

REFERENCE TITLE: active management area; groundwater right

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2099

Introduced by
Representative Griffin

AN ACT

AMENDING SECTION 45-465, ARIZONA REVISED STATUTES; RELATING TO THE
GROUNDWATER CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-465, Arizona Revised Statutes, is amended to
3 read:

4 45-465. Irrigation grandfathered right; determination of
5 acres entitled to and amount; appurtenancy

6 A. In an active management area, a person who owns land ~~which~~ THAT
7 was legally irrigated in whole or in part with groundwater at any time
8 during the five years preceding January 1, 1980 for initial active
9 management areas or the date of the notice of the initiation of
10 designation procedures or the call for the election for subsequent active
11 management areas, ~~which~~ THAT is capable of being irrigated and ~~which~~ THAT
12 has not been retired from irrigation for a non-irrigation use pursuant to
13 section 45-463 or 45-469 has the right to use groundwater for the
14 irrigation of such land as determined pursuant to subsections B and C of
15 this section.

16 B. Except as provided in subsection C of this section, the director
17 shall compute the maximum amount of groundwater ~~which~~ THAT may be used
18 pursuant to this section as follows:

19 1. Determine the farm units, as defined in section 45-402, within
20 the active management area.

21 2. Determine the irrigation water duty, as defined in section
22 45-402, for each farm unit in an active management area, pursuant to
23 ~~sections 45-564 through 45-568~~ ARTICLE 9 OF THIS CHAPTER.

24 3. Determine the water duty acres for each farm within the farm
25 unit. The water duty acres are the highest number of acres in the farm,
26 taking land rotation into account, ~~which~~ THAT were legally irrigated
27 during any one year in the five years preceding January 1, 1980 for
28 initial active management areas or the date of the notice of the
29 initiation of designation procedures or the call for the election for
30 subsequent active management areas.

31 4. Determine the irrigation acres for each farm within the farm
32 unit. The irrigation acres are the acres in the farm ~~which~~ THAT were
33 legally irrigated at any time during the five years preceding January 1,
34 1980 for initial active management areas or the date of the notice of the
35 initiation of designation procedures or the call for the election for
36 subsequent active management areas, ~~which~~ THAT are capable of being
37 irrigated and ~~which~~ THAT have not been retired from irrigation for a
38 non-irrigation use pursuant to section 45-463 or 45-469.

39 5. Multiply the water duty acres for each farm within the farm unit
40 by the irrigation water duty for the farm unit and divide that amount by
41 the number of irrigation acres in the farm. The result shall be the
42 maximum amount of groundwater ~~which~~ THAT may be used per year for the
43 irrigation of each irrigation acre in the farm. If the farm is located in
44 an active management area other than the Santa Cruz active management area
45 and is irrigated solely with groundwater, the amount of groundwater used
46 by the farm for irrigation shall be accounted for pursuant to section

1 45-467, subsection C. If a farm is located in an active management area
2 other than the Santa Cruz active management area and is irrigated with a
3 combination of surface water and groundwater, the amount of groundwater
4 used by the farm for irrigation shall be accounted for pursuant to section
5 45-467, subsection D. If a farm is located in the Santa Cruz active
6 management area, the amount of water, other than stored water, withdrawn
7 from a well and used by the farm for irrigation purposes shall be
8 accounted for pursuant to section 45-467, subsection E or F.

