

COMMITTEE ON NATURAL RESOURCES  
SENATE AMENDMENTS TO S.B. 1520  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 45, chapter 2, Arizona Revised Statutes, is  
3 amended by adding article 3.1, to read:

4 ARTICLE 3.1. BASIN MANAGEMENT AREAS

5 45-445. Basin management area; initiation procedures;  
6 petition; definition

7 A. THE DESIGNATION OF A BASIN MANAGEMENT AREA MAY BE INITIATED IN  
8 THE GILA BEND, HUALAPAI VALLEY OR WILLCOX GROUNDWATER BASIN BY EITHER OF  
9 THE FOLLOWING:

10 1. THE DESIGNATION OF THE DIRECTOR AND THE DIRECTOR'S FINDING THAT  
11 ANY OF THE FOLLOWING APPLIES:

12 (a) LAND SUBSIDENCE WITHIN THE GROUNDWATER BASIN THAT IS DUE TO  
13 GROUNDWATER WITHDRAWAL IS ENDANGERING PROPERTY OR POTENTIAL STORAGE  
14 CAPACITY.

15 (b) THERE HAS BEEN ACCELERATED DECLINE IN GROUNDWATER LEVELS WITHIN  
16 THE GROUNDWATER BASIN OVER THE PRECEDING FIVE YEARS AS MEASURED BY AT LEAST  
17 TEN INDEX WELLS ACROSS THE BASIN.

18 (c) THE GROUNDWATER BASIN WAS PREVIOUSLY DESIGNATED AS A SUBSEQUENT  
19 IRRIGATION NON-EXPANSION AREA THAT IS LOCATED OUTSIDE OF A BASIN OR  
20 SUBBASIN FROM WHICH GROUNDWATER MAY BE TRANSPORTED TO AN ACTIVE MANAGEMENT  
21 AREA PURSUANT TO ARTICLE 8.1 OF THIS CHAPTER.

22 (d) THE DEPARTMENT HAS REPORTED OBSERVED MEAN DECLINES IN  
23 GROUNDWATER LEVELS IN THE BASIN GREATER THAN FIFTY FEET DURING THE PERIOD  
24 FROM 2000 THROUGH 2020.

25 2. A PETITION TO THE DIRECTOR THAT IS SIGNED BY AT LEAST TEN PERCENT  
26 OF THE REGISTERED VOTERS WHO RESIDE WITHIN THE BOUNDARIES OF THE  
27 GROUNDWATER BASIN SPECIFIED IN THE PETITION AS OF THE MOST RECENT REPORT  
28 COMPILED BY THE COUNTY RECORDER IN COMPLIANCE WITH SECTION 16-168,  
29 SUBSECTION H.

30 B. IF A GROUNDWATER BASIN IS LOCATED IN TWO OR MORE COUNTIES, THE  
31 NUMBER OF REGISTERED VOTERS REQUIRED TO SIGN THE PETITION PRESCRIBED BY  
32 SUBSECTION A, PARAGRAPH 2 OF THIS SECTION SHALL BE AT LEAST TEN PERCENT OF  
33 THE REGISTERED VOTERS WHO RESIDE WITHIN THE BOUNDARIES OF THE GROUNDWATER  
34 BASIN, AS OF THE MOST RECENT REPORT COMPILED BY THE COUNTY RECORDER IN  
35 COMPLIANCE WITH SECTION 16-168, SUBSECTION H.

