

REFERENCE TITLE: Colorado River; pumping; notice; objection

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1264**

Introduced by  
Senator Borrelli: Representatives Biasiucci, Gillette

AN ACT  
AMENDING SECTIONS 45-596 AND 45-596.01, ARIZONA REVISED STATUTES;  
REPEALING LAWS 2007, CHAPTER 91, SECTION 3; 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 45-596, Arizona Revised Statutes, is amended to  
3 read:

4 45-596. Notice of intention to drill; fee

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

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

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

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

25 2. The legal description of the land on which the well is proposed  
26 to be drilled and the name and mailing address of the owner of the land.

27 3. The legal description of the location of the well on the land.

28 4. The depth, diameter and type of casing of the proposed well.

29 5. Such legal description of the land on which the groundwater is  
30 proposed to be used as may be required by the director to administer this  
31 chapter.

32 6. When construction is to begin.

33 7. The proposed uses to which the groundwater will be applied.

34 8. The name and well driller's license number of the well driller  
35 who is to construct the well.

36 9. The design pumping capacity of the well.

37 10. If for a replacement well, the maximum capacity of the original  
38 well and the distance of the replacement well from the original well.

39 11. Proof that the director determines to be satisfactory that the  
40 person proposing to construct the well holds a valid license issued by the  
41 registrar of contractors pursuant to title 32, chapter 10 and that the  
42 license is of the type necessary to construct the well described in the  
43 notice of intention to drill. If the proposed well driller does not hold  
44 a valid license, the director may accept proof that the proposed well  
45 driller is exempt from licensing as prescribed by section 32-1121.

1 12. If any water from the proposed well will be used for domestic  
2 purposes as defined in section 45-454, evidence of compliance with the  
3 requirements of subsection F of this section.

4 13. If for a second exempt well at the same location for the same  
5 use pursuant to section 45-454, subsection I, proof that the requirements  
6 of that subsection are met.

7 14. If for a well to obtain geophysical, mineralogical or  
8 geotechnical data within a single section of land, the information  
9 prescribed by this subsection for each well that will be included in that  
10 section of land before each well is drilled.

11 15. IF FOR AN EXEMPT WELL LOCATED IN A WATER SERVICE AREA AS DEFINED  
12 IN SECTION 45-596.01, A STATEMENT OF NO OBJECTION FROM THE GOVERNING BODY  
13 OF A MUNICIPALITY, COUNTY, IRRIGATION DISTRICT OR COUNTY WATER AUTHORITY.

14 ~~15.~~ 16. Such other information as the director may require.

15 D. On receiving a notice of intention to drill and the fee required  
16 by subsection L of this section, the director shall endorse on the notice  
17 the date of its receipt. The director shall then determine whether all  
18 information that is required has been submitted and whether the  
19 requirements of subsection C, paragraphs 11 and 12 and subsection I of  
20 this section have been met. If so, within fifteen days of receipt of the  
21 notice, or such longer time as provided in subsection J of this section,  
22 the director shall record the notice, mail a drilling card that authorizes  
23 the drilling of the well to the well driller identified in the notice and  
24 mail written notice of the issuance of the drilling card to the person  
25 filing the notice of intention to drill at the address stated in the  
26 notice. On receipt of the drilling card, the well driller may proceed to  
27 drill or deepen the well as described in the notice of intention to drill.  
28 If the director determines that the required information has not been  
29 submitted or that the requirements of subsection C, paragraphs 11 and 12  
30 or subsection I of this section have not been met, the director shall mail  
31 a statement of the determination to the person giving the notice to the  
32 address stated in the notice, and the person giving the notice may not  
33 proceed to drill or deepen the well.

34 E. The well shall be completed within one year after the date of  
35 the notice unless the director approves a longer period of time pursuant  
36 to this subsection. If the well is not completed within one year or  
37 within the time approved by the director pursuant to this subsection, the  
38 person shall file a new notice before proceeding with further  
39 construction. At the time the drilling card for the well is issued, the  
40 director may provide for and approve a completion period that is greater  
41 than one year but not to exceed five years from the date of the notice if  
42 both of the following apply:

43 1. The proposed well is a nonexempt well within an active  
44 management area and qualifies as a replacement well in approximately the

1 same location as prescribed in rules adopted by the director pursuant to  
2 section 45-597.

