ADWR
ARIZONA DEPARTMENT OF WATER RESOURCES

SECURING ARIZONA'S WATER FUTURE

Underground Water Storage, Savings and Replenishment Program

Water Storage Permit Application Guide

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February, 2009

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Arizona Department of Water Resources
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Application forms, links to referenced statutes and agencies, and additional information regarding the UWS Program may be found at www.azwater.gov/recharge.

WATER STORAGE APPLICATION GUIDE
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WATER STORAGE PERMIT APPLICATION GUIDE

A. INTRODUCTION

Water Storage (WS) permits are issued in accordance with the Underground Water Storage, Savings and Replenishment Program in Arizona Revised Statutes (A.R.S.) § 45-801.01 *et seq.* A WS permit issued pursuant to A.R.S. § 45-831.01 grants the permit holder authority to store water at a permitted Underground Storage Facility (USF) or Groundwater Savings Facility (GSF). This guide provides information on the permit application process and assistance in completing the WS permit application form. Applicants may contact the Department if additional assistance or information regarding the application process is needed.

1. Whom to Contact to Schedule Meetings

The Recharge Coordinator may be contacted to schedule a pre-application meeting. Applicants who have identified questions they want to discuss at the meeting should submit their questions to the Recharge Coordinator prior to the scheduled meeting to allow Department staff to prepare appropriately.

B. APPLICATION SUBMITTAL

1. Filing an Application

A WS permit application form (see Appendix A of this Application Guide for a sample) must be completed to apply for a new WS permit or to modify or renew an existing permit. Application forms are available from the Recharge Coordinator and at AMA offices or they may be printed from www.azwater.gov/recharge. All applicable supporting evidence requested on the application must be included in the submittal. To convey a WS permit, refer to the Permit Conveyance Application Guide. The application fee and one original plus one copy of the WS permit application form and supporting evidence must be submitted to the Recharge Coordinator at the address noted on the application form. The application form must be signed by the applicant and notarized.

In order to implement a contingency that is specific in nature and was included as a condition of an existing WS permit, no permit modification application, fee or public notice is required. All other contingencies may only be implemented through a WS permit modification and may be subject to fees and/or public notice as described in Sections B.2 and C.3 of this Application Guide.

2. Fee Schedule

Fees are assessed in accordance with A.R.S. § 45-871.01(A) and Arizona Administrative Code (A.A.C.) R12-15-151(B). The following fee schedule pertains to WS applications/permits, including the modification or renewal of WS permits.

Water Storage Permit Application……..	$ 250.00
Water Storage Permit……..	$ 100.00
Public Notice……	Assessed after Public Notice Based on Actual Costs.

a. Exceptions to Fees for Permit Modifications

Permit modification and renewal applications require the same fees as new WS permit applications (as described above); however, there are limited circumstances when fees for modifications are waived. Application and permit fees are not assessed for the following modifications:

- Corrections of clerical errors or omissions caused by the Department.
- Changes to a permit that are required by a change in ADWR rule or statute unless a new fee is required by law.

3. Filing an Application to Renew a Water Storage Permit

WS permittees who want to continue to store water at a permitted storage facility after their WS permit is scheduled to expire may apply for a renewal of their permit as provided in A.R.S. § 41-1092.11. If the application is submitted prior to the expiration of the existing permit and satisfies all the preliminary submittal requirements, *i.e.* it includes the appropriate fees and one original plus one copy of the correct, signed and notarized application form, the existing permit will not expire until the Department makes a final determination on the renewal application. If the renewal application is denied or the terms of the renewal are limited, the existing permit remains effective until the conclusion of the administrative appeal process. If the permit holder does not file a timely renewal application that meets all of the preliminary submittal requirements, a new application for a WS permit will be required, and operations pursuant to the existing permit must cease when the permit expires.

C. LICENSING TIMEFRAMES

The licensing timeframes for the permit application process are set forth in A.A.C. R12-15-401. The timeframes consist of a 100-day administrative completeness review timeframe and a 195-day substantive review timeframe, which combine to form the overall timeframe of 295 days. The licensing timeframes pertain to new WS permit applications, as well as permit modifications and renewals.

1. Overall Timeframe

The overall timeframe, 295 days, is the number of days after receipt of an application during which the Department must determine whether to grant or deny the application. The overall timeframe consists of both the administrative completeness review timeframe and the substantive review timeframe. The overall timeframe will be extended if the applicant receives a letter from the Department during the administrative completeness review or substantive review timeframes requesting additional information or if a hearing is held. Therefore, the 295 days may not reflect the actual time it will take for the Department to grant or deny an application for a WS permit.

