

REFERENCE TITLE: rural groundwater management

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

HB 2857

Introduced by
Representative Mathis: Senator Sundareshan

AN ACT

AMENDING SECTION 45-105, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; AMENDING TITLE 45, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-451.01; AMENDING SECTIONS 45-453, 45-598, 45-604, 45-632, 45-2602 AND 49-1304, 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 45-105, Arizona Revised Statutes, is amended to
3 read:

4 45-105. Powers and duties of director

5 A. The director may:

6 1. Formulate plans and develop programs for the practical and
7 economical development, management, conservation and use of surface water,
8 groundwater and the watersheds in this state, including the management of
9 water quantity and quality.

10 2. Investigate works, plans or proposals pertaining to surface
11 water and groundwater, including management of watersheds, and acquire,
12 preserve, publish and disseminate related information the director deems
13 advisable.

14 3. Collect and investigate information on and prepare and devise
15 means and plans for the development, conservation and use of all
16 waterways, watersheds, surface water, groundwater and groundwater basins
17 in this state and of all related matters and subjects, including
18 irrigation, drainage, water quality maintenance, regulation of flow,
19 diversion of running streams adapted for development in cooperating with
20 the United States or by this state independently, flood control, use of
21 water power, prevention of soil waste and storage, conservation and
22 development of water for every useful purpose.

23 4. Measure, survey and investigate the water resources of this
24 state and their potential development and cooperate and contract with
25 agencies of the United States for such purposes.

26 5. Acquire, hold and dispose of property, including land,
27 rights-of-way, water and water rights, as necessary or convenient for the
28 performance of the groundwater and water quality management functions of
29 the department.

30 6. Acquire, other than by condemnation, construct, improve,
31 maintain and operate early warning systems for flood control purposes and
32 works for the recovery, storage, treatment and delivery of water.

33 7. Accept grants, gifts or donations of money or other property
34 from any source, which may be used for any purpose consistent with this
35 title. All property acquired by the director is public property and is
36 subject to the same tax exemptions, rights and privileges granted to
37 municipalities, public agencies and other public entities.

38 8. Enter into an interagency contract or agreement with any public
39 agency pursuant to title 11, chapter 7, article 3 and contract, act
40 jointly or cooperate with any person to carry out the purposes of this
41 title.

42 9. Prosecute and defend all rights, claims and privileges of this
43 state respecting interstate streams.

44 10. Initiate and participate in conferences, conventions or
45 hearings, including congressional hearings, court hearings or hearings of

1 other competent judicial or quasi-judicial departments, agencies or
2 organizations, and negotiate and cooperate with agencies of the United
3 States or of any state or government and represent this state concerning
4 matters within the department's jurisdiction.

5 11. Apply for and hold permits and licenses from the United States
6 or any agency of the United States for reservoirs, dam sites and
7 rights-of-way.

8 12. Receive and review all reports, proposed contracts and
9 agreements from and with the United States or any agencies, other states
10 or governments or their representatives and recommend to the governor and
11 the legislature action to be taken on such reports, proposed contracts and
12 agreements. The director shall take action on such reports, if authorized
13 by law, and review and coordinate the preparation of formal comments of
14 this state on both the preliminary and final reports relating to water
15 resource development of the United States army corps of engineers, the
16 United States secretary of the interior and the United States secretary of
17 agriculture, as provided for in the flood control act of 1944 (58 Stat.
18 887; 33 United States Code section 701-1).

19 13. Contract with any person for imported water or for the
20 acquisition of water rights or rights to withdraw, divert or use surface
21 water or groundwater as necessary for the performance of the groundwater
22 management functions of the director prescribed by chapter 2 of this
23 title. If water becomes available under any contract executed under this
24 paragraph, the director may contract with any person for its delivery or
25 exchange for any other water available.

26 14. Recommend to the administrative heads of agencies, boards and
27 commissions of this state, and political subdivisions of this state, rules
28 to promote and protect the rights and interests of this state and its
29 inhabitants in any matter relating to the surface water and groundwater in
30 this state.

31 15. Conduct feasibility studies and remedial investigations
32 relating to groundwater quality and enter into contracts and cooperative
33 agreements under section 104 of the comprehensive environmental response,
34 compensation, and liability act of 1980 (P.L. 96-510) to conduct such
35 studies and investigations.

36 16. Dispose informally by stipulation, agreed settlement, consent
37 order or alternative means of dispute resolution, including arbitration,
38 if the parties and director agree, or by default of any case in which a
39 hearing before the director is required or allowed by law.

40 17. Cooperate and coordinate with the appropriate governmental
41 entities in Mexico regarding water planning in areas near the border
42 between Mexico and Arizona and for the exchange of relevant hydrological
43 information.

- 1 B. The director shall:
- 2 1. Exercise and perform all powers and duties vested in or imposed
- 3 on the department and adopt and issue rules necessary to carry out the
- 4 purposes of this title.
- 5 2. Administer all laws relating to groundwater, as provided in this
- 6 title.
- 7 3. Be responsible for the supervision and control of reservoirs and
- 8 dams of this state and, when deemed necessary, conduct investigations to
- 9 determine whether the existing or anticipated condition of any dam or
- 10 reservoir in this state is or may become a menace to life and property.
- 11 4. Coordinate and confer with and may contract with:
- 12 (a) The Arizona power authority, the game and fish commission, the
- 13 state land department, the Arizona outdoor recreation coordinating
- 14 commission, the Arizona commerce authority, the department of health
- 15 services, active management area water authorities or districts and
- 16 political subdivisions of this state with respect to matters within their
- 17 jurisdiction relating to surface water and groundwater and the development
- 18 of state water plans.
- 19 (b) The department of environmental quality with respect to title
- 20 49, chapter 2 for its assistance in the development of state water plans.
- 21 (c) The department of environmental quality regarding water plans,
- 22 water resource planning, water management, wells, water rights and
- 23 permits, and other appropriate provisions of this title pertaining to
- 24 remedial investigations, feasibility studies, site prioritization,
- 25 selection of remedies and implementation of the water quality assurance
- 26 revolving fund program pursuant to title 49, chapter 2, article 5.
- 27 (d) The department of environmental quality regarding coordination
- 28 of databases that are necessary for activities conducted pursuant to title
- 29 49, chapter 2, article 5.
- 30 5. Cooperate with the Arizona power authority in the performance of
- 31 the duties and functions of the authority.
- 32 6. Maintain a permanent public depository for existing and future
- 33 records of stream flow, groundwater levels and water quality and other
- 34 data relating to surface water and groundwater.
- 35 7. Maintain a public docket of all matters before the department
- 36 that may be subject to judicial review pursuant to this title.
- 37 8. Investigate and take appropriate action on any complaints
- 38 alleging withdrawals, diversions, impoundments or uses of surface water or
- 39 groundwater that may violate this title or the rules adopted pursuant to
- 40 this title.
- 41 9. Adopt an official seal for the authentication of records,
- 42 orders, rules and other official documents and actions.
- 43 10. Provide staff support to the Arizona water protection fund
- 44 commission established by chapter 12 of this title.

1 11. Exercise and perform all powers and duties invested in the
2 chairperson of the Arizona water banking authority commission as
3 prescribed by chapter 14 of this title.

4 12. Provide staff support to the Arizona water banking authority
5 established by chapter 14 of this title.

6 13. IN PERFORMING THE DIRECTOR'S DUTIES PURSUANT TO CHAPTER 2,
7 ARTICLE 2.1 OF THIS TITLE, COORDINATE AND CONFER WITH FEDERALLY RECOGNIZED
8 INDIAN TRIBES THAT HAVE RESERVATION LAND LOCATED WITHIN THE BOUNDARIES OF
9 A RURAL GROUNDWATER MANAGEMENT AREA.

10 ~~13.~~ 14. In the year following each regular general election,
11 present information to the committees with jurisdiction over water issues
12 in the house of representatives and the senate. A written report is not
13 required but the presentation shall include information concerning the
14 following:

15 (a) The current status of the water supply in this state and any
16 likely changes in that status.

17 (b) Issues of regional and local drought effects, short-term and
18 long-term drought management efforts and the adequacy of drought
19 preparation throughout the state.

20 (c) The status of current water conservation programs in this
21 state.

22 (d) The current state of each active management area and the level
23 of progress toward management goals in each active management area.

24 (e) Issues affecting management of the Colorado river and the
25 reliability of this state's two million eight hundred thousand acre-foot
26 allocation of Colorado river water, including the status of water supplies
27 in and issues related to the Colorado river basin states and Mexico.

28 (f) The status of any pending or likely litigation regarding
29 surface water adjudications or other water-related litigation and the
30 potential impacts on this state's water supplies.

31 (g) The status of Indian water rights settlements and related
32 negotiations that affect this state.

33 (h) Other matters related to the reliability of this state's water
34 supplies, the responsibilities of the department and the adequacy of the
35 department's and other entities' resources to meet this state's water
36 management needs.

37 ~~14.~~ 15. Not later than December 1, 2023 and on or before December
38 1 of each year thereafter, prepare and issue a water supply and demand
39 assessment for at least six of the fifty-one groundwater basins
40 established pursuant to section 45-403. The director shall ensure that a
41 water supply and demand assessment is completed for all groundwater basins
42 and initial active management areas at least once every five years. The
43 director may contract with outside entities to perform some or all of the
44 assessments and those outside entities shall be identified in the
45 assessment.

1 Sec. 2. Title 45, chapter 2, Arizona Revised Statutes, is amended
2 by adding article 2.1, to read:

3 ARTICLE 2.1. RURAL GROUNDWATER MANAGEMENT AREAS

4 45-429. Rural groundwater management areas; director; powers;
5 local initiation; hearing

6 A. THE DIRECTOR MAY DESIGNATE AN AREA THAT IS NOT INCLUDED WITHIN
7 AN ACTIVE MANAGEMENT AREA AS A RURAL GROUNDWATER MANAGEMENT AREA IF THE
8 DIRECTOR DETERMINES THAT ONE OR MORE OF THE FOLLOWING APPLIES:

9 1. MANAGEMENT PRACTICES ARE NEEDED TO MANAGE THE EXISTING
10 GROUNDWATER SUPPLY FOR FUTURE OR CURRENT NEEDS.

11 2. LAND SUBSIDENCE OR FISSURING IS ENDANGERING PROPERTY OR
12 POTENTIAL GROUNDWATER STORAGE.

13 3. GROUNDWATER USE IS RESULTING IN ACTUAL OR THREATENED WATER
14 QUALITY DEGRADATION.

15 B. THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA MAY BE
16 INITIATED BY PETITION TO THE DIRECTOR SIGNED BY EITHER:

17 1. THE MAJORITY OF A COUNTY BOARD OF SUPERVISORS WITH LANDS THAT
18 ARE LOCATED WITHIN THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER
19 MANAGEMENT AREA SPECIFIED IN THE PETITION. ANY COUNTY BOARD OF
20 SUPERVISORS THAT APPLIES FOR A DESIGNATION SHALL INCLUDE WITH THE
21 APPLICATION FOR DESIGNATION A RESOLUTION PASSED BY THE BOARD, INCLUDING A
22 STATEMENT THAT THE DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA WILL
23 SERVE THE PUBLIC INTEREST.