3 2. The applicant has submitted evidence that demonstrates one of  
4 the following:

5 (a) This state or a political subdivision of this state has  
6 acquired or has begun a condemnation action to acquire the land on which  
7 the original well is located.

8 (b) The original well has been rendered inoperable due to flooding,  
9 subsidence or other extraordinary physical circumstances that are beyond  
10 the control of the well owner.

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

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

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

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

27 G. Before approving a well site plan submitted pursuant to  
28 subsection F of this section, the county or local health authority or the  
29 department of water resources, as applicable, pursuant to subsection F of  
30 this section, shall review the well site plan and determine whether the  
31 proposed well location complies with applicable local laws, ordinances and  
32 regulations and any laws or rules adopted under this title and title 49  
33 regarding the placement of wells and the proximity of wells to septic  
34 tanks or sewer systems. If the health authority or the department of  
35 water resources, as applicable, pursuant to subsection F of this section,  
36 finds that the proposed well location complies with this title and title  
37 49 and with local requirements, it shall endorse the site plan and the  
38 proposed well placement in a manner indicating approval. On endorsement,  
39 the director of water resources shall approve the construction of the  
40 well, if all remaining requirements have been met. If the health  
41 authority is unable to determine whether the proposed well location  
42 complies with this title and title 49 and local requirements, it shall  
43 indicate this on the site plan and the decision to approve or reject the  
44 proposed construction rests with the director of water resources. If  
45 parcel size, geology or location of improvements on the property prevents

1 the well from being drilled in accordance with this title and title 49 or  
2 local requirements, the property owner may apply for a variance. The  
3 property owner shall make the request for a variance to the county or  
4 local authority if a county or local law, ordinance or regulation prevents  
5 the proposed construction. If a law or rule adopted under this title or  
6 title 49 prevents the proposed construction, the property owner shall make  
7 the request for a variance directly to the department of water resources.  
8 The request for a variance shall be in the form and shall contain the  
9 information that the department of water resources, county or local  
10 authority may require. The department of water resources, or the county  
11 or local authority whose law, ordinance or regulation prevents the  
12 proposed construction, may expressly require that a particular variance  
13 shall include certification by a registered professional engineer or  
14 geologist that the location of the well will not pose a health hazard to  
15 the applicant or surrounding property or inhabitants. If all necessary  
16 variances are obtained, the director of water resources shall approve the  
17 construction of the well if all remaining requirements have been met.

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

24 I. Except as prescribed in subsection K of this section, the  
25 director shall not approve the drilling of the well if the director  
26 determines that the well will likely cause the migration of contaminated  
27 groundwater from a remedial action site to another well, resulting in  
28 unreasonably increasing damage to the owner of the well or persons using  
29 water from the well. In making this determination, the director of water  
30 resources shall follow the applicable criteria in the rules adopted by the  
31 director of water resources pursuant to section 45-598, subsection A and  
32 shall consult with the director of environmental quality. For the  
33 purposes of this subsection:

34 1. "Contaminated groundwater" means groundwater that has been  
35 contaminated by a release of a hazardous substance, as defined in section  
36 49-201, or a pollutant, as defined in section 49-201.

37 2. "Remedial action site" means any of the following:

38 (a) The site of a remedial action undertaken pursuant to the  
39 comprehensive environmental response, compensation, and liability act of  
40 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code  
41 sections 9601 through 9657), commonly known as "superfund".

42 (b) The site of a corrective action undertaken pursuant to title  
43 49, chapter 6.

44 (c) The site of a voluntary remediation action undertaken pursuant  
45 to title 49, chapter 1, article 5.