2. Administrative Completeness Review Timeframe

During the 100-day administrative completeness review timeframe, the Department must determine whether the submittal contains all the information required for a complete and correct application. The 100-day administrative completeness review timeframe begins upon receipt of an application that satisfies all of the preliminary submittal requirements.

These requirements include the submittal of the appropriate fees and one original plus one copy of the correct, signed and notarized, application form. All supplemental materials requested in the application must be included in the submittal. If an application that does not satisfy these requirements is submitted to the Department, the applicant will be notified by phone that they have 10 calendar days, or longer by mutual agreement between the applicant and the Department, to submit the missing information. If the information is not submitted within that time, the original submittal, including fees (if submitted), will be returned to the applicant unprocessed.

a. Incomplete and Incorrect Determination

Pursuant to A.R.S. § 45-871.01(B), if the Director determines the application is incomplete and incorrect, the applicant will be notified in writing and will be provided a comprehensive list of deficiencies found in the application. At this time, the administrative completeness review and overall timeframes are suspended. The applicant will have 60 days to respond to the Department's request for additional information. Once the applicant submits the requested information, the timeframe resumes and 15 days are added to the timeframe. The Department may deny the application if the re-submittal is not received within 60 days or if the re-submittal does not address all deficiencies listed in the incomplete and incorrect letter. The applicant may contact the Recharge Coordinator to schedule a meeting or conference call to discuss with Department staff any questions or concerns regarding the incomplete and incorrect letter.

b. Complete and Correct Determination

An application is deemed complete and correct when all of the information requested in the application has been submitted. Once an application is determined to be complete and correct, the applicant is notified in writing of the determination. The date of the complete and correct letter begins the substantive review timeframe.

3. Substantive Review Timeframe

The 195-day substantive review timeframe begins once the application is determined to be complete and correct. The substantive review timeframe includes the public notice period, the objection period, and the Director's review of the application to determine whether the application should be granted or denied. In cases where a pre-determination hearing is necessary, an additional 120 days are added to the timeframe. **All remaining fees must be paid during the substantive review timeframe.**

During the substantive review timeframe, the Department may make one written request for additional information. If the Department makes such a request, the substantive review timeframe and the overall timeframe are suspended from the date the request is issued until the date the applicant submits the requested information. By mutual written agreement between the applicant and the Department, the substantive review timeframe may be extended up to an additional 74 days (25% of the overall timeframe).

a. Public Notice

Pursuant to A.R.S. § 45-871.01(D), within 15 days of the complete and correct determination, or a longer period if requested by the applicant, the Director must give notice of the application once per week for two consecutive weeks in a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be affected by the water storage. Any city, town, private water company,

irrigation district, or electrical district that serves land within the area of impact of the stored water will be notified by first class mail. The applicant will be notified in writing of the name of the newspaper, publication dates, and the date when the objection period ends. Objectors will be given 15 days after the last publication date to object in writing to the proposed water storage. Objections must be based on the assertion that the application does not meet the requirements specified in A.R.S. § 45-831.01.

b. Exceptions to Public Notice for New Applications

Pursuant to A.R.S. § 45-871.01(E), public notice is not required for applications proposing to store Colorado River water if **all** of the following conditions are met:

- Water storage will occur at a facility where the storage of Colorado River water has previously been permitted.
- The holder of the storage facility permit has consented to the water storage.
- The proposed storage will not require a modification of the existing storage facility permit.
- Colorado River water will be the only type of water stored under the WS permit.
- The applicant has a right to use the Colorado River water.

If all of these conditions are met, the Director may issue the permit within 20 days of the complete and correct determination.

c. Exceptions to Public Notice for Permit Modifications and Renewals

Permit modifications and renewals are subject to public notice under A.R.S. § 45-871.01(D). However, only the modification or renewal is subject to objection. The following are limited conditions when public notice is not required for modifications:

- Corrections of clerical errors or omissions caused by the Department that do not affect the substance of the permit.
- Decrease of the permit volume.
- Decrease of the permit duration.
- The addition of Colorado River water as a source water to the WS permit as provided in A.R.S. § 45-831.01(G).

d. Notice of Decision on Application

The Director will send written notice, via certified mail, to the applicant either granting or denying the permit application. Written notice will also be sent to any person who submitted a timely objection to the application. If the Director grants the permit application, the notice will include a Final Appealable Draft Permit. If timely objections were not filed, the notice will also include a Notice of Appeal form and an Appealable Agency Action Waiver form. The applicant may appeal the permit within 30 days, or waive the right to appeal by signing the waiver form. If the applicant waives the right to appeal, the signed permit will be issued without delay. If a timely objection is filed, the Department will send a Notice of Appeal form to both the applicant and the objector. If an appeal is not filed within the 30-day appeal period, the Department will issue a signed permit after the appeal period expires. If a timely appeal is filed, the Department will schedule a hearing at the Office of Administrative Hearings. If the Director denies the permit application, the notice will include the justification for the denial and an explanation of the right to appeal the denial.