24 2. TEN PERCENT OF THE REGISTERED VOTERS RESIDING WITHIN THE
25 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA SPECIFIED IN THE PETITION AS OF
26 THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH
27 SECTION 16-168, SUBSECTION H. THE FORM OF THE PETITION SHALL BE THE SAME
28 AS FOR AN INITIATIVE PETITION AND THE APPLICANT FOR SUCH PETITION SHALL
29 COMPLY WITH THE PROVISIONS OF SECTION 19-111. IF THE PROPOSED RURAL
30 GROUNDWATER MANAGEMENT AREA IS LOCATED IN TWO OR MORE COUNTIES, THE NUMBER
31 OF REGISTERED VOTERS REQUIRED TO SIGN THE PETITION SHALL BE TEN PERCENT OF
32 THE REGISTERED VOTERS RESIDING WITHIN THE BOUNDARIES OF THE PROPOSED RURAL
33 GROUNDWATER MANAGEMENT AREA, AS OF THE MOST RECENT REPORT COMPILED BY THE
34 COUNTY RECORDER IN COMPLIANCE WITH SECTION 16-168, SUBSECTION H, WITHIN
35 THE COUNTY IN WHICH THE PLURALITY OF THE REGISTERED VOTERS IN THE
36 GROUNDWATER BASIN OR SUBBASIN RESIDES.

37 C. AFTER RECEIVING A PETITION SIGNED BY REGISTERED VOTERS PURSUANT
38 TO SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, THE DIRECTOR SHALL TRANSMIT
39 THE PETITION TO THE COUNTY RECORDER OF EACH COUNTY IN WHICH THE PROPOSED
40 RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED FOR VERIFICATION OF
41 SIGNATURES. IN ADDITION, THE DIRECTOR SHALL TRANSMIT A MAP OF THE
42 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA TO THE COUNTY RECORDER OF EACH
43 COUNTY INCLUDED. THE MAP SHALL BE ON A SCALE ADEQUATE TO SHOW WITH
44 SUBSTANTIAL ACCURACY WHERE THE BOUNDARIES OF THE PROPOSED RURAL
45 GROUNDWATER MANAGEMENT AREA CROSS THE BOUNDARIES OF COUNTY VOTING

1 PRECINCTS. THE DIRECTOR SHALL ALSO TRANSMIT TO THE COUNTY RECORDER ALL
2 OTHER FACTUAL DATA CONCERNING THE BOUNDARIES OF THE PROPOSED RURAL
3 GROUNDWATER MANAGEMENT AREA THAT MAY AID THE COUNTY RECORDER IN
4 DETERMINING WHICH REGISTERED VOTERS OF THE COUNTY ARE RESIDENTS OF THE
5 PROPOSED RURAL GROUNDWATER MANAGEMENT AREA.

6 D. IF THE DIRECTOR FINDS THAT THE PROPOSED RURAL GROUNDWATER
7 MANAGEMENT AREA MEETS THE CRITERIA PRESCRIBED IN SUBSECTION A OF THIS
8 SECTION OR A PETITION IS FILED AND VERIFIED PURSUANT TO THIS SECTION, THE
9 DIRECTOR SHALL HOLD A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE
10 FOLLOWING:

11 1. WHETHER TO ISSUE AN ORDER THAT DECLARES THE RURAL GROUNDWATER
12 MANAGEMENT AREA ESTABLISHED.

13 2. THE BOUNDARIES OF THE PROPOSED RURAL GROUNDWATER MANAGEMENT
14 AREA, WHICH SHALL BE COTERMINOUS WITH THE BOUNDARIES OF A GROUNDWATER
15 BASIN OR SUBBASIN, EXCEPT THAT IN THE REGIONAL AQUIFER SYSTEM OF NORTHERN
16 ARIZONA THE BOUNDARIES MAY BE SMALLER THAN A SUBBASIN IF BASED ON
17 REASONABLE HYDROLOGY OR WATER MANAGEMENT CONSIDERATIONS.

18 E. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF THE HEARING. THE
19 DIRECTOR SHALL PUBLISH THE NOTICE ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS
20 IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED
21 RURAL GROUNDWATER MANAGEMENT AREA IS LOCATED. THE NOTICE SHALL CONTAIN
22 THE FOLLOWING:

23 1. THE TIME AND PLACE OF THE HEARING.

24 2. THE LEGAL DESCRIPTION AND A MAP CLEARLY IDENTIFYING THE PROPOSED
25 RURAL GROUNDWATER MANAGEMENT AREA.

26 3. ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

27 F. THE PUBLIC HEARING SHALL BE HELD AT A LOCATION IN THE PROPOSED
28 RURAL GROUNDWATER MANAGEMENT AREA NOT LESS THAN THIRTY BUT NOT MORE THAN
29 SIXTY DAYS AFTER THE NOTICE OF THE HEARING. THE DIRECTOR SHALL PRESENT
30 FACTUAL DATA IN THE DEPARTMENT'S POSSESSION IN SUPPORT OF OR OPPOSITION TO
31 THE PROPOSED ACTION. ANY PERSON MAY APPEAR AT THE HEARING, EITHER IN
32 PERSON OR BY REPRESENTATIVE, AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE FOR
33 OR AGAINST THE PROPOSAL. IN MAKING A DETERMINATION, THE DIRECTOR SHALL
34 CONSIDER THE COMMENTS OF THE PUBLIC AND OF THE LOCAL POLITICAL
35 SUBDIVISIONS.

36 G. WITHIN THIRTY DAYS AFTER THE HEARING, THE DIRECTOR SHALL MAKE
37 AND FILE WITH THE DEPARTMENT WRITTEN FINDINGS OF THE MATTERS CONSIDERED AT
38 THE PUBLIC MEETING. IF THE DIRECTOR DECIDES TO DECLARE THE RURAL
39 GROUNDWATER MANAGEMENT AREA ESTABLISHED, THE DIRECTOR SHALL MAKE AND FILE
40 AN ORDER DESIGNATING THE AREA AS A RURAL GROUNDWATER MANAGEMENT AREA. THE
41 FINDINGS AND ORDER SHALL BE PUBLISHED IN THE SAME MANNER AS A NOTICE OF
42 HEARING PRESCRIBED IN SUBSECTION E OF THIS SECTION. ON FINAL NOTICE, THE
43 ORDER SHALL BE EFFECTIVE AND THE DIRECTOR SHALL FILE A TRUE COPY OF THE
44 MAP IN THE COUNTY RECORDER'S OFFICE OR OFFICES WHERE THE RURAL GROUNDWATER
45 MANAGEMENT AREA IS LOCATED. ALL FACTUAL DATA, THE MAP OF THE RURAL

1 GROUNDWATER MANAGEMENT AREA, HEARING RECORDS AND PUBLIC COMMENTS ARE A
2 PUBLIC RECORD AND SHALL BE MADE AVAILABLE FOR PUBLIC EXAMINATION DURING
3 REGULAR BUSINESS HOURS. THE FINDINGS AND ORDER ARE SUBJECT TO JUDICIAL
4 REVIEW AS PROVIDED IN 45-114, SUBSECTION B.

5 45-429.01. Rural groundwater management areas; designation
6 review

7 ON OR BEFORE THE TENTH ANNIVERSARY OF THE DESIGNATION OF THE RURAL
8 GROUNDWATER MANAGEMENT AREA AND EVERY TEN YEARS THEREAFTER, THE DIRECTOR
9 SHALL REVIEW AND MAKE A DETERMINATION IF THE CRITERIA FOR ESTABLISHING A
10 RURAL GROUNDWATER MANAGEMENT AREA STILL APPLY. IF THE DIRECTOR DETERMINES
11 THE CRITERIA NO LONGER APPLY, THE DIRECTOR MAY DO EITHER OF THE FOLLOWING:

12 1. RESCIND THE DESIGNATION AS A RURAL GROUNDWATER MANAGEMENT AREA
13 AND COMPLY WITH THE SAME NOTICE AND HEARING REQUIREMENTS PRESCRIBED BY
14 SECTION 45-429.09.

15 2. DIRECT THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL TO DEVELOP
16 A MANAGEMENT PLAN FOR THE MAINTENANCE OF THE IMPROVED CONDITIONS.

17 45-429.02. Limitation on new groundwater uses and number or
18 irrigated acres

19 A. IF THE PROCEDURE TO DESIGNATE A RURAL GROUNDWATER MANAGEMENT
20 AREA IS INITIATED BY THE DIRECTOR OR BY PETITION PURSUANT TO SECTION
21 45-429, THE FOLLOWING APPLY:

22 1. A PERSON WHO WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL FOR
23 NON-IRRIGATION USE MAY USE ONLY GROUNDWATER IN APPROXIMATELY THE SAME
24 AMOUNT AND LOCATION THAT WAS LEGALLY USED AT ANY TIME DURING THE TEN YEARS
25 PRECEDING THE DATE OF THE NOTICE OF THE INITIATION OF DESIGNATION
26 PROCEDURES.

27 2. A PERSON WHO WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL FOR
28 IRRIGATION USE MAY IRRIGATE WITHIN THE PROPOSED RURAL GROUNDWATER
29 MANAGEMENT AREA ONLY THOSE ACRES OF LAND THAT WERE LEGALLY IRRIGATED AT
30 ANY TIME DURING THE TEN YEARS PRECEDING THE DATE OF THE NOTICE OF THE
31 INITIATION OF DESIGNATION PROCEDURES.

32 B. THE LIMITATION ON NEW GROUNDWATER USES AND ON THE ACRES THAT MAY
33 BE IRRIGATED REMAINS IN EFFECT UNTIL THE DIRECTOR MAKES A FINAL
34 DETERMINATION TO APPROVE A RURAL GROUNDWATER MANAGEMENT AREA PLAN.

35 C. THE DIRECTOR MAY GRANT A VARIANCE TO A GROUNDWATER USER SUBJECT
36 TO THE MORATORIUM ON EXPANDED GROUNDWATER USE AND NUMBER OF ACRES
37 IRRIGATED ON A FINDING BY THE DIRECTOR THAT A VARIANCE IS NECESSARY TO
38 PROTECT PUBLIC HEALTH OR SAFETY. IF GRANTED, THE VARIANCE SHALL SPECIFY
39 THE AMOUNT OF GROUNDWATER THAT MAY BE WITHDRAWN BY THE PERSON DURING THE
40 VARIANCE PERIOD, WHICH SHALL BE THE TIME FROM WHEN A NOTICE OF INITIATION
41 OF DESIGNATION IS FILED TO WHEN A RURAL GROUNDWATER MANAGEMENT AREA PLAN
42 IS ADOPTED.

