

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1172

(Reference to Senate engrossed bill)

1 Page 1, line 6, strike "definition" insert "definitions"

2 Between lines 11 and 12, insert:

3 "B. A PERSON SHALL USE A PHYSICAL AVAILABILITY CREDIT TO WITHDRAW OR
4 RECEIVE GROUNDWATER FOR A NON-IRRIGATION USE ONLY ON THE RETIRED IRRIGATION
5 ACRES OR ADJACENT LANDS."

6 Reletter to conform

7 Line 13, strike "SUBJECT TO IRRIGATION" insert "TO WHICH AN IRRIGATION
8 GRANDFATHERED RIGHT IS APPURTENANT"; strike "AMOUNT" insert "VOLUME"

9 Line 14, strike "C" insert "D"

10 Line 16, after "1." insert "EXCEPT AS PROVIDED IN SUBSECTION G OF THIS
11 SECTION,"; strike "LAND" insert "IRRIGATION GRANDFATHERED RIGHT"; strike
12 "ACTIVELY FARMED IN THREE" insert "EXERCISED IN AT LEAST ONE"; strike
13 "SEVEN"

14 Line 17, strike "CALENDAR" insert "FIVE"; strike "FROM IRRIGATION USE"

15 Strike lines 19 through 21

16 Renumber to conform

17 Line 22, strike "WATER" insert "GROUNDWATER"

18 Line 23, strike "A CONTRACT" insert "AN AGREEMENT"

19 Line 24, after "DELIVER" strike remainder of line

20 Line 25, strike "THIS SECTION"; strike "ORIGINAL"; strike "AND TO WITHDRAW
21 ANY"

22 Strike line 26, insert "OR ADJACENT LANDS THE VOLUME OF WATER REQUIRED TO MEET
23 THE ANNUAL WATER DEMAND FOR THE NON-IRRIGATION USE ON THE RETIRED
24 IRRIGATION ACRES NOT TO EXCEED THE VOLUME OF GROUNDWATER CALCULATED
25 PURSUANT TO SUBSECTION D OF THIS SECTION.

1 3. THE DIRECTOR HAS DETERMINED THAT GROUNDWATER IS PHYSICALLY
2 AVAILABLE AT AUTHORIZED WELLS WITHIN THE MUNICIPAL PROVIDER'S SERVICE AREA
3 PURSUANT TO THIS SECTION."

4 Page 1, line 27, after "C." insert "SUBJECT TO A PHYSICAL AVAILABILITY
5 DETERMINATION PURSUANT TO THIS SECTION,"; strike "AMOUNT" insert "VOLUME";
6 strike "OR" insert "AND"

7 Line 28, after "OF" insert "EITHER OF"

8 Strike lines 30 through 45, insert:

9 "1. THE HISTORIC USE.

10 2. TWO AND ONE-TENTH OF AN ACRE-FOOT MULTIPLIED BY THE RETIRED
11 IRRIGATION ACRES IN THE FARM OR PORTION THEREOF."

12 Page 2, line 4, strike "INCLUDE" insert "DETERMINE IF"; strike "AMOUNT" insert
13 "VOLUME"; strike "USED"

14 Line 5, strike "ANNUALLY" insert "RECEIVED"; strike "C" insert "D"; after
15 "SECTION" insert "IS PHYSICALLY AVAILABLE FOR ONE HUNDRED YEARS AT
16 AUTHORIZED WELLS IN THE MUNICIPAL PROVIDER'S SERVICE AREA ON THE DATE AN
17 APPLICATION FOR ASSURED WATER SUPPLY IS SUBMITTED TO THE DIRECTOR"

18 Strike lines 6 through 8

19 Line 9, strike "BASED ON THAT REDUCTION," insert "":

20 2."; after "THAT" insert "THE VOLUME OF"; strike "USED" insert "THAT
21 MAY BE WITHDRAWN AND RECEIVED"

22 Line 12, after "45-576" insert "IF THE DIRECTOR DETERMINES THAT THE MAXIMUM
23 ONE HUNDRED-YEAR DEPTH-TO-STATIC WATER LEVEL ONLY AT AUTHORIZED WELLS IN
24 THE MUNICIPAL PROVIDER'S SERVICE AREA IS THE LESSER OF THE FOLLOWING:

25 (a) THE DEPTH TO BEDROCK.

26 (b) IN ALL ACTIVE MANAGEMENT AREAS EXCEPT THE PINAL ACTIVE
27 MANAGEMENT AREA, ONE THOUSAND FEET BELOW LAND SURFACE.

28 (c) IN THE PINAL ACTIVE MANAGEMENT AREA, ONE THOUSAND ONE HUNDRED
29 FEET BELOW LAND SURFACE AREA"

1 Page 2, strike lines 13 through 18, insert:

2 "3. ISSUE A PRELIMINARY PHYSICAL AVAILABILITY DETERMINATION ON THE
3 REQUEST OF AN APPLICANT.

4 4. MAKE A DETERMINATION OF PHYSICAL AVAILABILITY AS PRESCRIBED BY
5 THIS SECTION WITHIN SIXTY DAYS AFTER RECEIVING A REQUEST FROM AN APPLICANT.