D. COMPLETING THE APPLICATION FORM

A sample copy of the WS permit application form may be found in Appendix A of this Application Guide. Application forms are available from the Recharge Coordinator and at AMA offices or they may be printed from http://www.azwater.gov/recharge. Note that because no explanation is given for self-explanatory items the numbering of this Section does not necessarily match that of the application form.

1. Name and Address

The name and address provided on the application will be the name and address of the permittee on the permit.

2. Storage Facility

Water storage may only occur at a permitted USF or GSF. The storage facility must be permitted for each type of water the applicant is proposing to store. An applicant may submit an application for a WS permit concurrently with an application for a new USF permit or modification of an existing USF permit in order to expedite the permitting process. However, if the water is to be stored at a new USF, the WS permit will not be granted until the USF permit application is also granted.

3. Consent to Water Storage

If the applicant is not the USF or GSF permit holder where the proposed storage will occur and the application proposes to store Colorado river water, written consent from the facility permit holder for the proposed water storage may allow the Department to grant the permit without public notice, as described in Sections C.3.b and C.3.c of this Application Guide. See Appendix B of this Application Guide for a sample consent agreement.

4. Type of Source Water

Types of water that may be permitted for storage are Colorado River water, including CAP water, decreed and appropriative surface water, and effluent. Multiple types of source water may be permitted for storage under one WS permit. An applicant must have the ability to transport the proposed source water to the storage facility. If the applicant is not the owner of the conveyance system, a signed agreement between the owner of the conveyance system and the applicant must be submitted with the application. If transportation of the source water to the facility is based on a water exchange agreement, a copy of the signed agreement must also be submitted with the application. It should be noted that water **received** in an exchange retains the legal character of the water that is **given** in the exchange. Therefore, the storage facility must be permitted for the type of water the storer is giving in the exchange.

Conveyance systems often transport a commingled (blended) supply of water. A commingled supply may include a water type that is not proposed for storage or that a facility is not permitted to store, such as groundwater. If the applicant proposes to store a commingled supply, the Department recommends that the applicant request a pre-application meeting to discuss water supply accounting methodologies for the project.

Important Note: To be eligible to earn long-term storage credits, stored water must meet the legal definition of "water that cannot reasonably be used directly". Please refer to

A.R.S. § 45-802.01(22) for further clarification on the types of source water that meet this definition.

5. Non-recoverable water

Pursuant to A.R.S. § 45-833.01, water storage that is designated as non-recoverable may not be recovered on an annual basis, may not earn long-term storage credits for future recovery, and may not be used for replenishment purposes.

6. Permit Duration

The requested duration of a WS permit may not exceed the permit expiration date of the storage facility where the proposed storage will occur.

7. Legal Right to Source Water

An applicant must prove that it has the legal basis to acquire and use each type of water proposed for storage. Signed contracts and/or cited right numbers, laws or court decrees may be submitted as evidence of the applicant's legal right to the water.

- **CAP water:** The right to use CAP water is governed by contracts with the Central Arizona Water Conservation District (CAWCD). An applicant proposing to store CAP water may want to store pursuant to multiple CAP water contracts, including contracts not yet executed. Copies of contracts may be submitted with the application or after the permit is issued. If contracts are not submitted with the application, the permit will contain a condition requiring that copies of executed contracts for CAP water be submitted to the Department prior to the commencement of water storage.

- **Effluent:** The right to use effluent is generally governed by the principles outlined in the 1989 Arizona Supreme Court decision of Arizona Public Service Co. v. Long, 160 Ariz. 429, 773 p. 2d 988 (1989). That decision held in part that an entity that produces effluent has the right to put the effluent to a beneficial use or convey the effluent to another person who will put the effluent to a beneficial use regardless of the original source of the water. If an applicant seeking to store effluent is not the entity that produced the effluent, the legal right to the effluent must be proven through a contract or agreement with the producer of the effluent.