43 45-429.03. Certificate of groundwater use

44 A. A PERSON WHO WAS LEGALLY WITHDRAWING AND USING GROUNDWATER FROM
45 A NONEXEMPT WELL AS OF THE DATE OF DESIGNATION OF A RURAL GROUNDWATER

1 MANAGEMENT AREA HAS THE RIGHT TO WITHDRAW OR RECEIVE AND USE GROUNDWATER
2 AS DETERMINED BY THE DIRECTOR PURSUANT TO THIS ARTICLE. THE RIGHT TO
3 WITHDRAW OR RECEIVE AND USE GROUNDWATER PURSUANT TO THIS ARTICLE IS A
4 CERTIFICATE OF GROUNDWATER USE. A CERTIFICATE OF GROUNDWATER USE SHALL
5 REMAIN SUBJECT TO ANY CONSERVATION REQUIREMENTS ADOPTED PURSUANT TO A
6 RURAL GROUNDWATER MANAGEMENT AREA PLAN APPROVED BY THE DIRECTOR.

7 B. WITHIN FIFTEEN MONTHS AFTER THE DESIGNATION OF A RURAL
8 GROUNDWATER MANAGEMENT AREA, A PERSON WHO OWNS OR LEASES PROPERTY FROM
9 WHICH GROUNDWATER MAY HAVE BEEN LEGALLY WITHDRAWN IN THE PRECEDING TEN
10 YEARS MAY APPLY TO THE DIRECTOR FOR A CERTIFICATE OF GROUNDWATER USE AND
11 PROVIDE VERIFICATION OF THE AVERAGE AMOUNT OF GROUNDWATER WITHDRAWN IN THE
12 PRECEDING TEN YEARS. THE DIRECTOR MAY ACCEPT EITHER OF THE FOLLOWING
13 METHODS AS PROPER VERIFICATION:

14 1. DATA FROM A WATER MEASURING METHOD APPROVED BY THE DIRECTOR,
15 INCLUDING METER READINGS FROM A WATER MEASURING DEVICE APPROVED BY THE
16 DIRECTOR.

17 2. A CALCULATION OF THE AVERAGE AMOUNT OF WATER REQUIRED TO
18 IRRIGATE THE CROPS HISTORICALLY GROWN IN THE FARM UNIT BASED ON THE TOTAL
19 IRRIGATION REQUIREMENT PER ACRE OF THE HISTORIC CROPS AND A REASONABLE
20 IRRIGATION EFFICIENCY FOR THE FARM UNIT AFTER FACTORING IN THE HISTORIC
21 CONDITIONS AND INFRASTRUCTURE.

22 C. A PERSON WHO USED GROUNDWATER IN THE RURAL GROUNDWATER
23 MANAGEMENT AREA FOR LESS THAN TWELVE MONTHS IMMEDIATELY PRECEDING THE DATE
24 OF THE DESIGNATION OF THE RURAL GROUNDWATER MANAGEMENT AREA MAY RECEIVE A
25 CERTIFICATE OF GROUNDWATER USE CONSISTENT WITH THE DIRECTOR'S
26 DETERMINATION OF THE REASONABLE AMOUNT OF GROUNDWATER EXPECTED TO BE USED
27 IN A TWELVE-MONTH PERIOD BASED ON THE PERSON'S FACILITY, SERVICE AREA OR
28 LANDS AS OF THE DATE OF DESIGNATION.

29 D. THE DIRECTOR SHALL FACTOR A PERSON'S SUBSTANTIAL CAPITAL
30 INVESTMENT IN THE AMOUNT OF GROUNDWATER GRANTED UNDER A CERTIFICATE OF
31 GROUNDWATER USE AS FOLLOWS:

32 1. FOR A PERSON WITHDRAWING GROUNDWATER FROM A NONEXEMPT WELL FOR
33 NON-IRRIGATION USE, A VOLUME OF GROUNDWATER EXPECTED FOR NEW
34 NON-IRRIGATION WATER USE FROM A CONSTRUCTION PROJECT THAT SUBSTANTIALLY
35 COMMENCED WITHIN THE TEN YEARS PRECEDING THE PETITION TO INITIATE
36 DESIGNATION.

37 2. FOR A PERSON WITHDRAWING GROUNDWATER FROM A NONEXEMPT WELL FOR
38 IRRIGATION USE, A VOLUME OF GROUNDWATER EXPECTED FROM THE SUBJUGATION OF
39 LAND FOR A NEW IRRIGATION WATER USE, INCLUDING ON-SITE IRRIGATION
40 DISTRIBUTION FACILITIES OR WELLS, THE DRILLING AND CONSTRUCTION OF WHICH
41 SUBSTANTIALLY COMMENCED WITHIN THE TEN YEARS PRECEDING THE PETITION TO
42 INITIATE DESIGNATION.

43 E. A PERSON WHO DOES NOT FILE AN APPLICATION FOR A CERTIFICATE OF
44 GROUNDWATER USE WITH THE DEPARTMENT WITHIN FIFTEEN MONTHS AFTER THE
45 DESIGNATION OF THE RURAL GROUNDWATER MANAGEMENT AREA WAIVES AND

1 RELINQUISHES ANY RIGHT TO WITHDRAW, RECEIVE OR USE GROUNDWATER PURSUANT TO
2 THIS ARTICLE.

3 F. THE DIRECTOR SHALL REVIEW AND EVALUATE ANY APPLICATION SUBMITTED
4 PURSUANT TO THIS SECTION. THE DIRECTOR MAY REQUEST ADDITIONAL INFORMATION
5 AND CONDUCT AN INDEPENDENT INVESTIGATION TO DETERMINE THE AMOUNT OF
6 GROUNDWATER GRANTED TO A PERSON UNDER A CERTIFICATE OF GROUNDWATER USE
7 PURSUANT TO THIS SECTION.

8 G. A PERSON WHO IS ISSUED A CERTIFICATE OF GROUNDWATER USE PURSUANT
9 TO THIS SECTION MAY SELL, ASSIGN OR LEASE THE ENTIRETY OR ANY PORTION OF
10 THE PERSON'S GROUNDWATER GRANTED UNDER THE CERTIFICATE TO ANOTHER PERSON
11 WITHIN THE SAME RURAL GROUNDWATER MANAGEMENT AREA FOR ANY NEW OR EXISTING
12 USE SUBJECT TO ANY CONSERVATION OR OTHER REQUIREMENTS ADOPTED PURSUANT TO
13 A RURAL GROUNDWATER MANAGEMENT AREA PLAN. ANY PORTION OF A CERTIFICATE OF
14 GROUNDWATER USE THAT A PERSON CONVEYS TO ANOTHER PERSON SHALL BE REDUCED
15 BY FIFTEEN PERCENT ON EACH CONVEYANCE.

16 H. A PERSON WHO HOLDS A CERTIFICATE OF GROUNDWATER USE, WHETHER
17 THROUGH ISSUANCE, SALE, ASSIGNMENT, LEASE OR OTHER CONVEYANCE, MAY
18 WITHDRAW, RECEIVE OR USE GROUNDWATER ON THE PERSON'S PROPERTY OR ANY OTHER
19 PROPERTY IN THE RURAL GROUNDWATER MANAGEMENT AREA AS LONG AS THE USE IS
20 CONSISTENT WITH ANY CONSERVATION OR OTHER REQUIREMENTS ADOPTED BY A RURAL
21 GROUNDWATER MANAGEMENT AREA COUNCIL IF THE GROUNDWATER USE DOES NOT EXCEED
22 THE VOLUME OF WATER GRANTED TO A PERSON PURSUANT TO A VALID CERTIFICATE OF
23 GROUNDWATER USE.

24 I. A PERSON SHALL MAINTAIN PROPERTY FROM WHICH A CERTIFICATE OF
25 GROUNDWATER USE IS ORIGINALLY GRANTED FREE OF NOXIOUS WEEDS AS DEFINED IN
26 SECTION 3-201, RUSSIAN THISTLES AND BLOWING DUST THAT CREATE A THREAT TO
27 HEALTH AND SAFETY.

28 45-429.04. Registry of applications; objection; hearing;
29 issuance; appeals

30 A. THE DIRECTOR SHALL ESTABLISH A REGISTRY OF ALL APPLICATIONS
31 RECEIVED FOR A CERTIFICATE OF GROUNDWATER USE. AFTER THE DEADLINE FOR AN
32 APPLICATION FOR CERTIFICATE OF GROUNDWATER USE HAS PASSED, THE DIRECTOR
33 SHALL NOTIFY ALL APPLICANTS THAT THE REGISTRY IS AVAILABLE IN THE OFFICES
34 OF THE DEPARTMENT FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS.

35 B. WITHIN NINETY DAYS AFTER THE DATE OF NOTICE REQUIRED BY
36 SUBSECTION A OF THIS SECTION, ANY PERSON WHO RESIDES IN THE RURAL
37 GROUNDWATER MANAGEMENT AREA MAY FILE A WRITTEN OBJECTION TO ANY
38 APPLICATION FOR A CERTIFICATE OF GROUNDWATER USE. A PERSON MAY FILE AN
39 OBJECTION ONLY ON THE BASIS THAT INFORMATION SUBMITTED IN AN APPLICATION
40 IS INCORRECT OR INSUFFICIENT TO ISSUE A CERTIFICATE OF GROUNDWATER USE.

41 C. IN APPROPRIATE CASES, INCLUDING CASES WHERE A PERSON HAS FILED A
42 PROPER WRITTEN OBJECTION, THE DIRECTOR MAY HOLD A HEARING IN WHICH A
43 PERSON MAY CHALLENGE THE DIRECTOR'S DETERMINATION ON AN APPLICATION FOR A
44 CERTIFICATE OF GROUNDWATER USE. THIRTY DAYS BEFORE ANY ADMINISTRATIVE
45 HEARING IS HELD PURSUANT TO THIS SECTION, THE DIRECTOR SHALL PROVIDE

1 NOTICE TO THE APPLICANT AND ANY PERSON WHO FILED A PROPER WRITTEN
2 OBJECTION TO THE APPLICATION. A HEARING HELD PURSUANT TO THIS SECTION
3 SHALL BE SCHEDULED NOT LESS THAN SIXTY AND NOT MORE THAN NINETY DAYS AFTER
4 THE EXPIRATION OF TIME TO FILE OBJECTIONS.

5 D. THE DIRECTOR SHALL ISSUE A FINAL DECISION TO AN APPLICANT FOR A
6 CERTIFICATE OF GROUNDWATER USE. A PERSON WHO CONTESTS A CERTIFICATE OF
7 GROUNDWATER USE BY FILING A PROPER OBJECTION PURSUANT TO THIS SECTION MAY
8 SEEK JUDICIAL REVIEW OF THE FINAL DECISION PURSUANT TO SECTION 45-114,
9 SUBSECTION B IN SUPERIOR COURT.

10 45-429.05. Rural groundwater management area council:
11 membership; appointment; establishment

12 A. A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL BE ESTABLISHED
13 IN EACH RURAL GROUNDWATER MANAGEMENT AREA. THE COUNCIL SHALL BE COMPOSED
14 OF SEVEN MEMBERS WHO ARE KNOWLEDGEABLE OF THE CONDITION, DEVELOPMENT AND
15 USE OF GROUNDWATER WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA. COUNCIL
16 MEMBERS SHALL BE REPRESENTATIVE OF ALL THE MAJOR GROUNDWATER USERS IN THE
17 RURAL GROUNDWATER MANAGEMENT AREA SUCH AS AGRICULTURAL, MUNICIPAL AND
18 INDUSTRIAL USERS.