36 C. THE FORM OF THE PETITION PRESCRIBED BY SUBSECTION A, PARAGRAPH 2  
37 OF THIS SECTION SHALL BE SUBSTANTIALLY SIMILAR TO AN INITIATIVE PETITION,  
38 AND THE APPLICANT FOR THE PETITION SHALL COMPLY WITH SECTION 19-111,  
39 SUBSECTIONS A, B AND E, EXCEPT THAT THE DUTIES REQUIRED OF THE SECRETARY OF  
40 STATE SHALL BE PERFORMED BY THE COUNTY RECORDERS OF THE COUNTIES IN WHICH  
41 THE REGISTERED VOTERS OF THE GROUNDWATER BASIN RESIDE. THE PETITION MUST  
42 BE INITIATED IN THE OFFICE OF THE RELEVANT COUNTY RECORDER BY A PERSON WHO

1 HAS RESIDED IN THE BASIN FOR AT LEAST FIVE YEARS. A PETITION MAY NOT BE  
2 ACCEPTED MORE THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF SUBMISSION OF  
3 THE APPLICATION FOR PETITION. FOR THE PURPOSES OF THIS SECTION, ON REQUEST  
4 OF A COUNTY RECORDER, THE DIRECTOR SHALL TRANSMIT TO THE COUNTY RECORDER  
5 ANY FACTUAL DATA CONCERNING THE BOUNDARIES OF THE GROUNDWATER BASIN THAT  
6 MAY AID THE COUNTY RECORDER IN DETERMINING WHICH REGISTERED VOTERS OF THE  
7 COUNTY ARE RESIDENTS AND, FOR THE PURPOSES OF THIS SECTION, ARE ELIGIBLE  
8 VOTERS OF THE GROUNDWATER BASIN. THE TRANSMITTED DATA SHALL INCLUDE A MAP  
9 OF THE RESIDENCES IN THE GROUNDWATER BASIN.

10 D. ON THE VALID SUBMISSION OF THE REQUISITE SIGNATURES, THE  
11 RESPECTIVE COUNTY BOARD OF SUPERVISORS SHALL COOPERATE TO INCLUDE A  
12 QUESTION ON THE NEXT GENERAL ELECTION BALLOT FOR ALL REGISTERED VOTERS WHO  
13 RESIDE IN THE GROUNDWATER BASIN. THE BALLOT QUESTION SHALL BE WORDED,  
14 "SHOULD THE (NAME OF GROUNDWATER BASIN) BE DESIGNATED A BASIN MANAGEMENT  
15 AREA?" FOLLOWED BY THE WORDS "YES" AND "NO".

16 E. WITHIN THIRTY DAYS AFTER THE GENERAL ELECTION RESULTS ARE  
17 CERTIFIED, IF A MAJORITY OF ELIGIBLE VOTERS VOTED IN FAVOR OF THE FORMATION  
18 OF THE BASIN MANAGEMENT AREA, THE DIRECTOR SHALL DO BOTH OF THE FOLLOWING:

19 1. MAKE AND FILE IN THE DIRECTOR'S OFFICE WRITTEN FINDINGS WITH  
20 RESPECT TO MATTERS CONSIDERED DURING THE PUBLIC MEETINGS. IF THE DIRECTOR  
21 DECIDES TO DESIGNATE A BASIN MANAGEMENT AREA, THE DIRECTOR SHALL MAKE AND  
22 FILE AN ORDER DESIGNATING THE BASIN MANAGEMENT AREA.

23 2. FILE A TRUE MAP OF THE BASIN MANAGEMENT AREA IN THE OFFICE OF THE  
24 COUNTY RECORDER OF THE COUNTY OR COUNTIES IN WHICH THE BASIN MANAGEMENT  
25 AREA IS ESTABLISHED.

26 F. FOR THE PURPOSES OF THIS SECTION, "LAND SUBSIDENCE":

27 1. MEANS THE SETTLING OR LOWERING OF THE SURFACE OF LAND THAT  
28 RESULTS FROM THE WITHDRAWAL OF GROUNDWATER.

29 2. DOES NOT INCLUDE THE SETTLING OF THE ALLUVIUM OF A RIVER CHANNEL.