1 (d) The site of a remedial action undertaken pursuant to title 49,  
2 chapter 2, article 5, including mitigation of a nonhazardous release  
3 undertaken pursuant to an order issued by the department of environmental  
4 quality pursuant to section 49-286.

5 (e) The site of a remedial action undertaken pursuant to the  
6 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat.  
7 2795; 42 United States Code sections 6901 through 6992).

8 (f) The site of remedial action undertaken pursuant to the  
9 department of defense environmental restoration program (P.L. 99-499; 100  
10 Stat. 1719; 10 United States Code section 2701).

11 J. Except as prescribed in subsection K of this section, the  
12 director shall approve or deny the drilling of a well within forty-five  
13 days after receipt of the notice of intention to drill if one of the  
14 following applies:

15 1. The proposed well is located within a remedial action site.

16 2. The proposed well is located within one mile of any of the  
17 following remedial action sites:

18 (a) A remedial action undertaken pursuant to title 49, chapter 2,  
19 article 5, including mitigation of a nonhazardous release undertaken  
20 pursuant to an order issued by the department of environmental quality  
21 pursuant to section 49-286.

22 (b) A remedial action undertaken pursuant to the comprehensive  
23 environmental response, compensation, and liability act of 1980, as  
24 amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601  
25 through 9657), commonly known as "superfund".

26 (c) A remedial action undertaken pursuant to the department of  
27 defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10  
28 United States Code section 2701).

29 3. The proposed well is located within one-half mile of either of  
30 the following remedial action sites:

31 (a) A remedial action undertaken pursuant to title 49, chapter 1,  
32 article 5.

33 (b) A remedial action undertaken pursuant to the resource  
34 conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42  
35 United States Code sections 6901 through 6992).

36 4. The proposed well is located within five hundred feet of the  
37 site of a corrective action undertaken pursuant to title 49, chapter 6.

38 K. Subsections I and J of this section do not apply to the  
39 deepening of a well or to the drilling of a replacement well in  
40 approximately the same location.

41 L. A notice of intention to drill filed under this section shall be  
42 accompanied by a filing fee of ~~one hundred fifty dollars~~ \$150, except that  
43 a notice filed for a proposed well that will not be located within an  
44 active management area or an irrigation nonexpansion area, that will be  
45 used solely for domestic purposes as defined in section 45-454 and that

1 will have a pump with a maximum capacity of not more than thirty-five  
2 gallons per minute shall be accompanied by a filing fee of ~~one hundred~~  
3 ~~dollars~~ \$100. The director shall deposit, pursuant to sections 35-146 and  
4 35-147, all fees collected pursuant to this subsection in the well  
5 administration and enforcement fund established by section 45-606.

6 Sec. 2. Section 45-596.01, Arizona Revised Statutes, is amended to  
7 read:

8 45-596.01. Additional information required with notice of  
9 intention to drill well to pump Colorado River  
10 water; statement of no objection; definition

11 A. In addition to the information required by section 45-596, a  
12 person who files a notice of intention to drill a well that ~~will pump~~ IS  
13 LOCATED WITHIN THE CITY LIMITS OR WATER SERVICE AREA OF A CITY OR TOWN IN  
14 A COUNTY ADJACENT TO THE Colorado River ~~water shall include with the~~  
15 ~~notice proof that the director determines to be satisfactory that the~~  
16 ~~person has the legal right to use Colorado river water. This section does~~  
17 ~~not apply to a proposed well that will have a pump with a maximum capacity~~  
18 ~~of not more than thirty-five gallons per minute and that will be used for~~  
19 ~~the supply, service and activities of households and private residences,~~  
20 ~~including the application of water to less than two acres of land to~~  
21 ~~produce plants or parts of plants for sale or human consumption or for use~~  
22 ~~as feed for livestock, range livestock or poultry, as those terms are~~  
23 ~~defined in section 3-1201~~ AND WHO HOLDS AN ENTITLEMENT TO COLORADO RIVER  
24 WATER SHALL INCLUDE IN THE NOTICE OF INTENTION TO DRILL A STATEMENT FROM  
25 THE CITY OR TOWN THAT THE CITY OR TOWN DOES NOT OBJECT TO THE DEPARTMENT  
26 GRANTING THE PERSON A DRILL PERMIT.