19 B. THE GOVERNOR SHALL APPOINT COUNCIL MEMBERS AS FOLLOWS:

20 1. ONE MEMBER FROM A LIST OF THREE NAMES SUBMITTED BY THE PRESIDENT
21 OF THE SENATE.

22 2. ONE MEMBER FROM A LIST OF THREE NAMES SUBMITTED BY THE SPEAKER
23 OF THE HOUSE OF REPRESENTATIVES.

24 3. ONE MEMBER FROM A LIST OF THREE NAMES SUBMITTED BY THE MINORITY
25 LEADER OF THE SENATE.

26 4. ONE MEMBER FROM A LIST OF THREE NAMES SUBMITTED BY THE MINORITY
27 LEADER OF THE HOUSE OF REPRESENTATIVES.

28 5. THREE MEMBERS SELECTED DIRECTLY BY THE GOVERNOR.

29 C. AT LEAST SIX MEMBERS OF THE COUNCIL MUST RESIDE IN THE RURAL
30 GROUNDWATER MANAGEMENT AREA.

31 D. BEFORE A COUNCIL MEMBER IS APPOINTED OR RECOMMENDED TO A RURAL
32 GROUNDWATER MANAGEMENT AREA COUNCIL PURSUANT TO SUBSECTION B OF THIS
33 SECTION, INTERESTED PARTIES, INCLUDING A CITY, TOWN, COUNTY OR POLITICAL
34 SUBDIVISION OF THIS STATE, AN INDIAN TRIBE, A CONSERVATION DISTRICT, A
35 PRIVATE WATER COMPANY, AN IRRIGATION DISTRICT OR STATE LEGISLATORS WITH
36 EXPERIENCE IN GROUNDWATER USE AND MANAGEMENT WITHIN THE RURAL GROUNDWATER
37 MANAGEMENT AREA, MAY SUBMIT A LIST OF PROSPECTIVE MEMBERS TO THE DIRECTOR.
38 THE DIRECTOR SHALL FORWARD ALL LISTS TO THE GOVERNOR AND ALL PERSONS WHO
39 MAY RECOMMEND APPOINTMENTS PURSUANT TO THIS SECTION. LEGISLATIVE
40 LEADERSHIP AND THE GOVERNOR MAY ONLY APPOINT OR RECOMMEND PERSONS WHOSE
41 NAMES ARE ON ONE OR MORE OF THE LISTS FORWARDED BY THE DIRECTOR PURSUANT
42 TO THIS SUBSECTION.

43 E. THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOTS TO TERMS OF
44 THREE AND FIVE YEARS IN OFFICE. ALL SUBSEQUENT MEMBERS SERVE FIVE-YEAR
45 TERMS. THE CHAIRPERSON SHALL NOTIFY ALL APPOINTING AUTHORITIES OF THESE

1 TERMS. A COUNCIL MEMBER MAY BE REMOVED ONLY FOR CAUSE BY THE APPOINTING
2 AUTHORITY.

3 F. COUNCIL MEMBERS SERVE WITHOUT COMPENSATION BUT ARE ELIGIBLE TO
4 RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4,
5 ARTICLE 2.

6 45-429.06. Rural groundwater management area council; powers
7 and duties

8 A. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL:

9 1. ADOPT AND SUBMIT TO THE DIRECTOR FOR APPROVAL ONE OR MORE
10 MANAGEMENT GOALS FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

11 2. DEVELOP A MANAGEMENT PLAN THAT INCLUDES WATER MANAGEMENT
12 PRACTICES AND OTHER POSSIBLE ACTIONS TO ADDRESS THE GROUNDWATER CONDITIONS
13 IDENTIFIED AS THE REASON FOR THE DESIGNATION OF A RURAL GROUNDWATER
14 MANAGEMENT AREA AND TO ACHIEVE THE MANAGEMENT GOALS ADOPTED FOR THE RURAL
15 GROUNDWATER MANAGEMENT AREA.

16 3. COOPERATE WITH FEDERALLY RECOGNIZED INDIAN TRIBES, CITIES, TOWNS
17 AND COUNTIES OR OTHER PUBLIC OR PRIVATE AGENCIES OR ORGANIZATIONS TO
18 ENGAGE IN COORDINATED REGIONAL WATER RESOURCES PLANNING.

19 4. KEEP MINUTES OF ALL MEETINGS AND PRESERVE ALL RECORDS, REPORTS,
20 AND OTHER INFORMATION RELATIVE TO THE WORK AND PROGRAMS OF THE COUNCIL IN
21 A PERMANENT, INDEXED AND SYSTEMATICALLY FILED FORM THAT IS AVAILABLE TO
22 PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS.

23 5. ELECT A CHAIRPERSON AND A VICE CHAIRPERSON FROM THE COUNCIL
24 MEMBERSHIP WHO SERVE TWO-YEAR TERMS EXPIRING ON THE THIRD MONDAY OF EACH
25 EVEN NUMBERED YEAR.

26 6. DESIGNATE A PERSON OR PERSONS TO EXECUTE ALL DOCUMENTS AND
27 INSTRUMENTS ON BEHALF OF THE COUNCIL.

28 7. FORM A TECHNICAL COMMITTEE TO PROVIDE TECHNICAL SUPPORT TO THE
29 COUNCIL. THE TECHNICAL COMMITTEE SHALL INCLUDE AT LEAST ONE
30 REPRESENTATIVE FROM THE DEPARTMENT AND MAY INCLUDE MEMBERS OF THE COUNCIL
31 OR MEMBERS OF THE PUBLIC WHO ARE SELECTED BY THE COUNCIL.

32 B. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL MAY:

33 1. REQUEST TECHNICAL ASSISTANCE FROM THE DEPARTMENT TO DEVELOP A
34 MANAGEMENT PLAN FOR THE RURAL GROUNDWATER MANAGEMENT AREA.

35 2. GATHER INFORMATION AND DATA.

36 3. ESTABLISH A STEERING COMMITTEE, ADVISORY COMMITTEE OR OTHER
37 SIMILAR STRUCTURE TO SOLICIT AND RECEIVE PUBLIC PARTICIPATION, COMMENT AND
38 ADVICE FROM RESIDENTS OF THE RURAL GROUNDWATER MANAGEMENT AREA AND OTHER
39 INTERESTED PARTIES ON THE DEVELOPMENT AND OPERATION OF THE RURAL
40 GROUNDWATER MANAGEMENT AREA AND MANAGEMENT PLAN.

41 45-429.07. Rural groundwater management area goals

42 A. WITHIN NINETY DAYS AFTER THE DESIGNATION OF A RURAL GROUNDWATER
43 MANAGEMENT AREA, THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL ADOPT
44 ONE OR MORE GOALS FOR THE RURAL GROUNDWATER MANAGEMENT AREA AND SHALL
45 SUBMIT THE GOALS TO THE DIRECTOR FOR APPROVAL.

1 B. THE COUNCIL SHALL CONSIDER THE STATED REASONS FOR DESIGNATION AS
2 PRESCRIBED IN SECTION 45-429 WHEN ADOPTING ANY MANAGEMENT GOAL. THE
3 MANAGEMENT GOALS MAY INCLUDE:

- 4 1. ACHIEVING SAFE-YIELD AS DEFINED IN SECTION 45-561.
- 5 2. CONTROLLING, REDUCING OR MITIGATING LAND SUBSIDENCE.
- 6 3. CONTROLLING, REDUCING OR MITIGATING WATER QUALITY DEGRADATION.
- 7 4. REDUCING THE RATE OF OR PREVENTING LONG DECLINES IN GROUNDWATER
8 LEVELS.

9 45-429.08. Rural groundwater management area plan; notice

10 A. WITHIN TWO YEARS AFTER THE DESIGNATION OF A RURAL GROUNDWATER
11 MANAGEMENT AREA, THE COUNCIL SHALL DEVELOP AND SUBMIT TO THE DIRECTOR FOR
12 APPROVAL A RURAL GROUNDWATER MANAGEMENT AREA PLAN THAT INCLUDES
13 GROUNDWATER PROGRAMS AND POLICIES THE DEPARTMENT MUST IMPLEMENT TO ADVANCE
14 AND ACHIEVE THE SELECTED RURAL GROUNDWATER MANAGEMENT AREA GOAL.

15 B. WITHIN TWO YEARS AFTER THE DESIGNATION OF A RURAL GROUNDWATER
16 MANAGEMENT AREA, THE COUNCIL SHALL DEVELOP AND SUBMIT TO THE APPROPRIATE
17 CITY, TOWN, COUNTY, IRRIGATION DISTRICT, PRIVATE WATER COMPANY AND OTHER
18 GOVERNMENTAL ENTITIES, INCLUDING MUNICIPAL CORPORATIONS SUBJECT TO THE
19 JURISDICTION OF THIS STATE, ANY PROPOSED ACTIONS THE ENTITIES SHOULD TAKE
20 TO IMPLEMENT A RURAL GROUNDWATER MANAGEMENT AREA PLAN.

21 C. A RURAL GROUNDWATER MANAGEMENT AREA PLAN SHALL INCLUDE:

22 1. A DESCRIPTION OF THE APPROPRIATE PHYSICAL AND ECONOMIC
23 CONDITIONS OF THE AREA AND HOW THE MANAGEMENT GOAL RELATES TO THOSE
24 CONDITIONS.

25 2. A SUMMARY OF CURRENT GROUNDWATER MANAGEMENT IN THE AREA,
26 INCLUDING GROUNDWATER CONSERVATION PROGRAMS ADOPTED BY FEDERALLY
27 RECOGNIZED INDIAN TRIBES, FEDERAL AND STATE AGENCIES AND LOCAL
28 GOVERNMENTS, INCLUDING MUNICIPAL GENERAL PLANS AND COUNTY COMPREHENSIVE
29 PLANS AND THE CURRENT GROUNDWATER CONDITIONS.

30 3. METHODS TO MONITOR AND REPORT ON THE PROGRESS OF ACHIEVING THE
31 MANAGEMENT GOALS.

32 4. A REQUIREMENT TO MEASURE AND ANNUALLY REPORT THE GROUNDWATER USE
33 OF NONEXEMPT WELLS IN THE RURAL GROUNDWATER MANAGEMENT AREA.

34 5. WATER CONSERVATION PROGRAMS FOR GROUNDWATER USERS SERVED BY
35 NONEXEMPT WELLS, INCLUDING A WATER CONSERVATION PROGRAM AS PRESCRIBED BY
36 SECTION 45-429.10.

37 6. REQUIREMENTS FOR THE LOCATION OF NEW AND REPLACEMENT WELLS
38 WITHIN A RURAL GROUNDWATER MANAGEMENT AREA.

39 7. FOR THE FIRST RURAL GROUNDWATER MANAGEMENT AREA PLAN ONLY, A
40 REQUIREMENT THAT TOTAL GROUNDWATER WITHDRAWALS IN A RURAL GROUNDWATER
41 MANAGEMENT AREA BE REDUCED BY TEN PERCENT WITHIN TEN YEARS AFTER THE
42 DESIGNATION OF A RURAL GROUNDWATER MANAGEMENT AREA. FOR EACH SUBSEQUENT
43 MANAGEMENT PLAN, THE PLAN SHALL INCLUDE AN AREA-WIDE CONSERVATION
44 REQUIREMENT AS DETERMINED BY A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL.