9 6. IF THE DIRECTOR OR THE VOTERS OF A GROUNDWATER BASIN DESIGNATE A
10 SUBSEQUENT ACTIVE MANAGEMENT AREA THAT IMMEDIATELY BEFORE THE DESIGNATION
11 AS AN ACTIVE MANAGEMENT AREA WAS DESIGNATED AS AN IRRIGATION NON-EXPANSION
12 AREA, THE DIRECTOR MAY NOT GRANT A WATER DUTY TO ANY PERSON THAT IS LESS
13 THAN THE HIGHEST ANNUAL WITHDRAWAL OF THE GROUNDWATER USER SINCE THE BASIN
14 OR SUBBASIN WAS DESIGNATED AN IRRIGATION NON-EXPANSION AREA. A PERSON
15 THAT OWNS LAND THAT MAY BE LEGALLY IRRIGATED IN WHOLE OR IN PART WITH
16 GROUNDWATER IN AN IRRIGATION NON-EXPANSION AREA THAT SUBSEQUENTLY BECOMES
17 AN ACTIVE MANAGEMENT AREA SHALL ON THE DESIGNATION OF A SUBSEQUENT ACTIVE
18 MANAGEMENT AREA BE GRANTED AN IRRIGATION WATER DUTY AND A DESIGNATION OF
19 THE NUMBER OF FARM UNITS CONSISTENT WITH THE USER'S HIGHEST ANNUAL
20 WITHDRAWAL SINCE THE BASIN OR SUBBASIN WAS DESIGNATED AN IRRIGATION
21 NON-EXPANSION AREA. THE DEPARTMENT SHALL PROVIDE EACH ELIGIBLE USER
22 PURSUANT TO THIS PARAGRAPH A NOTICE OF THE GROUNDWATER'S USER EXPECTED
23 WATER DUTY AND NUMBER OF FARM UNITS. THE GROUNDWATER USER MAY ACCEPT THE
24 DEPARTMENT'S DETERMINATION AND RECEIVE THE IRRIGATION WATER DUTY AND
25 DETERMINATION OF FARM UNITS WITHOUT CHARGE AND MAY NOT BE REQUIRED TO
26 SUBMIT AN ADDITIONAL APPLICATION OR PAY ANY FEES. A GROUNDWATER USER WHO
27 DOES NOT ACCEPT THE DEPARTMENT'S DETERMINATION MAY CONTEST THE
28 DEPARTMENT'S DETERMINATION PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6,
29 EXCEPT THAT THE PERSON MAY NOT BE ASSESSED ANY COSTS, FILLING FEES OR
30 CHARGES FOR A NEW OR AMENDED APPLICATION FOR A DETERMINATION OF ACRES
31 ENTITLED TO IRRIGATION.

32 C. A person who owns land described in subsection A of this section
33 and whose water use on the land is regulated under a best management
34 practices program that is adopted by the director pursuant to section
35 45-566.02, subsection F, section 45-567.02, subsection G or section
36 45-568.02, subsection G:

37 1. Has the right to use groundwater for an irrigation use on the
38 irrigation acres within that land as those acres are determined pursuant
39 to subsection B, paragraph 4 of this section.

40 2. Is exempt from the provisions of subsection B of this section
41 with respect to that land.

42 D. The right to use groundwater pursuant to this section for the
43 irrigation of an irrigation acre is an irrigation grandfathered right and
44 is appurtenant to that acre. An irrigation grandfathered right is owned
45 by the owner of the land to which it is appurtenant and may be leased for
46 an irrigation use with the land to which it is appurtenant.

1 E. A person who owns or leases irrigation acres may use the total
2 amount of groundwater allowed by the irrigation grandfathered right for
3 such acres for the irrigation of all or a portion of such acres.

4 F. If the irrigation water duty for the farm unit in which an
5 irrigation acre is located is reduced by the director pursuant to article
6 9 of this chapter, the amount of groundwater ~~which~~ THAT may be used for
7 the irrigation of such acre pursuant to the irrigation grandfathered right
8 under subsection B of this section is reduced accordingly.

9 G. For THE purposes of this chapter, the amount of groundwater
10 ~~which~~ THAT may be used or is used is the amount of groundwater withdrawn
11 by the groundwater user, measured at the point of withdrawal, and the
12 amount of groundwater received by the groundwater user from an irrigation
13 district or other source.

14 Sec. 2. Douglas active management area; irrigation
15 grandfathered right

16 On the effective date of this act, the director of the department of
17 water resources shall grant all groundwater users in the Douglas active
18 management area an irrigation water duty consistent with this act.

19 Sec. 3. Emergency

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