27 B. IN ADDITION TO THE INFORMATION REQUIRED BY SECTION 45-596, A  
28 PERSON WHO FILES A NOTICE OF INTENTION TO DRILL A WELL THAT IS LOCATED  
29 WITHIN THE BOUNDARIES OR WATER SERVICE AREA OF AN IRRIGATION DISTRICT  
30 FORMED PURSUANT TO TITLE 48, CHAPTER 19 IN A COUNTY ADJACENT TO THE  
31 COLORADO RIVER AND WHO HOLDS AN ENTITLEMENT TO COLORADO RIVER WATER SHALL  
32 INCLUDE IN THE NOTICE OF INTENTION TO DRILL A STATEMENT FROM THE  
33 IRRIGATION DISTRICT THAT THE IRRIGATION DISTRICT DOES NOT OBJECT TO THE  
34 DEPARTMENT GRANTING THE PERSON A DRILL PERMIT.

35 C. IN ADDITION TO THE INFORMATION REQUIRED BY SECTION 45-596, A  
36 PERSON WHO FILES A NOTICE OF INTENTION TO DRILL A WELL THAT IS LOCATED  
37 WITHIN FIVE MILES OF THE COLORADO RIVER IN A COUNTY ADJACENT TO THE  
38 COLORADO RIVER AND WITHIN THE BOUNDARIES OF A WATER SERVICE AREA OF A  
39 COUNTY WATER AUTHORITY FORMED PURSUANT TO CHAPTER 13 OF THIS TITLE AND WHO  
40 HOLDS AN ENTITLEMENT TO COLORADO RIVER WATER SHALL INCLUDE IN THE NOTICE  
41 OF INTENTION TO DRILL A STATEMENT FROM THE COUNTY WATER AUTHORITY THAT THE  
42 WATER AUTHORITY DOES NOT OBJECT TO THE DEPARTMENT GRANTING THE PERSON A  
43 DRILL PERMIT.

44 D. A PERSON WHO FILES A NOTICE OF INTENT TO DRILL WITH THE  
45 DEPARTMENT PURSUANT TO SECTION 45-596 AND THIS SECTION SHALL FIRST SUBMIT

1 THE NOTICE TO THE GOVERNING BODY OF A MUNICIPALITY, COUNTY, IRRIGATION  
2 DISTRICT OR COUNTY WATER AUTHORITY AS PRESCRIBED BY THIS SECTION. WITHIN  
3 FORTY-FIVE DAYS AFTER RECEIVING A NOTICE OF INTENTION TO DRILL, THE  
4 GOVERNING BODY SHALL APPROVE OR REJECT THE APPLICATION. IF THE GOVERNING  
5 BODY DOES NOT ACT ON A NOTICE OF INTENTION TO DRILL WITHIN FORTY-FIVE  
6 DAYS, THE DIRECTOR SHALL ASSUME THE GOVERNING BODY DOES NOT OBJECT TO THE  
7 APPLICATION AND THE PERSON HAS INCLUDED A STATEMENT OF NO OBJECTION. THE  
8 DIRECTOR MAY NOT APPROVE A NOTICE OF INTENTION TO DRILL PURSUANT TO THIS  
9 SECTION AND SECTION 45-596 UNLESS THE APPLICATION INCLUDES A STATEMENT  
10 FROM THE GOVERNING BODY THAT IT DOES NOT OBJECT OR PROOF THAT THE  
11 GOVERNING BODY DID NOT ACT WITHIN THE ALLOTTED TIME FRAME.

12 E. FOR THE PURPOSES OF THIS SECTION, "WATER SERVICE AREA" MEANS THE  
13 SERVICE AREA DEFINED IN A COLORADO RIVER ENTITLEMENT CONTRACT.

14 Sec. 3. Repeal

15 Laws 2007, chapter 91, section 3 is repealed.