1 D. A RURAL GROUNDWATER MANAGEMENT AREA PLAN MAY INCLUDE:
2 1. A PROGRAM TO APPROVE VOLUNTARY COMPENSATED LAND AND WATER
3 CONSERVATION PLANS WITH ACTIONS THAT LANDOWNERS AND WATER USERS IN THE
4 RURAL GROUNDWATER MANAGEMENT AREA MAY PARTICIPATE IN TO CONSERVE OR
5 AUGMENT GROUNDWATER SUPPLIES WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA.
6 THESE PROGRAMS MAY INCLUDE:
7 (a) SHORT-TERM OR LONG-TERM VOLUNTARY LAND USE OR WATER USE
8 AGREEMENTS WITH LANDOWNERS OR WATER USERS.
9 (b) INCENTIVES FOR STORMWATER RETENTION AND RECHARGE.
10 (c) LOW-WATER USE DEVELOPMENTS.
11 (d) INCENTIVES FOR LOW-WATER USE PRACTICES, FIXTURES OR LANDSCAPING
12 THAT REDUCES RESIDENTIAL OR COMMERCIAL USE.
13 (e) INCENTIVES FOR IRRIGATION EFFICIENCY AND CONSERVATION.
14 2. OTHER GROUNDWATER PROTECTION OR PROGRAMS THE DIRECTOR MAY ADOPT
15 IN COORDINATION WITH THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL.
16 3. ACTIONS RECOMMENDED BY THE COUNCIL FOR CITIES, TOWNS, COUNTIES,
17 IRRIGATION DISTRICTS OR PRIVATE WATER COMPANIES OR OTHER GOVERNMENTAL
18 ENTITIES, INCLUDING MUNICIPAL CORPORATIONS SUBJECT TO THE JURISDICTION OF
19 THIS STATE, TO ADOPT THROUGH AN INTERGOVERNMENTAL AGREEMENT OR CONTRACT.
20 THE COUNCIL MAY RECOMMEND:
21 (a) THAT A COUNTY OR MUNICIPAL GOVERNMENT LOCATED WITHIN THE RURAL
22 GROUNDWATER MANAGEMENT AREA ADOPT INCENTIVES OR POLICIES TO REQUIRE WATER
23 CONSERVATION AND PROTECTION OF WATER RESOURCES CONSISTENT WITH THE
24 MANAGEMENT GOALS.
25 (b) THAT A WATER UTILITY LOCATED WITHIN THE RURAL GROUNDWATER
26 MANAGEMENT AREA ADOPT INCENTIVES OR POLICIES TO REQUIRE WATER CONSERVATION
27 AND PROTECTION OF WATER RESOURCES CONSISTENT WITH THE MANAGEMENT GOALS.
28 (c) A PLAN FOR RECHARGE, STORAGE AND RECOVERY TO IMPROVE AQUIFER
29 RECHARGE AS PRESCRIBED IN CHAPTER 3.1 OF THIS TITLE, INCLUDING A
30 RECOMMENDATION THAT THE COUNTY AND MUNICIPAL GOVERNMENT CONSTRUCT AND
31 OPERATE RELEVANT INFRASTRUCTURE.
32 4. NOTWITHSTANDING SECTIONS 9-463.01 AND 11-823, A REQUIREMENT THAT
33 A CITY, TOWN OR COUNTY NOT APPROVE A FINAL PLAT FOR A SUBDIVISION THAT IS
34 COMPOSED OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101 LOCATED IN A
35 RURAL GROUNDWATER MANAGEMENT AREA UNLESS THE DIRECTOR HAS DETERMINED THAT
36 THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTION
37 45-108 AND THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.
38 5. ANY OTHER ACTIONS THE COUNCIL DEEMS APPROPRIATE TO ACHIEVE THE
39 RURAL GROUNDWATER MANAGEMENT AREA GOALS IN COORDINATION WITH THE DIRECTOR
40 AND OTHER NECESSARY GOVERNMENTAL ENTITIES.
41 E. A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL PROVIDE NOTICE
42 TO THE PUBLIC OF HOW A PERSON CAN PARTICIPATE IN THE ACTIVITIES OF THE
43 COUNCIL AND SHALL HOLD ANY COUNCIL MEETINGS THAT ADDRESS THE ADOPTION OR
44 CONSIDERATION OF A MANAGEMENT PLAN PURSUANT TO TITLE 38, CHAPTER 3,
45 ARTICLE 3.1.

1 F. IF A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL DOES NOT ADOPT A
2 MANAGEMENT GOAL AND PLAN WITHIN TWO YEARS AFTER THE DESIGNATION OF THE
3 RURAL GROUNDWATER MANAGEMENT AREA, THE DIRECTOR SHALL DEVELOP GOALS AND A
4 MANAGEMENT PLAN FOR THE AREA CONSISTENT WITH THIS ARTICLE.

5 45-429.09. Rural groundwater management area goals, plan and
6 actions; approval; hearings; notice

7 A. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL SUBMIT THE
8 FINAL RURAL GROUNDWATER MANAGEMENT AREA GOALS TO THE DIRECTOR FOR APPROVAL
9 WITHIN NINETY DAYS AFTER THE DATE OF THE DESIGNATION OF THE RURAL
10 GROUNDWATER MANAGEMENT AREA AND SHALL SUBMIT THE PLAN, INCLUDING ANY
11 PROPOSED ACTIONS IN THE PLAN TO BE IMPLEMENTED BY THE DEPARTMENT, TO THE
12 DIRECTOR FOR APPROVAL WITHIN TWO YEARS AFTER THE DATE OF THE DESIGNATION
13 OF THE RURAL GROUNDWATER MANAGEMENT AREA.

14 B. THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL SUBMIT TO
15 THE APPROPRIATE CITIES, TOWNS, COUNTIES, IRRIGATION DISTRICTS OR PRIVATE
16 WATER COMPANIES OR OTHER GOVERNMENTAL ENTITIES, POLITICAL SUBDIVISIONS OR
17 MUNICIPAL CORPORATIONS ANY PROPOSED ACTIONS IN THE MANAGEMENT PLAN THAT
18 ARE RECOMMENDED FOR IMPLEMENTATION BY THOSE ENTITIES IN THE RURAL
19 GROUNDWATER MANAGEMENT AREA.

20 C. THE DIRECTOR SHALL HOLD A PUBLIC HEARING ON RECEIPT OF:

21 1. THE FINAL RURAL GROUNDWATER MANAGEMENT AREA GOALS, TO APPROVE
22 THOSE GOALS.

23 2. THE FINAL MANAGEMENT PLAN AND ANY RECOMMENDED ACTIONS CONTAINED
24 IN THE MANAGEMENT PLAN, TO APPROVE THE MANAGEMENT PLAN AND THE RECOMMENDED
25 ACTIONS BEFORE IMPLEMENTING THE MANAGEMENT PLAN AND ACTIONS.

26 D. THE DIRECTOR SHALL PROVIDE NOTICE OF THE PUBLIC HEARINGS
27 PRESCRIBED BY THIS SECTION WITHIN THIRTY DAYS AFTER RECEIVING THE
28 COUNCIL'S FINAL SUBMISSIONS.

29 E. THE DIRECTOR SHALL PUBLISH THE NOTICE FOR THE PUBLIC TO APPROVE
30 THE MANAGEMENT GOALS ON THE DEPARTMENT'S WEBSITE AND IN A NEWSPAPER OF
31 GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE RURAL GROUNDWATER
32 MANAGEMENT AREA IS LOCATED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS. THE
33 DIRECTOR SHALL PROVIDE ALL OF THE FOLLOWING IN THE NOTICE:

34 1. THE MANAGEMENT GOALS.

35 2. A MAP OR DESCRIPTION OF THE BOUNDARIES OF THE RURAL GROUNDWATER
36 MANAGEMENT AREA.

37 3. THE TIME AND PLACE OF THE HEARING.

38 F. THE DIRECTOR SHALL PUBLISH THE NOTICE FOR THE PUBLIC TO APPROVE
39 THE MANAGEMENT PLAN ON THE DEPARTMENT'S WEBSITE AND IN A NEWSPAPER OF
40 GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE RURAL GROUNDWATER
41 MANAGEMENT AREA IS LOCATED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS. THE
42 DIRECTOR SHALL PROVIDE ALL OF THE FOLLOWING IN THE NOTICE:

43 1. A SUMMARY OF THE PROPOSED MANAGEMENT PLAN AND RECOMMENDED
44 ACTIONS TO BE TAKEN BY THE DEPARTMENT.

1 2. A MAP OR DESCRIPTION OF THE BOUNDARIES OF THE RURAL GROUNDWATER
2 MANAGEMENT AREA.

3 3. THE TIME AND PLACE OF THE HEARING.

4 G. THE PUBLIC HEARINGS PRESCRIBED BY THIS SECTION SHALL BE HELD AT
5 A LOCATION WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA NOT LESS THAN
6 THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER THE INITIAL NOTICE IS
7 PUBLISHED.

8 H. AT THE PUBLIC HEARING TO APPROVE THE MANAGEMENT GOALS, THE RURAL
9 GROUNDWATER MANAGEMENT AREA COUNCIL SHALL PRESENT DATA AND INFORMATION IN
10 SUPPORT OF THE MANAGEMENT GOALS AND A SUMMARY OF ALL PUBLIC COMMENT
11 CONSIDERED WHEN CONSIDERING THE GOALS.

12 I. AT THE PUBLIC HEARING TO APPROVE THE MANAGEMENT PLAN, THE RURAL
13 GROUNDWATER MANAGEMENT AREA COUNCIL SHALL PRESENT DATA AND INFORMATION IN
14 SUPPORT OF THE MANAGEMENT PLAN AND A SUMMARY OF ALL PUBLIC COMMENT
15 CONSIDERED WHEN CONSIDERING THE MANAGEMENT PLAN.

16 J. ANY PERSON MAY APPEAR AT THE HEARINGS, EITHER IN PERSON OR BY
17 REPRESENTATIVE, AND SUBMIT ORAL OR DOCUMENTARY EVIDENCE IN SUPPORT OF OR
18 OPPOSITION TO ADOPTION. WITHIN THIRTY DAYS AFTER A PUBLIC HEARING, THE
19 DIRECTOR SHALL DETERMINE THAT THE PROPOSED GOALS OR MANAGEMENT PLAN ARE
20 REASONABLE AND CONSISTENT WITH THE REQUIREMENTS OF THIS ARTICLE. BEFORE
21 THE DIRECTOR MAKES A FINAL DETERMINATION TO APPROVE THE MANAGEMENT PLAN,
22 THE DIRECTOR MUST FIND THE MANAGEMENT PLAN IS CONSISTENT WITH ACHIEVING
23 THE MANAGEMENT GOALS. THE DIRECTOR SHALL INCLUDE A SUMMARY OF ANY
24 FINDINGS CONSIDERED DURING THE PUBLIC HEARINGS AND A SUMMARY OF ALL PUBLIC
25 COMMENTS RECEIVED IN WRITING OR ORALLY DURING THE PUBLIC MEETINGS
26 ALONGSIDE THE DIRECTOR'S DECISIONS.