30 45-445.01. Meetings; boundaries; notice; establishment

31 A. IF THE DIRECTOR DESIGNATES A BASIN AS A BASIN MANAGEMENT AREA  
32 INDEPENDENT OF A GENERAL ELECTION, THE DIRECTOR SHALL HOLD A SERIES OF  
33 PUBLIC MEETINGS AS FOLLOWS:

34 1. THE DIRECTOR SHALL GIVE REASONABLE NOTICE OF EACH MEETING,  
35 INCLUDING PUBLISHING THE NOTICE ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN  
36 A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE PROPOSED  
37 BASIN MANAGEMENT AREA IS LOCATED. THE DIRECTOR AND THE COUNTIES IN WHICH  
38 THE PROPOSED BASIN MANAGEMENT AREA IS LOCATED SHALL POST THE NOTICE ON THE  
39 DEPARTMENT'S AND COUNTIES' WEBSITES. THE NOTICE SHALL CONTAIN THE TIME AND  
40 PLACE OF THE MEETING, THE LEGAL DESCRIPTION AND A MAP CLEARLY IDENTIFYING  
41 AND DESCRIBING ALL LANDS TO BE INCLUDED IN THE PROPOSED BASIN MANAGEMENT  
42 AREA AND ANY OTHER INFORMATION THE DIRECTOR DEEMS NECESSARY.

43 2. THE FIRST AND SECOND MEETINGS SHALL BE HELD AT A LOCATION IN THE  
44 COUNTY IN WHICH THE MAJOR PORTION OF THE PROPOSED BASIN MANAGEMENT AREA IS  
45 LOCATED NOT MORE THAN SIXTY DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE  
46 OF THE MEETING. AT THE MEETING, THE DIRECTOR SHALL PRESENT ANY DATA ON  
47 GROUNDWATER LEVELS FOR THE PROPOSED BASIN MANAGEMENT AREA FROM THE  
48 DEPARTMENT AND SHALL DESCRIBE THE EFFECTS OF THE PROPOSED FORMATION OF THE  
49 BASIN MANAGEMENT AREA, THE COST OF APPLICATIONS THAT USERS MAY SUBMIT TO

1 THE DEPARTMENT AND THE EFFECTS OF WATER CONSERVATION. ANY PERSON MAY  
2 APPEAR AT THE MEETING, EITHER IN PERSON OR BY REPRESENTATIVE, AND MAY  
3 SUBMIT ORAL OR DOCUMENTARY INFORMATION REGARDING THE PROPOSED ACTION OR ANY  
4 SECONDARY MODELING CHALLENGING THE MODELING COMPLETED BY THE DEPARTMENT  
5 PURSUANT TO SECTION 45-445.

6 3. THE DIRECTOR MAY CALL ANY OTHER PUBLIC MEETINGS THE DIRECTOR  
7 DEEMS NECESSARY.

8 B. WITHIN THIRTY DAYS AFTER THE FINAL PUBLIC MEETING AS DECLARED BY  
9 THE DIRECTOR, THE DIRECTOR SHALL DO BOTH OF THE FOLLOWING:

10 1. DECLARE WHETHER THE BASIN MANAGEMENT AREA WILL BE ESTABLISHED.

11 2. IF THE BASIN MANAGEMENT AREA IS ESTABLISHED, FILE A COPY OF THE  
12 DIRECTOR'S FINDINGS PURSUANT TO SECTION 45-445, SUBSECTION A AND A TRUE MAP  
13 OF THE BASIN MANAGEMENT AREA IN THE OFFICE OF THE COUNTY RECORDER OF THE  
14 COUNTY OR COUNTIES IN WHICH THE BASIN MANAGEMENT AREA IS ESTABLISHED.

