition

- A. In addition to the information prescribed in section 45-152, any person, including the United States, this state or a municipality, who files an instream flow application after the effective date of this section shall comply with the following:
1. The applicant shall submit at least five years of streamflow measurement data to support the proposed beneficial use which shall be submitted at the time the application is filed. The director shall not accept for filing an instream flow application that is not accompanied by at least five years of continuous streamflow measurement data. The streamflow data submitted shall consist of gauged on-site measurements of available water flow from the area in which the claimed beneficial use occurs.
  2. The instream flow application shall describe the proposed beneficial use and shall specify both of the following:
    - (a) The amount of streamflow required for the proposed beneficial use.
    - (b) The availability of the requested flows during claimed periods of beneficial use.
- B. Applications that are submitted after the effective date of this section shall be rejected if the application does not comply with this section.
- C. For the purposes of this section, "instream flow application" means an application for a permit to make an appropriation of water for purposes of recreation or wildlife, including fish, in a specific stream reach without diverting the water from the stream.

**§ 45-153 - Criteria for Approval or Rejection of Applications; Restrictions on Approval**

- A. The director shall approve applications made in proper form for the appropriation of water for a beneficial use, but when the application or the proposed use conflicts with vested rights, is a menace to public safety, or is against the interests and welfare of the public, the application shall be rejected. An administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary.
- B. An application may be approved for less water than applied for if substantial reasons exist but shall not be approved for more water than may be put to a beneficial use. Applications for municipal uses may be approved to the exclusion of all subsequent appropriations if the estimated needs of the municipality so demand after consideration by and upon order of the director.
- C. If the director approves an application for the appropriation of water for use on land owned by the state of Arizona, a permit or certificate shall be issued as prescribed by section 37-321.01.
- D. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section.

**ARIZONA DEPARTMENT OF WATER RESOURCES  
PERMITTING UNIT**

**MAIL TO: 3550 North Central Avenue  
Phoenix, Arizona 85012-2105**  
Telephone (602) 771-8621  
Fax (602) 771-8689

<b>(For office use only)</b>
Registry No: _____
Date Filed: _____

**APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA  
FOR INSTREAM FLOW PURPOSES**

1. Applicant: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Address: \_\_\_\_\_

2. Type of water source and name: \_\_\_\_\_  
tributary to \_\_\_\_\_ within the \_\_\_\_\_ watershed.  
(For office use only)

3. List the proposed use(s) of the instream flow appropriation (limited to wildlife (including fish) and/or recreation):

4. Amount of proposed instream flow appropriation (see item #9 for required attachments):

a. Monthly instream flow requirement (cubic feet/second):

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC

b. Total annual volume: \_\_\_\_\_ acre feet/year

5. Location of proposed instream flow appropriation: County: \_\_\_\_\_

Describe entire reach to be covered by this application, utilizing legal land parameters. Also attach a United States Geological Survey (USGS) topographic quadrangle map(s) clearly showing the location of the entire reach or segment of the proposed instream flow appropriation.

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

\_\_\_\_<sup>1</sup>/<sub>4</sub> \_\_\_\_<sup>1</sup>/<sub>4</sub>, Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_

6. Owner of land on which the proposed instream flow appropriation is located \_\_\_\_\_

(If other than applicant, please explain)

7. Is the water to be used supplementally with other water(s)? Yes No

If "Yes," identify other waters or water rights, and explain: \_\_\_\_\_

\_\_\_\_\_

8. Additional comments or explanations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. **REQUIRED ATTACHMENTS:**

**Initial Application Fee** of \$1,000.00 as authorized by A.A.C. R12-15-103.

**U.S.G.S. Topographical Quadrangle map** or equivalent, or copy thereof, clearly highlighting the proposed stream segment(s) and the beginning and end of the proposed reach.

**Copy of recorded deed and plat maps** showing land ownership. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner authorizing the proposed appropriation.