27 K. ALL INFORMATION COMPILED BY THE DIRECTOR PURSUANT TO THE
28 DEVELOPMENT AND APPROVAL OF THE MANAGEMENT GOALS OR MANAGEMENT PLAN,
29 INCLUDING ALL RECORDS OF THE HEARINGS AND PUBLIC COMMENTS, COPIES OF THE
30 FINDINGS, MANAGEMENT GOALS AND MANAGEMENT PLAN ARE PUBLIC RECORDS OF THE
31 DEPARTMENT AND SHALL BE AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR
32 BUSINESS HOURS.

33 L. THE FINAL DECISIONS OF THE DIRECTOR ARE SUBJECT TO REHEARING OR
34 REVIEW AND JUDICIAL REVIEW AS PROVIDED IN SECTION 45-114, SUBSECTION B.

35 45-429.10. Rural groundwater management area; conservation
36 program; rules

37 A. PURSUANT TO A RURAL GROUNDWATER MANAGEMENT AREA PLAN AND
38 SUPPLEMENTARY TO ANY OTHER WATER CONSERVATION PROGRAMS INCLUDED IN A
39 MANAGEMENT PLAN, THE RURAL GROUNDWATER MANAGEMENT AREA COUNCIL SHALL
40 RECOMMEND A MANDATORY WATER CONSERVATION PROGRAM TO THE DIRECTOR THAT
41 REQUIRES ALL PERSONS WITH A CERTIFICATE OF GROUNDWATER USE, EXCEPT FOR A
42 WATER USER WHO RECEIVES A VARIANCE OR EXEMPTION AS PRESCRIBED BY THIS
43 SECTION, TO REDUCE GROUNDWATER USE TO HELP ACHIEVE THE GOALS OF A RURAL
44 GROUNDWATER MANAGEMENT AREA.

1 B. A RURAL GROUNDWATER MANAGEMENT AREA WATER CONSERVATION PROGRAM
2 RECOMMENDED TO THE DIRECTOR MAY INCLUDE ONE OR MORE OF THE FOLLOWING:

3 1. A BEST MANAGEMENT PRACTICES PROGRAM THAT ALLOWS A PERSON WHO IS
4 ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE TO IMPLEMENT THE
5 PERSON'S CHOICE OF CONSERVATION PROGRAMS APPROVED BY THE DEPARTMENT AND
6 APPROPRIATE TO THE PERSON'S TYPE OF WATER USE.

7 2. CONSERVATION OR RATE OF USE REQUIREMENTS FOR ALL OR A SELECTED
8 GROUP OF NONEXEMPT GROUNDWATER USES WITHIN A RURAL GROUNDWATER MANAGEMENT
9 AREA THAT MAY BE APPLIED TO A CERTIFICATE OF GROUNDWATER USE FOR
10 IRRIGATION AND NON-IRRIGATION USES AND THAT SHALL BE DETERMINED BY THE
11 COUNCIL AND THE DIRECTOR TO BE REASONABLE. TO DETERMINE REASONABLENESS
12 PURSUANT TO THIS PARAGRAPH, THE DIRECTOR AND COUNCIL MAY CONSIDER THE
13 FOLLOWING:

14 (a) FOR IRRIGATION USERS, THE QUANTITY OF WATER REASONABLY REQUIRED
15 TO IRRIGATE CROPS HISTORICALLY GROWN IN A FARM UNIT BASED ON THE TOTAL
16 IRRIGATION REQUIREMENT PER ACRE AND THE IRRIGATION EFFICIENCY APPROPRIATE
17 TO THE GOALS AND CONDITIONS OF THE RURAL GROUNDWATER MANAGEMENT AREA. THE
18 COUNCIL AND DEPARTMENT MAY NOT RECOMMENDED GREATER THAN AN EIGHTY PERCENT
19 EFFICIENCY.

20 (b) FOR MUNICIPAL PROVIDERS, PROGRAMS INCLUDING LONG-RANGE
21 PLANNING, COOPERATIVE REGIONAL EFFORTS, TECHNICAL ASSISTANCE, PUBLIC
22 EDUCATION AND CONSERVATION REQUIREMENTS.

23 (c) FOR INDUSTRIAL WATER USERS, PROGRAMS AND REQUIREMENTS TO MOVE
24 INDUSTRIAL USERS WITHIN A RURAL GROUNDWATER MANAGEMENT AREA TO THE
25 GREATEST LEVEL OF WATER USE EFFICIENCY THAT ARE ECONOMICALLY ATTAINABLE
26 GIVEN THE LATEST AVAILABLE WATER TECHNOLOGY.

27 3. A PROGRAM FOR ADDITIONAL AUGMENTATION OF THE WATER SUPPLY OF THE
28 RURAL GROUNDWATER MANAGEMENT AREA, INCLUDING INCENTIVES FOR ARTIFICIAL
29 GROUNDWATER RECHARGE.

30 4. IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF WATER
31 RESOURCES AND THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, A
32 PROGRAM THAT PROVIDES FOR AN ASSESSMENT OF GROUNDWATER QUALITY AND
33 GROUNDWATER QUALITY PROTECTION.

34 5. A PROGRAM FOR CONSERVATION ASSISTANCE TO WATER USERS WITHIN THE
35 RURAL GROUNDWATER MANAGEMENT AREA.

36 6. A PROGRAM FOR THE PURCHASE AND RETIREMENT OF CERTIFICATES OF
37 GROUNDWATER USE.

38 7. FOR MUNICIPAL PROVIDERS, PROGRAMS INCLUDING NON-PER CAPITA
39 CONSERVATION, TOTAL GALLONS PER CAPITA CONSERVATION, LOST AND UNACCOUNTED
40 FOR WATER CONSERVATION AND SPECIFIC WATER CONSERVATION FOR NEW, LARGE OR
41 SMALL MUNICIPAL PROVIDERS.

42 8. FOR INDUSTRIAL WATER USERS, GENERAL CONSERVATION REQUIREMENTS
43 THAT APPLY TO ALL USERS OR CONSERVATION REQUIREMENTS THAT APPLY TO CERTAIN
44 CURRENT OR NEW INDUSTRIAL USERS SUCH AS TURF-RELATED FACILITIES, SAND AND

1 GRAVEL FACILITIES, MINING FACILITIES, LARGE-SCALE POWER PLANTS, COOLING
2 FACILITIES AND DAIRY OPERATIONS.

3 C. A PERSON WITH A CERTIFICATE OF GROUNDWATER USE MAY APPLY TO THE
4 DIRECTOR AT ANY TIME FOR A VARIANCE OR EXEMPTION FROM A MANAGEMENT PLAN'S
5 CONSERVATION REQUIREMENTS. THE DIRECTOR SHALL GRANT A VARIANCE OR
6 EXEMPTION IF THE APPLICANT DEMONSTRATES TO THE DIRECTOR'S SATISFACTION
7 THAT GRANTING THE VARIANCE OR EXEMPTION IS CONSISTENT WITH ACHIEVING THE
8 GOALS OF THE RURAL GROUNDWATER MANAGEMENT AREA.

9 45-429.11. Management plan review; modification

10 UNLESS THE DIRECTOR RESCINDS A RURAL GROUNDWATER MANAGEMENT AREA
11 DESIGNATION OR DIRECTS A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL TO
12 DEVELOP A MANAGEMENT PLAN FOR THE MAINTENANCE OF IMPROVED CONDITIONS AS
13 PRESCRIBED BY SECTION 45-429.01, A RURAL GROUNDWATER MANAGEMENT AREA
14 COUNCIL SHALL REVIEW THE MANAGEMENT PLAN EVERY TEN YEARS AND DO EITHER OF
15 THE FOLLOWING:

16 1. READOPT THE EXISTING MANAGEMENT PLAN FOR AN ADDITIONAL TEN-YEAR
17 PERIOD.

18 2. ADOPT A NEW MANAGEMENT PLAN PURSUANT TO THE PROCEDURES FOR
19 ADOPTING A MANAGEMENT PLAN AS PRESCRIBED BY THIS ARTICLE EXCEPT THE PLAN
20 IS NOT SUBJECT TO ADMINISTRATIVE REVIEW.

21 45-429.12. Rural groundwater management area; preemption

22 A. THIS CHAPTER DOES NOT PREEMPT OR AFFECT THE FOLLOWING:

23 1. DECREED OR APPROPRIATIVE WATER RIGHTS.

24 2. SURFACE WATER AS DEFINED IN SECTION 45-101.

25 3. WATER SUBJECT TO APPROPRIATION AS PRESCRIBED IN SECTION 45-141.

26 4. A GENERAL ADJUDICATION OF WATER RIGHTS AS PRESCRIBED BY CHAPTER
27 1, ARTICLE 9 OF THIS TITLE.

28 B. A RURAL GROUNDWATER MANAGEMENT AREA COUNCIL MAY NOT TAKE OR
29 RECOMMENDED ANY ACTION TO RESTRICT, REGULATE OR AUTHORIZE TRANSPORTATION
30 OF GROUNDWATER THAT IS INCONSISTENT WITH ARTICLES 8 AND 8.1 OF THIS
31 CHAPTER.

32 45-429.13. Department of water resources rural groundwater
33 management area fund; report

34 A. THE DEPARTMENT OF WATER RESOURCES RURAL GROUNDWATER MANAGEMENT
35 AREA FUND IS ESTABLISHED CONSISTING OF MONIES APPROPRIATED TO THE FUND.

36 B. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE
37 CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION
38 35-190 RELATING TO LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE
39 DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND
40 AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
41 CREDITED TO THE FUND.

42 C. THE DEPARTMENT SHALL SPEND MONIES IN THE FUND TO IMPLEMENT AND
43 SUPPORT RURAL GROUNDWATER MANAGEMENT AREAS THAT ARE ESTABLISHED PURSUANT
44 TO THIS ARTICLE, INCLUDING ADMINISTRATION AND ENFORCEMENT OF ACTIONS IN
45 THE PLAN IMPLEMENTED BY THE DEPARTMENT, AND MAY GRANT MONIES FOR

1 CONSERVATION ASSISTANCE TO ANY PERSON WITH A CERTIFICATE OF GROUNDWATER
2 USE WITHIN THE RURAL GROUNDWATER MANAGEMENT AREA TO IMPLEMENT PROGRAMS TO
3 APPROVE AND FUND VOLUNTARY, COMPENSATED LAND AND WATER CONSERVATION PLANS
4 TO CONSERVE AND AUGMENT GROUNDWATER SUPPLIES AS APPROVED BY THE DIRECTOR.