- **Surface water:** Surface water rights designate a volume of water, a point of diversion, a place of use, and a type of use for the appropriated water. Using surface water for recharge does not change any of the limitations imposed by the right. Therefore, the point of diversion of surface water to be stored at a recharge project must be the same as that listed on the surface water right certificate decree, or the certificate decree must be modified to change the point of diversion.

8. Agreement to Comply with Groundwater Savings Facility Plan of Operation

If the WS permit application is for storage at a GSF and the applicant is not the holder of the GSF permit, the applicant must agree to comply with the GSF plan of operation.

E. OTHER FORMS AND PERMITS THAT MAY BE REQUIRED

1. Aquifer Protection Permit (APP)

An APP must be obtained from the Arizona Department of Environmental Quality (ADEQ) for non-CAP water storage projects. A.R.S. Titles 45 and 49 recognize different permitting procedures for USFs depending on whether the source water includes effluent. Provisions of A.R.S. § 49-250(12) and (13) exempt USFs using CAP and certain other non-effluent waters from the requirement to obtain an APP if an operating permit is secured under A.R.S. Title 45. Thus, depending on the facility's source water type, the discharge may or may not require an APP issued by ADEQ. If the source water subjects the facility to APP requirements, the APP must be obtained prior to any water storage at the USF. Please contact the Water Permit Section of the Water Quality Division at ADEQ for further information.

APPENDIX A -- APPLICATION FORM

Application forms are available from the Recharge Coordinator and at AMA offices or they may be printed from:
www.azwater.gov/recharge

ARIZONA DEPARTMENT OF WATER RESOURCES
Water Management Division
3550 North Central Ave, 2nd Floor
Phoenix, Arizona 85012-2105
Phone (602) 771-8585 Fax (602) 771-8689

APPLICATION FOR WATER STORAGE PERMIT (A.R.S § 45-831.01)

APPLICATION FEE $ 250.00 DUE UPON FILING.

PERMIT FEE OF $ 100.00, PLUS PUBLICATION FEES TO BE DETERMINED, WILL BE DUE PRIOR TO ISSUANCE OF PERMIT.

FOR OFFICE USE ONLY

Application No.: _____

Date Received: _____

PLEASE SUBMIT ONE ORIGINAL AND ONE COPY OF THE COMPLETED APPLICATION AND ALL SUPPORTING MATERIALS

APPLICATION FOR: (Check one)

☐ **New Water Storage Permit** ☐ **Modification of Water Storage Permit** No. 73-_____ ☐ **Renewal of Water Storage Permit** No. 73-_____

GENERAL INFORMATION

1. Name of Applicant: _____

   _____
   Mailing Address **City** **State** **Zip**

   Contact Person: _____ Telephone: _____ Fax: _____

2. Name and permit number of storage facility where water storage will occur: _____

   _____

3. Name of Active Management Area or Irrigation Non-Expansion Area where the facility will be located:

   _____
   (If the facility is NOT located within an AMA or INA, please indicate "NONE.")

4. Name of groundwater basin and subbasin where the facility will be located: _____

   _____

5. If this water storage permit application is for the storage of CAP water and meets the requirements of A.R.S. §§ 45-831.01(G) or 45-871.01(E) and the applicant will **not** also be the holder of the storage facility permit, please submit a consent agreement signed by the facility permit holder.

6. The maximum annual amount of water that may be stored at the facility: _____
   (acre-feet per year)

7. The maximum annual amount of water proposed for storage pursuant to this water storage permit: _____ _____
   (acre-feet per year)

8. Proposed duration of the permit: _____

9. The maximum amount of water proposed for storage for the duration of the permit pursuant to this water storage permit:

_____

(acre-feet)

10. The stored water will be recovered:

☐ Only on an annual basis pursuant to ARS § 45-851.01

☐ Only be credited to long-term storage account #70-_____

☐ Either recovered on an annual basis or credited to long term storage account #70-_____

11. Type of source water to be stored:

☐ CAP Contract ☐ Right to municipally treated effluent ☐ Decreed and appropriative surface water right

If Decreed and Appropriative Surface Water, list river(s): _____

[**NOTE:** In order for the storer to accrue long-term storage credits for the stored water, the source water must comply with A.R.S. § 45-802.01(21), "Water that cannot reasonably be used directly".]