**Streamflow Study:** See attached instructions for information to be included in a streamflow study.

**Submit the completed application, with the application fee and any supporting or required documents to:  
Arizona Department of Water Resources, Surface Water Permitting Unit, 3550 North Central Avenue, Phoenix,  
Arizona 85021-2105. The application will not be accepted for filing unless it is signed, the proper fee has been  
submitted and the streamflow study is attached.**

\_\_\_\_\_  
Signature of Applicant/Representative (if representative, include authorization)

\_\_\_\_\_  
Date

## APPLICATION INSTRUCTIONS

### APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES

An application for a permit to appropriate public water for instream flow purposes may be filed for the purposes of recreation or wildlife, including fish, in a specific stream reach without diverting the water from the stream.

To assist with completing the application form, instructions that are cross-referenced to the questions on the form are presented below.

1. Complete name of applicant, current mailing address with zip code, and telephone number. If the applicant is a corporation or business, give the name of the authorizing agent.
2. List the name of the stream, creek, or river for which the instream flow permit is being sought. Give the name of the creek, river or other drainage to which the source is a tributary and the watershed in which it is located.
3. List the beneficial use(s). Beneficial uses are limited to wildlife, including fish and/or recreation.
4. Provide the requested monthly instream flows in cubic-feet per second (cfs) for each month and the total annual volume in acre-feet per year (afa). A minimum of five (5) years of continuous streamflow measurement data and a streamflow study are required to be submitted by the applicant before the Department will accept the application. Streamflow must be measured within the limits of the stream reach described in item 5.
5. Identify the county(ies) in which the entire stream reach of the proposed instream flow appropriation is located. Describe the entire reach of the stream covered by the application utilizing legal land parameters (¼¼, Section, Township, Range) starting from the beginning (upstream) to the end (downstream) of the reach, identifying lands not owned or leased/permitted by the applicant. If additional space is needed, please provide on an attached sheet.
6. List the owner of the land on which the proposed instream flow appropriation is located. Provide a copy of the recorded deed or legal document and county assessor or plat map showing land ownership of the land on which the proposed instream flow appropriation is located. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner authorizing the proposed appropriation.
7. Identify any supplemental water sources and describe the method of supplementing the proposed appropriation.
8. Provide any additional comments or explanations.
9. Provide the required attachments:
  - a. Application fee paid by cash, check or credit card.
  - b. Map that shows Section, Township, and Range boundaries with the proposed stream reach clearly highlighted, and lands not owned or leased/permitted by the applicant clearly identified.
  - c. Deeds and plat map or other documentation that show the applicant has legal title or other legal authority to access the land along the entire stream reach described in item 5.
  - d. A streamflow study that contains the information described in the included instructions for completing a streamflow study in support of an application to appropriate public water for instream flow purposes.

The applicant, or a duly authorized representative of the applicant, must sign and date the application form. *The initial application fee must be paid for the application to be accepted by ADWR and establish a date of priority. Fees are authorized by A.A.C. R12-15-103. **The application will not be accepted for filing unless it is signed, the proper fee has been submitted and the streamflow study is attached.***

## STREAMFLOW STUDY INSTRUCTIONS

### APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA FOR INSTREAM FLOW PURPOSES

These instructions identify items required for completing a streamflow study in support of an Application to Appropriate Public Water for instream flow purposes. All streamflow studies should include the following information.