5 D. THE DEPARTMENT MAY NOT EXERCISE ANY POWER OF EMINENT DOMAIN TO
6 ACQUIRE PROPERTY USING MONIES FROM THE FUND.

7 E. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT
8 AN ANNUAL REPORT TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE
9 OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE AND HOUSE OF
10 REPRESENTATIVES COMMITTEES ON NATURAL RESOURCES AND AGRICULTURE, OR THEIR
11 SUCCESSOR COMMITTEES, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE
12 SECRETARY OF STATE. THE ANNUAL REPORT SHALL INCLUDE INFORMATION ON THE
13 AMOUNT OF MONIES SPENT OR ENCUMBERED IN THE FUND DURING THE PRECEDING
14 FISCAL YEAR AND A SUMMARY OF THE PROJECTS, ACTIVITIES AND EXPENDITURES
15 RELATING TO IMPLEMENTING AND SUPPORTING RURAL GROUNDWATER MANAGEMENT AREAS
16 AND VOLUNTARY, COMPENSATED LAND AND WATER CONSERVATION PLANS.

17 Sec. 3. Title 45, chapter 2, article 4, Arizona Revised Statutes,
18 is amended by adding section 45-451.01, to read:

19 45-451.01. Groundwater uses in rural groundwater management
20 areas; certificates of groundwater use

21 A. IN A RURAL GROUNDWATER MANAGEMENT AREA, A PERSON MAY:

22 1. WITHDRAW AND USE GROUNDWATER ONLY IN ACCORDANCE WITH THE
23 ARTICLES 2.1 AND 3 OF THIS CHAPTER.

24 2. STORE WATER IN A STORAGE FACILITY, AS DEFINED IN SECTION
25 45-802.01, ONLY IN ACCORDANCE WITH CHAPTER 3.1 OF THIS TITLE.

26 B. THIS CHAPTER DOES NOT AFFECT DECREED AND APPROPRIATIVE WATER
27 RIGHTS. THIS CHAPTER DOES NOT AFFECT SURFACE WATER AS DEFINED IN SECTION
28 45-101, WATER SUBJECT TO APPROPRIATION AS PRESCRIBED IN SECTION 45-141 OR
29 A GENERAL ADJUDICATION OF WATER RIGHTS AS PRESCRIBED BY CHAPTER 1, ARTICLE
30 9 OF THIS TITLE.

31 Sec. 4. Section 45-453, Arizona Revised Statutes, is amended to
32 read:

33 45-453. Groundwater rights and uses in areas outside active
34 management areas and rural groundwater management
35 areas; amounts; transportation; irrigation
36 non-expansion areas

37 In areas outside of active management areas **AND RURAL GROUNDWATER**
38 **MANAGEMENT AREAS**, a person may:

39 1. Withdraw and use groundwater for reasonable and beneficial use,
40 except as provided in article 8.1 of this chapter.

41 2. Transport groundwater pursuant to articles 8 and 8.1 of this
42 chapter.

43 3. Use groundwater for irrigation purposes within the exterior
44 boundaries of an irrigation non-expansion area only pursuant to article 3
45 of this chapter.

1 Sec. 5. Section 45-598, Arizona Revised Statutes, is amended to
2 read:

3 45-598. New wells and replacement wells in new locations in
4 active management areas; rules; permit required

5 A. The director shall adopt rules governing the location of new
6 wells and replacement wells in new locations in active management areas to
7 prevent unreasonably increasing damage to surrounding land or other water
8 users from the concentration of wells.

9 B. THE DIRECTOR SHALL ADOPT RULES GOVERNING THE LOCATION OF NEW
10 WELLS AND REPLACEMENT WELLS IN NEW LOCATIONS IN RURAL GROUNDWATER
11 MANAGEMENT AREAS TO MANAGE THE CONCENTRATION OF WELLS PURSUANT TO A RURAL
12 GROUNDWATER MANAGEMENT AREA PLAN.

13 ~~B.~~ C. A person THAT IS entitled to withdraw groundwater in an
14 active management area pursuant to article 5 or 6 of this chapter may
15 construct a new well or a replacement well in a new location if the
16 location of the new well or the replacement well complies with the rules
17 adopted by the director pursuant to subsection A of this section and if
18 the person has applied for and received a permit from the director
19 pursuant to section 45-599.

20 D. A PERSON WHO IS ENTITLED TO WITHDRAW GROUNDWATER IN A RURAL
21 GROUNDWATER MANAGEMENT AREA PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER MAY
22 CONSTRUCT A NEW WELL OR A REPLACEMENT WELL IN A NEW LOCATION IF THE
23 LOCATION OF THE NEW WELL OR THE REPLACEMENT WELL COMPLIES WITH THE RULES
24 ADOPTED BY THE DIRECTOR PURSUANT TO SUBSECTION A OF THIS SECTION AND IF
25 THE PERSON HAS RECEIVED A PERMIT FROM THE DIRECTOR PURSUANT TO SECTION
26 45-599.

27 ~~C.~~ E. An applicant for a general industrial use permit pursuant to
28 sections 45-515 and 45-521 who proposes to construct a new well or a
29 replacement well in a new location shall also apply for a permit pursuant
30 to section 45-599.

31 ~~D.~~ F. A person who is entitled to withdraw groundwater in an
32 active management area under article 5 or 6 of this chapter may withdraw
33 groundwater under article 5 or 6 of this chapter from a well drilled to
34 withdraw groundwater pursuant to a groundwater withdrawal permit issued
35 under article 7 of this chapter if the location of the well complies with
36 the rules adopted by the director under subsection A of this section and
37 if the person has applied for and received a permit from the director
38 pursuant to section 45-599. A person THAT IS entitled to withdraw
39 groundwater in an active management area under a general industrial use
40 permit issued under section 45-515 may withdraw groundwater under section
41 45-515 from a well used to withdraw groundwater pursuant to another
42 category of groundwater withdrawal permit issued under article 7 of this
43 chapter if the location of the well complies with the rules adopted by the
44 director under subsection A of this section and if the person has applied
45 for and received a permit from the director pursuant to section 45-599.

1 Sec. 6. Section 45-604, Arizona Revised Statutes, is amended to
2 read:

3 45-604. Water measuring devices

4 A. Except as provided in subsections B, C and D of this section, a
5 person who withdraws groundwater from a nonexempt well in an active
6 management area, ~~or an~~ irrigation non-expansion area **OR RURAL GROUNDWATER**
7 **MANAGEMENT AREA**, a person who withdraws water from a ~~non-exempt~~ **NONEXEMPT**
8 well in the Santa Cruz active management area or a person who withdraws
9 groundwater for transportation to an initial active management area
10 pursuant to article 8.1 of this chapter shall use a water measuring device
11 approved by the director.

12 B. A person who holds a type 2 non-irrigation grandfathered right
13 or a groundwater withdrawal permit in the amount of ten or fewer acre-feet
14 per year is not required to use a water measuring device to measure
15 withdrawals pursuant to that grandfathered right or groundwater withdrawal
16 permit unless the person holds more than one such right or permit in the
17 aggregate amount of more than ten acre-feet per year and withdraws more
18 than ten acre-feet of groundwater per year pursuant to those rights or
19 permits from one well.

20 C. In an irrigation non-expansion area:

21 1. A person who withdraws ten or fewer acre-feet of groundwater per
22 year from a ~~non-exempt~~ **NONEXEMPT** well for a non-irrigation use is not
23 required to use a water measuring device to measure withdrawals from that
24 well.

25 2. A person who withdraws groundwater from a ~~non-exempt~~ **NONEXEMPT**
26 well for an irrigation use is not required to use a water measuring device
27 to measure withdrawals from that well if both of the following apply:

28 (a) Groundwater withdrawn from the well for an irrigation use is
29 used only on land that is owned by a person who has the right under
30 section 45-437 to irrigate ten or fewer contiguous acres at the place of
31 the use.

32 (b) Groundwater withdrawn from the well is not used on land that is
33 part of an integrated farming operation.

34 D. In an active management area, a person, other than an irrigation
35 district, who withdraws groundwater from a ~~non-exempt~~ **NONEXEMPT** well for
36 use pursuant to an irrigation grandfathered right that is appurtenant to
37 ten or fewer irrigation acres is not required to use a water measuring
38 device to measure withdrawals from that well unless groundwater withdrawn
39 from the well is also used pursuant to either a service area right
40 pursuant to article 6 of this chapter or a grandfathered groundwater right
41 other than an irrigation grandfathered right that is appurtenant to
42 irrigation acres that are exempt from irrigation water duties pursuant to
43 section 45-563.02.

44 E. The director shall adopt rules setting forth the requirements
45 and specifications for water measuring devices.

1 Sec. 7. Section 45-632, Arizona Revised Statutes, is amended to
2 read:

3 45-632. Records and annual report of groundwater pumping,
4 transportation and use; penalty

5 A. Each person who is required to file an annual report under this
6 section or who files an annual report under subsection E of this section
7 shall maintain current accurate records of the person's withdrawals,
8 transportation, deliveries and use of groundwater and, in the Santa Cruz
9 active management area, current accurate records of the person's
10 withdrawals, deliveries and use of all water withdrawn from a well, as
11 prescribed by the director under subsection ~~P~~ Q of this section.

12 B. Except as provided in subsections C and D of this section, an
13 annual report shall be filed with the director by each person who:

14 1. Owns or leases a right under this chapter to withdraw, receive
15 or use groundwater in an active management area, unless a report is filed
16 for that person by an irrigation district under subsection E of this
17 section or by another person in a form acceptable to the director.

18 2. Uses groundwater ~~which~~ THAT is transported from an active
19 management area.

20 3. Is an individual user subject to a municipal conservation
21 requirement for appropriate conservation measures included in a management
22 plan adopted by the director pursuant to article 9 of this chapter.

23 4. Withdraws groundwater for transportation to an initial active
24 management area pursuant to article 8.1 of this chapter.

25 5. Withdraws water from a well in the Santa Cruz active management
26 area or who uses water, other than stored water, withdrawn from a
27 ~~non-exempt~~ NONEXEMPT well in the Santa Cruz active management area.

28 6. WITHDRAWS GROUNDWATER FROM A NONEXEMPT WELL IN A RURAL
29 GROUNDWATER MANAGEMENT AREA.

30 C. Persons who withdraw groundwater from exempt wells and
31 non-irrigation customers of cities, towns, private water companies and
32 irrigation districts, except customers receiving water pursuant to a
33 permit, are exempt from the record keeping and reporting requirements of
34 this section for such water.

35 D. A person who owns or leases an irrigation grandfathered right
36 that is appurtenant to ten or fewer irrigation acres is exempt from the
37 record keeping and reporting requirements of this section for the
38 irrigation grandfathered right unless one of the following applies:

39 1. The land to which the irrigation grandfathered right is
40 appurtenant is part of an integrated farming operation.

41 2. Groundwater is withdrawn from the land to which the irrigation
42 grandfathered right is appurtenant and delivered for use pursuant to
43 either a service area right pursuant to article 6 of this chapter or a
44 grandfathered groundwater right other than an irrigation grandfathered

1 right that is appurtenant to irrigation acres that are exempt from
2 irrigation water duties pursuant to section 45-563.02.