12. If the water to be stored is appurtenant to a place of use, the legal description of the location of that use: _____

_____

(quarter/quarter/quarter/section, township and range)

13. What is the applicant's legal right to use the proposed source(s) of water?

☐ CAP Contract ☐ Right to municipally treated effluent ☐ Decreed and appropriative surface water right

☐ Other, please explain: _____

Cite the right number, law, court decree, contract or other legal basis for acquiring and using each source of water to be stored pursuant to this permit: _____

_____

If municipally treated effluent will be stored and the applicant is the producer of the effluent, does the applicant certify that, after meeting all contractual obligations for delivery of effluent to other parties, the applicant retains the legal right to the volume of effluent requested in item 7 of this application? ☐ Yes ☐ No

14. Do you own the system through which the water to be stored will be delivered to the storage/savings facility?

☐ Yes ☐ No **If no**, please provide a copy of the transportation agreement that allows the proposed water delivery system to be used to carry the water to be stored to the storage/savings facility.

15. Do you want this water storage permit to be designated as storing non-recoverable water pursuant to A.R.S. § 45-833.01?

☐ Yes ☐ No

16. **For effluent storage:**

Is the facility where storage is to occur currently regulated under an Aquifer Protection Permit (APP) issued by the Arizona Department of Environmental Quality? ☐ Yes ☐ No

If no, will the applicant be obtaining an APP? ☐ Yes ☐ No

If no to both, please explain method of compliance with A.R.S. § 45-831.01(B)(2): _____

_____

17. **For water storage at a Groundwater Savings Facility,** if the applicant is **not** the GSF permit holder, does the applicant agree to comply with the Plan of Operation for the GSF permit listed in Item 2 of this application? ☐ Yes ☐ No

NOTARIZED SIGNATURE

I (We),_____, the applicant(s) named in this application, do hereby certify under the penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

_____ _____

Telephone Signature of owner or authorized agent

_____

Title

_____

Mailing Address City State Zip

STATE OF ARIZONA)

) ss.

County of_____)

Subscribed and sworn to before me this_____ day of_____, 20_____.

_____

Notary Public

_____

My commission expires:

APPENDIX B -- FACILITY CONSENT TO WATER STORAGE

Pursuant to A.R.S. § 45-871.01(E)(1), this letter serves as consent from _____

_____ allowing _____
(Storage/Savings Facility Permittee)

_____ to store up to _____ acre-feet of
(Water Storage Permit Applicant and application no.)

_____ at _____
(Type of water to be stored) (Storage/Savings Facility Name)

in accordance with (check one) ☐ Underground Storage Facility or ☐ Groundwater Savings

Facility permit number _____.
(Facility permit no.)

Signature: _____
(Storage Facility Permittee or designated representative)

Printed Name: _____

Title: _____

Company: _____

Date: _____

APPENDIX C -- UNDERGROUND WATER STORAGE, SAVINGS AND REPLENISHMENT PROGRAM CONTACTS

Phoenix AMA	**Pinal AMA**	**Prescott AMA**
ADWR 3550 North Central Ave 2nd Floor Phoenix, AZ 85012 602-771-8585	ADWR 1729 North Trekell Road Suite 105 Casa Grande, AZ 85222 520-836-4857	ADWR 2200 East Hillsdale Road Prescott, AZ 86301 928-778-7202

Santa Cruz AMA	**Tucson AMA**
ADWR 857 West Bell Road Suite 3 Nogales, AZ 85621 520-761-1814	ADWR 400 West Congress St Suite 518 Tucson, AZ 85701 520-770-3800

To obtain application forms, additional Application Guides, information on filing an application or to schedule a meeting contact:

Recharge Coordinator
Water Management Division
Arizona Department of Water Resources
3550 North Central Ave
Phoenix, AZ 85012
602-771-8585
Or visit our website at: www.azwater.gov/recharge

For specific technical questions contact:

Hydrology Division
Arizona Department of Water Resources
3550 North Central Ave
Phoenix, AZ 85012
602-771-8535

For questions related to an Aquifer Protection Permit (if required) contact:

Wastewater, Recharge and Reuse Unit
Arizona Department of Environmental Quality
1110 West Washington Street, 5415B-3
Phoenix, AZ 85007
602-771-4683

ADWR

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FAX: 602-771-8689

www.azwater.gov

This brochure focuses on the methods and criteria for obtaining a new Water Storage Permit.

Information on obtaining a new, or modifying or renewing an existing, Underground Storage Facility Permit or conveying an Underground Storage Facility, Groundwater Savings Facility or Water Storage Permit to a new owner may be found in companion brochures.