1. **Stream Reach.** A description of the proposed stream reach with a map depicting its location, including its status under federal and state laws, such as whether the proposed stream reach has been designated by the Director of the Department of Environmental Quality as an “Outstanding Arizona Water” pursuant to A.A.C. R18-11-112, has been designated as a Wild and Scenic River under the federal Wild and Scenic Rivers Act, or whether the proposed stream reach lies within an area designated as critical habitat under the Endangered Species Act.
2. **Physical Setting.** A description and map of the physical setting of the proposed stream reach, including natural features such as landforms, topography, geology, climate, precipitation, land use, and man-made features such as cities, towns, roads, highways, and national forests and monuments.
3. **Stream Channel Morphology.** A description of the stream channel geomorphology within the proposed stream reach, including the following:
  - a. Stream order.
  - b. Channel type (straight, meandering or braided) and slope.
  - c. Channel size and geometry.
  - d. Streambed sediments (sand-bed, gravel-bed, bedrock).
  - e. Sediment transport (erosion, transport or deposition).
  - f. Areas of wetlands and vegetation.
4. **Water Sources.** A description and map of the following locations within the proposed stream reach:
  - a. Springs, seeps, or other sources of water.
  - b. Perennial pools (locations that hold water, but do not exhibit perennial surface flow).
  - c. Intermittent segments.
5. **Stream Hydraulics.** A description of the stream hydraulics within the proposed stream reach, including the following:
  - a. Stream gradient, including whether the stream is a mountain stream with channel slope greater than 2 percent.
  - b. Locations and map of any rapids, step-pools, cascade pools, or other turbulent natural features.
  - c. The extent of channelized flow, including whether the proposed stream reach consists of a confined simple channel, a compound channel with floodplain, or lacking a defined channel.
6. **Streamflow Data Collection.** A description of the streamflow data collection and analysis methodologies used for the proposed stream reach, including:
  - a. At least five years of continuous gauged data collected within the limits of the proposed stream reach.
  - b. The legal location (¼ ¼, Section, Township, Range) and latitude/longitude coordinates for the streamflow gauging location(s).
  - c. Quantification of water available within the proposed stream reach using a table showing the requested streamflow for each month in cubic-feet per second and the corresponding annual flow volume in acre-feet per year, including a description of how the requested monthly flows were derived from either published or collected daily discharge data for a minimum of five-years. “Median flow” for each of the twelve months should represent the median of all daily discharge data collected during the minimum five year period. The monthly streamflow table must be presented by calendar year beginning in January and ending in December.
  - d. Channel cross sections plotted at streamflow gauging location(s), including stage-discharge rating curves, and velocity profiles, if available.

7. **Published Streamflow Gauge Data.** For applications using USGS or other published streamflow gauge data, a description of the following:
  - a. Gauge number.
  - b. The method used to access the gauge data.
  - c. The total period of record for the gauge.
  - d. The period of record used in the streamflow calculations.
  - e. The dates of any periods of gauge inactivity.
8. **Unpublished Streamflow Gauge Data.** For applications not using USGS or other published gauge data, a description of the following:
  - a. A data collection plan based on a standard stream gauging method. Applicants are strongly encouraged to request review by the Department of the data collection plan prior to initiating data collection. References that include examples of standard stream gauging methods are provided at the end of these instructions.
  - b. Descriptions of gauging methods, equipment, and instrumentation.
  - c. Raw measurement data, discharge rating curve(s), results of data reduction and post-processing, period of record used in the flow calculations, and dates of any periods of gauge inactivity.
  - d. Any published streamflow data collected outside of the proposed stream reach that may support the validity and reasonableness of the requested streamflows.
9. **Beneficial Uses.** A description of claimed beneficial uses and the relationship between the claimed beneficial uses and the requested streamflow quantities, including a discussion of impacts on the claimed beneficial uses if the requested streamflow quantities are not met. Examples of standard references that describe instream flow assessment methodologies are provided at the end of these instructions.
10. **Wildlife.** If wildlife, including fish, are claimed as beneficial uses, a description of the following:
  - a. The wildlife and fish species that currently inhabit the proposed stream reach, together with a description of their status under the federal Endangered Species Act or any other state, federal or local law, and whether the fish species are native or non-native species.
  - b. The purposes for which the water in the proposed stream reach is used, such as for habitat, a food source, drinking water, reproduction, and/or a migration corridor. If for habitat, include a description of the essential habitat conditions for use.
  - c. Any available information regarding known changes in wildlife and/or fish populations in response to changes in streamflow quantities. Any areas outside of the proposed stream reach relied upon to supply this information must be similar to the habitat and streamflow conditions within the proposed stream reach.
11. **Recreation.** If recreation is claimed as a beneficial use, a description of the following:
  - a. The type of recreational activities associated with the proposed stream reach.
  - b. Any public access locations, including trails, roads, and campgrounds.
  - c. Available data regarding the number of visitors to the proposed stream reach, such as data based on visitors' logs or surveys, hunting or fishing statistics, or use fees collected.
12. **Existing Water Uses.** A description of any existing water uses in the vicinity of the proposed stream reach or its tributaries, and a map of their location, including:
  - a. Claimed, decreed or certificated water rights, and any ponds, reservoirs, dams, surface diversions, and wells.
  - b. Strategies for managing any claimed beneficial uses that may be incompatible with existing water uses along the proposed stream reach, such as water uses under grazing leases and/or permits.
13. **Maps.** In addition to the map information required above, each map must include the following:
  - a. Map scale, Section, Township, Range numbers, and north arrow.
  - b. Delineation of proposed stream reach (indicate perennial and intermittent segments).
  - c. Watershed boundary.
  - d. Stream gauge measurement locations, either field measurement locations and/or USGS gauges.
  - e. Land ownership (private, federal or state).
14. **Photographs.** Photographs of the proposed stream reach, and the stream gauge measurement location(s).