6 5. ISSUE A PHYSICAL AVAILABILITY CREDIT FOR THE VOLUME OF
7 GROUNDWATER THAT MAY BE WITHDRAWN AND RECEIVED ANNUALLY IF THE VOLUME OF
8 GROUNDWATER IS DETERMINED TO BE PHYSICALLY AVAILABLE.

9 F. THE DIRECTOR MAY CONSIDER AN ALTERNATIVE METHODOLOGY PROPOSED BY
10 THE APPLICANT TO DETERMINE PHYSICAL AVAILABILITY IF A PRELIMINARY
11 DETERMINATION SHOWS THAT THE VOLUME OF GROUNDWATER THAT MAY BE WITHDRAWN
12 AND RECEIVED PURSUANT TO SUBSECTION D OF THIS SECTION IS NOT PHYSICALLY
13 AVAILABLE.

14 G. A PERSON WHO OWNS LAND THAT WAS LEGALLY IRRIGATED WITH
15 GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT, THAT IS LOCATED
16 WITHIN AN ACTIVE MANAGEMENT AREA AND THAT WAS INCLUDED IN AN ANALYSIS OF
17 ASSURED WATER SUPPLY ISSUED FOR THE LAND MAY OBTAIN A PHYSICAL AVAILABILITY
18 CREDIT PURSUANT TO THIS SECTION IF ALL OF THE FOLLOWING CRITERIA ARE MET:

19 1. THE ANALYSIS, INCLUDING ANY EXTENSIONS, WAS IN EFFECT ON MAY 31,
20 2023.

21 2. THE IRRIGATION GRANDFATHERED RIGHT WAS EXTINGUISHED SUBSEQUENT TO
22 THE ORIGINAL ISSUANCE DATE OF THE ANALYSIS.

23 3. THE DIRECTOR HAS EXTENDED THE ANALYSIS ONE OR MORE TIMES BASED ON
24 A DETERMINATION THAT THE ANALYSIS HOLDER HAS MADE A SUBSTANTIAL CAPITAL
25 INVESTMENT IN DEVELOPING THE LAND INCLUDED IN THE ANALYSIS OR THAT THE
26 ANALYSIS HOLDER HAS MADE MATERIAL PROGRESS IN DEVELOPING THE LAND.

27 4. THE IRRIGATION ACRES FOR WHICH A PHYSICAL AVAILABILITY CREDIT IS
28 REQUESTED HAVE NOT PREVIOUSLY BEEN INCLUDED IN A CERTIFICATE OF ASSURED
29 WATER SUPPLY ISSUED PURSUANT TO SECTION 45-576.

30 H. THE DIRECTOR SHALL REVISE RULES ADOPTED BY THE DEPARTMENT THAT
31 ALLOW AN OWNER OF AN IRRIGATION GRANDFATHERED RIGHT TO EXTINGUISH THE
32 PERSON'S IRRIGATION GRANDFATHERED RIGHT AND RECEIVE EXTINGUISHMENT CREDITS

1 TO ALLOW A HOLDER OF EXTINGUISHMENT CREDITS OBTAINED FROM THE RETIREMENT OF
2 AN IRRIGATION GRANDFATHERED RIGHT TO CONVERT THE HOLDER'S EXTINGUISHMENT
3 CREDITS TO A PHYSICAL AVAILABILITY CREDIT IF THE HOLDER HAS NOT PLEDGED THE
4 EXTINGUISHMENTS CREDITS FOR ANOTHER PURPOSE.

5 I. ON NOTICE TO THE DIRECTOR BY THE HOLDER OF A PHYSICAL
6 AVAILABILITY CREDIT, THE HOLDER MAY ASSIGN ALL OR PART OF THE CREDIT TO A
7 SUBSEQUENT OWNER OF THE RETIRED IRRIGATION ACRES.

8 J. IF A HOLDER OF A PHYSICAL AVAILABILITY CREDIT APPLIES ONLY A
9 PORTION OF A PHYSICAL AVAILABILITY CREDIT TO A CERTIFICATE OF ASSURED WATER
10 SUPPLY OR A DESIGNATION OF ASSURED WATER SUPPLY ISSUED PURSUANT TO SECTION
11 45-576, THE DIRECTOR SHALL IDENTIFY THE REMAINING VOLUMES OF THE PHYSICAL
12 AVAILABILITY CREDIT.

13 K. IF THE DIRECTOR ISSUES A CERTIFICATE OF ASSURED WATER SUPPLY TO A
14 SUBDIVIDER BASED ON A PHYSICAL AVAILABILITY CREDIT AND THE SUBDIVISION
15 BECOMES PART OF THE SERVICE AREA OF A DESIGNATED PROVIDER, THE DESIGNATED
16 PROVIDER MAY USE THE PHYSICAL AVAILABILITY CREDIT TO OBTAIN OR MAINTAIN A
17 DESIGNATION OF ASSURED WATER SUPPLY.