3 3. Groundwater is withdrawn from land that is both owned by the
4 owner of the irrigation grandfathered right and contiguous to the land to
5 which the irrigation grandfathered right is appurtenant and delivered for
6 use pursuant to either a service area right pursuant to article 6 of this
7 chapter or a grandfathered groundwater right other than an irrigation
8 grandfathered right that is appurtenant to irrigation acres that are
9 exempt from irrigation water duties pursuant to section 45-563.02.

10 E. An irrigation district ~~which~~ THAT delivers and distributes
11 groundwater in an active management area may file an annual report with
12 the director for each person who holds an irrigation grandfathered right
13 appurtenant to irrigation acres within the service area of the irrigation
14 district, if the irrigation district delivers all the water used on the
15 person's irrigation acres. If an irrigation district files an annual
16 report for such a person, the irrigation district shall report the
17 following information for each such person:

18 1. The name of the person and the certificate number of the
19 person's irrigation grandfathered right.

20 2. The quantity of groundwater, if any, delivered during the
21 calendar year.

22 F. Persons who are required to report under subsection B, paragraph
23 1 of this section and who withdraw groundwater during the calendar year in
24 an active management area shall report the following information for each
25 well:

26 1. The registration number and location of the well.

27 2. The quantity of groundwater withdrawn from the well during the
28 calendar year. A person who, under section 45-604, subsection B, is not
29 required to use and does not use a water measuring device to measure
30 withdrawals made pursuant to a type 2 non-irrigation grandfathered right
31 or a groundwater withdrawal permit shall estimate the quantity of
32 groundwater withdrawn pursuant to the grandfathered right or withdrawal
33 permit.

34 3. The quantity of fuel or electricity consumed by the pump during
35 the calendar year.

36 4. The uses to which the groundwater was applied or the persons to
37 whom the groundwater was delivered during the calendar year.

38 G. Persons who are required to report under subsection B, paragraph
39 1 of this section and who use groundwater during the calendar year in an
40 active management area and persons who are required to report under
41 subsection B, paragraph 2 of this section shall report the following
42 information:

43 1. The source of the groundwater, including:

44 (a) The name of the person from whom the groundwater was obtained.

45 (b) The registration number and location of the well, if known.

1 2. The quantity of groundwater used during the calendar year.
2 3. The specific uses to which the groundwater was applied during
3 the calendar year.
4 H. Persons who are required to report under subsection B, paragraph
5 4 of this section and who transport groundwater during the calendar year
6 to an initial active management area under article 8.1 of this chapter
7 shall report the following information:
8 1. The registration number and location of each well.
9 2. The quantity of groundwater withdrawn from each well during the
10 calendar year.
11 3. The quantity of groundwater transported during the calendar year
12 to an initial active management area.
13 4. The quantity of groundwater that was withdrawn during the
14 calendar year and that was not transported to an initial active management
15 area and the uses to which the groundwater was applied.
16 5. The quantity of fuel or electricity consumed by each pump during
17 the calendar year.
18 6. The uses to which the groundwater was applied or the persons to
19 whom the groundwater was delivered during the calendar year.
20 I. Persons who are required to report under subsection B, paragraph
21 1 of this section and who neither withdraw nor use groundwater during the
22 calendar year shall report the following information:
23 1. The fact that no groundwater was withdrawn or used during the
24 calendar year.
25 2. The registration number and location of each well, if any.
26 J. Persons who are required to report under subsection B, paragraph
27 5 of this section and who withdraw water from a ~~non-exempt~~ NONEXEMPT well
28 in the Santa Cruz active management area during the calendar year shall
29 report the following information:
30 1. The registration number and location of the well.
31 2. The quantity of water, by type, withdrawn from the well during
32 the calendar year.
33 3. The quantity of fuel or electricity consumed by the pump during
34 the calendar year.
35 4. The uses to which the water was applied or the persons to whom
36 the water was delivered during the calendar year.
37 K. Persons who are required to report under subsection B, paragraph
38 5 of this section and who use water withdrawn from a ~~non-exempt~~ NONEXEMPT
39 well in the Santa Cruz active management area during the calendar year
40 shall report the following information:
41 1. The source of the water, including:
42 (a) The name of the person from whom the water was obtained.
43 (b) The registration number and location of the well, if known.
44 2. The quantity of the water, by type, used during the calendar
45 year.

1 3. The specific uses to which the water was applied during the
2 calendar year.

3 L. PERSONS WHO ARE REQUIRED TO REPORT UNDER SUBSECTION B, PARAGRAPH
4 6 OF THIS SECTION AND WHO WITHDRAW WATER FROM A NONEXEMPT WELL IN A RURAL
5 GROUNDWATER MANAGEMENT AREA DURING THE CALENDAR YEAR SHALL REPORT THE
6 FOLLOWING INFORMATION:

7 1. THE REGISTRATION NUMBER AND LOCATION OF THE WELL, INCLUDING
8 GLOBAL POSITIONING SYSTEM COORDINATES.

9 2. THE QUANTITY OF WATER, BY TYPE, THAT IS WITHDRAWN FROM THE WELL
10 DURING THE CALENDAR YEAR.

11 3. THE SPECIFIC USES TO WHICH THE WATER WAS APPLIED DURING THE
12 CALENDAR YEAR.

13 ~~L.~~ M. If a person both withdraws groundwater in an active
14 management area and uses such water, the person may combine the
15 information required by subsections F and G of this section into one
16 report. If a person both withdraws water, other than stored water, from a
17 non-exempt well in the Santa Cruz active management area and uses such
18 water, the person may combine the information required by subsections J
19 and K of this section into one report.

20 ~~M.~~ N. The director may require such other information in the
21 report as may be necessary to accomplish the management goals of the
22 applicable active management area.

23 ~~N.~~ O. Each report shall contain either a sworn statement or a
24 certification, under penalty of perjury, that the information contained in
25 the report is true and correct according to the best belief and knowledge
26 of the person filing the report.

27 ~~O.~~ P. The annual report shall be maintained on a calendar year
28 basis and shall be filed with the director no later than March 31 of each
29 year for the preceding calendar year. If a person who is required under
30 this section to file an annual report for calendar year 1985 or any
31 subsequent calendar year fails to file a report for the calendar year in
32 question on or before March 31 of the following year, the director may
33 assess and collect a penalty of ~~twenty-five dollars~~ \$25 for each month or
34 portion of a month that the annual report is delinquent. The total
35 penalty assessed under this subsection shall not exceed ~~one hundred fifty~~
36 ~~dollars~~ \$150. The director shall deposit, pursuant to sections 35-146 and
37 35-147, all penalties collected under this subsection in the state general
38 fund.

39 ~~P.~~ Q. The records and reports required to be kept and filed under
40 this section shall be in such form as the director prescribes. The
41 director shall prepare blank forms and distribute them on a timely
42 schedule throughout each active management area and furnish them upon
43 request. Failure to receive or obtain the forms does not relieve any
44 person from keeping the required records or making any required report.
45 The director shall cooperate with cities and towns, private water

1 companies and irrigation districts in establishing the form of the records
2 and reports to be kept and filed by them.

3 Sec. 8. Section 45-2602, Arizona Revised Statutes, is amended to
4 read:

5 45-2602. Establishment of southside protection zones;
6 reporting requirements

7 A. The following southside protection zones are established on ~~the~~
8 ~~effective date of this section~~ DECEMBER 14, 2007:

- 9 1. The eastern protection zone north.
- 10 2. The eastern protection zone south.
- 11 3. The western municipal and industrial protection zone.
- 12 4. The western municipal protection zone.
- 13 5. The central protection zone.

14 B. The boundaries of the southside protection zones established
15 under subsection A OF THIS SECTION are shown on the maps that are dated
16 March 25, 2002 and that are on file in the department. The maps shall be
17 available for examination by the public during regular business hours.

18 C. Each person in the Pinal active management area who withdraws
19 underground water during a calendar year in a southside protection zone
20 established under this section, other than the central protection zone,
21 shall file an annual report with the director no later than March 31 of
22 each year for the preceding calendar year. The report shall contain the
23 following information in addition to any other information required by
24 section 45-632:

- 25 1. The amount of underground water withdrawn within the southside
26 protection zone and the name of the protection zone.
- 27 2. If the underground water was used for a nonirrigation use, the
28 purpose for which the underground water was used, the location of the use,
29 the acreage of the parcel or parcels of land on which the underground
30 water was used and the date the use commenced.
- 31 3. The amount of any water replenished during the year pursuant to
32 section 45-2611, subsection B, paragraph 2, the water use for which the
33 water was replenished and the manner in which the water was replenished.
- 34 4. The amount of any water replaced during the year pursuant to
35 section 45-2611, subsection B, paragraph 3, the water use for which the
36 water was replaced and the manner in which the water was replaced.

37 D. A person who is required to file an annual report for a year
38 under subsection C of this section:

- 39 1. Shall use a water measuring device approved by the director
40 unless exempt under section 45-604.
- 41 2. Shall maintain current accurate records of the person's
42 withdrawals, transportation, deliveries and use of underground water as
43 prescribed by the director.
- 44 3. May combine the report with an annual report for the same year
45 filed under section 45-632.

- 1 4. The ability of the project to address or mitigate water supply
2 reductions to existing water users, considering the existence, feasibility
3 and long-term reliability of mitigation measures available to the
4 applicant or proposed beneficiaries, including the availability of water
5 supplies from the Arizona water banking authority.
- 6 5. The cost-effectiveness of the project.
- 7 6. The reliability and long-term security of the water supply to be
8 developed through the project.
- 9 7. Existing and planned conservation, best management practices and
10 water management programs of the applicant or potential applicant.
- 11 8. The degree to which the project will maximize or leverage
12 multiple available funding sources, including federal funding.
- 13 9. The applicant's ability to meet any applicable environmental
14 requirements imposed by any federal or state agency.
- 15 10. The qualifications, industry experience, including experience
16 with similar projects, general reputation and financial capacity of the
17 applicant or any private partner, based on appropriate due diligence.
- 18 11. The feasibility of the project, including the feasibility of
19 the proposed design and operation of the project.
- 20 12. Comments from water users, local citizens and affected
21 jurisdictions.
- 22 13. For projects involving the construction or operation of
23 water-related facilities, the safety record of any private partner.
- 24 14. Existing, near-term and long-term water demands compared to the
25 volume and reliability of existing water supplies of the beneficiaries of
26 the funding or project. In evaluating this criterion, the authority shall
27 consider information contained in any applicable water supply and demand
28 assessment that has been issued by the director of water resources
29 pursuant to section 45-105, subsection B, paragraph ~~14~~ 15, in addition to
30 any other information submitted to evaluate this criterion.
- 31 15. Potential impacts to ratepayers.
- 32 16. The ability of the applicant and any public or private partner
33 to fully repay all financial obligations to the authority.
- 34 17. For agreements entered into pursuant to section 49-1203.01,
35 subsection C, paragraph 5, the impact of any such agreement on the ability
36 of the authority to comply with the requirements of section 49-1303,
37 subsection E.
- 38 18. Other criteria that the authority deems appropriate.
- 39 B. The board shall conduct background checks, financial checks and
40 other reviews deemed appropriate for individual applicants, applicants'
41 boards of directors and other partners of the applicants.