## REFERENCES

Examples of references on streamflow data collection and instream flow assessments are listed below for information purposes only.

Annear, T., and others eds. (2004), Instream Flows for Riverine Resource Stewardship, Instream Flow Council.

Bovee, K. D., and others (1998), Stream habitat analysis using the instream flow incremental methodology, USGS Biological Resources Division Information and Technology.

Bovee, K.D. (1986), Development and Evaluation of Habitat Suitability Criteria for Use in the Instream Flow Incremental Methodology. U.S. Fish and Wildlife Service, Washington, D.C., Instream Flow Information Paper No. 21.

Bovee, K.D., ed. (1995), A Comprehensive Overview of the Instream Flow Incremental Methodology. National Biological Service, U.S. Dept. of Interior, Fort Collins, CO.

Jowett, G., "Instream Flow Methods: A Comparison of Approaches" Regulated Rivers: Research and Management, Vol. 13, 115-127 (1997).

Kennedy, E.J. (1984), Discharge ratings at gaging stations, U.S. Geological Survey Techniques of Water-Resources Investigations, Chapter 10 of Book 3, Section A.

Kenney, T.A. (2010), Levels at gaging stations, U.S. Geological Survey Techniques and Methods, Chapter 19 of Book 3, Section A.

Milhous, R.T., and others (1989), Physical Habitat Simulation System Reference Manual-Version II. U.S. Fish and Wildlife Service, Instream Flow Information Paper No. 26, Biological Report 89(16).

Poff, N. L., and others, "The Natural Flow Regime" BioScience, Vol. 47, No. 11. (Dec., 1997), pp. 769-784.

Rantz, S.E., and others (1982), Measurement and computation of streamflow: Vol. 1 - Measurement of stage and discharge, USGS Water-Supply Paper 2175, v. 1.

Rantz, S.E., and others (1982), Measurement and computation of streamflow: Vol. 2 Computation of Discharge, USGS Water-Supply Paper 2175, v. 2.

Sauer, V.B., and Turnipseed, D.P. (2010), Stage measurement at gaging stations, U.S. Geological Survey Techniques and Methods, Chapter 7 of Book 3, Section A.

Stalnaker, C., and others (1995), The instream flow incremental methodology: a primer for IFIM, National Biological Services U.S. Dept. of the Interior.

Turnipseed, D.P., and Sauer, V.B. (2010), Discharge measurements at gaging stations, U.S. Geological Survey Techniques and Methods, Chapter 8 of Book 3, Section A.