18 L. ON REQUEST OF THE HOLDER OF A PHYSICAL AVAILABILITY CREDIT AND A
19 MUNICIPAL PROVIDER WITH A DESIGNATION OF ASSURED WATER SUPPLY, THE DIRECTOR
20 SHALL ATTRIBUTE A PHYSICAL AVAILABILITY CREDIT TO THE EXISTING DESIGNATION
21 DETERMINATION OF A MUNICIPAL PROVIDER WITHOUT MANDATORY REVIEW OR
22 MODIFICATION OF ANY OTHER REQUIREMENT OF AN EXISTING DESIGNATION ORDER.

23 M. THE HOLDER OF A PHYSICAL AVAILABILITY CREDIT MAY APPLY TO THE
24 DIRECTOR FOR A VARIANCE TO ADJUST THE PROJECTED DEMAND FOR A SUBDIVISION IF
25 THE HOLDER CAN DEMONSTRATE, USING AN ALTERNATIVE METHODOLOGY, THAT ACTUAL
26 DEMAND WILL BE LESS THAN THE PROJECTED DEMAND DETERMINED BY THE DIRECTOR
27 BASED ON ACTUAL OBSERVED WATER USE WITHIN SIMILAR SUBDIVISIONS OF SIMILAR
28 LOT SIZES, LAND USES AND GEOGRAPHIC AREAS. NOTWITHSTANDING ANY OTHER LAW,
29 THE DIRECTOR MAY APPROVE A CERTIFICATE OF ASSURED WATER SUPPLY FOR LESS
30 THAN THE PROJECTED DEMAND BASED ON AN ALTERNATIVE METHODOLOGY TO SUPPORT
31 THE LOWER WATER USE.

1 N. THE HOLDER OF A PHYSICAL AVAILABILITY CREDIT MAY APPLY TO THE
2 DIRECTOR FOR A VARIANCE TO ADJUST THE VOLUME OF GROUNDWATER THAT MAY BE
3 WITHDRAWN AND RECEIVED PURSUANT TO SUBSECTION D OF THIS SECTION IF THE
4 HOLDER CAN DEMONSTRATE THAT A LARGER VOLUME OF GROUNDWATER IS NECESSARY TO
5 MEET THE PROJECTED DEMAND FOR A SUBDIVISION THAT PROPOSES TO BUILD SIX OR
6 MORE DWELLING UNITS PER ACRE."

7 Reletter to conform

8 Page 2, line 22, strike the comma insert ":

9 1. "ADJACENT LANDS" MEANS ALL OF THE FOLLOWING:

10 (a) ANY LANDS THAT ARE LOCATED WITHIN A ONE-MILE RADIUS OF THE
11 RETIRED IRRIGATION ACRES.

12 (b) CONTIGUOUS LANDS UNDER COMMON OWNERSHIP, INCLUDING LAND
13 SEPARATED BY A ROAD, HIGHWAY, EASEMENT OR RIGHT-OF-WAY.

14 (c) ANY LANDS THAT ARE LOCATED WITHIN A PLANNED COMMUNITY.

15 2. "AUTHORIZED WELLS" MEANS ALL OF THE FOLLOWING WELLS WITHING A
16 MUNICIPAL PROVIDER'S SERVICE AREA:

17 (a) WELLS USED TO SERVE THE RETIRED IRRIGATION ACRES.

18 (b) WELLS LOCATED WITHIN A ONE-MILE RADIUS OF WELLS USED TO SERVICE
19 THE RETIRED IRRIGATION ACRES, INCLUDING WELLS OPERATED BY AN IRRIGATION
20 DISTRICT.

21 (c) ALL WELLS WITHIN A PLANNED COMMUNITY THAT CONTAIN THE RETIRED
22 IRRIGATION ACRES.

23 3. "HISTORIC USE" MEANS THE MAXIMUM AMOUNT OF GROUNDWATER THAT A
24 PERSON MAY USE PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT FOR THE ACRE
25 AT THE TIME IT IS RETIRED PURSUANT TO SECTION 45-465.

26 4."

27 Between lines 23 and 24, insert:

28 "5. "PLANNED COMMUNITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
29 33-1802.

30 6. "PROJECTED DEMAND" MEANS THE VOLUME OF WATER THAT IS EXPECTED TO
31 BE USED ON RETIRED IRRIGATION ACRES WITHIN A SUBDIVISION OR ADJACENT LANDS
32 AS CALCULATED BY THE DIRECTOR.

1 7. "SUBDIVIDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-2101.

2 8. "SUBDIVISION" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-2101.

3 9. "WELLS" INCLUDES REPLACEMENT WELLS AS PRESCRIBED BY SECTIONS
4 45-597 AND 45-598 AND RULES ADOPTED PURSUANT TO THOSE SECTION."

5 Page 6, line 6, strike the colon

6 Line 7, strike "1."; strike "AMOUNT" insert "VOLUME"

7 Line 8, strike "C" insert "D AND DETERMINED TO BE PHYSICALLY AVAILABLE AS
8 PRESCRIBED BY SECTION 45-465.05"

9 Strike lines 10 through 13

10 Amend title to conform

AUSTIN SMITH

1172SMITH.docx

03/18/2024

09:29 AM

C: CT