15 45-445.02. Basin management areas; certificate of groundwater  
16 rights; groundwater users; application; annual  
17 report

18 A. WITHIN FIFTEEN MONTHS AFTER A BASIN MANAGEMENT AREA IS  
19 ESTABLISHED, THE DIRECTOR SHALL GRANT TO EACH WATER USER WHO APPLIES FOR A  
20 CERTIFICATE OF GROUNDWATER RIGHTS A CERTIFICATE THAT ENTITLES THE USER TO  
21 USE THE ANNUAL ALLOCATED AMOUNT OF WATER AS FOLLOWS:

22 1. FOR MUNICIPAL OR INDUSTRIAL USERS, ON APPLICATION THE DIRECTOR  
23 SHALL GRANT THE USER A CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT  
24 WITH THE MAXIMUM AMOUNT OF GROUNDWATER WITHDRAWN AND USED BY THE USER IN  
25 ACRE-FEET IN ANY ONE YEAR IN THE FIVE PRECEDING YEARS BEFORE THE DATE OF  
26 FORMATION OF THE BASIN MANAGEMENT AREA.

27 2. FOR IRRIGATION USERS, THE DIRECTOR SHALL GRANT THE USER A  
28 CERTIFICATE OF GROUNDWATER RIGHTS THAT IS CONSISTENT WITH THE AVERAGE USE  
29 OF THE IRRIGATION GROUNDWATER USER IN ACRE-FEET OVER THE TEN YEARS  
30 PRECEDING THE DATE OF FORMATION OF THE BASIN MANAGEMENT AREA. THE DIRECTOR  
31 SHALL EXCLUDE FROM THE CALCULATION OF THE AVERAGE AMOUNT OF WATER USED  
32 ANNUALLY BY AN IRRIGATION USER IN THE TEN YEARS PRECEDING DESIGNATION OF  
33 THE BASIN MANAGEMENT AREA ANY YEARS DURING WHICH THE IRRIGATION USER DID  
34 NOT USE WATER.

35 B. THE DEPARTMENT SHALL INCREASE THE AMOUNT OF WATER ENTITLED TO A  
36 USER BY A CERTIFICATE OF GROUNDWATER RIGHTS IF THE USER HAS MADE  
37 SUBSTANTIAL CAPITAL INVESTMENT BEFORE THE PETITION IS CIRCULATED FOR A  
38 BASIN MANAGEMENT AREA DESIGNATION.

39 C. FOR PLANNED RESIDENTIAL OR MIXED-USE DEVELOPMENTS THAT HAVE BEEN  
40 APPROVED BY THE APPLICABLE ZONING AUTHORITY, THE LANDOWNER SHALL BE GRANTED  
41 A CERTIFICATE OF GROUNDWATER RIGHTS THAT IS EQUAL TO THE PROJECTED WATER  
42 DEMAND OF THE DEVELOPMENT AT BUILD OUT.

43 D. BEGINNING AFTER A BASIN MANAGEMENT AREA PETITION IS APPROVED, NEW  
44 GROUNDWATER PUMPING MAY NOT OCCUR IN THE BASIN MANAGEMENT AREA, EXCEPT THAT  
45 A USER WITH A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE OR DIMINISH THE  
46 GROUNDWATER USER'S WITHDRAWAL FROM AN EXISTING WELL AND WITHDRAW AN EQUAL  
47 AMOUNT OF GROUNDWATER FROM A REPLACEMENT WELL OR EXISTING WELL FOR THE SAME  
48 USE CONSISTENT WITH THE GROUNDWATER USER'S CERTIFICATED GROUNDWATER RIGHT  
49 ON THE SAME PROPERTY OR MAY WITHDRAW INTENTIONALLY RECHARGED WATER OR

1 TRANSFER A CERTIFICATE OF GROUNDWATER RIGHTS AND THE ASSOCIATED GROUNDWATER  
2 AS PRESCRIBED BY THIS ARTICLE IF THERE REMAINS A NET BENEFIT OF TEN PERCENT  
3 OR MORE TO THE AQUIFER.

4 E. THE DEPARTMENT MAY NOT REQUIRE A GROUNDWATER USER TO METER ANY  
5 WELLS LOCATED IN A BASIN MANAGEMENT AREA OR TO REPORT THE USER'S  
6 GROUNDWATER USE BEYOND THE REQUIREMENTS PRESCRIBED IN SUBSECTION F OF THIS  
7 SECTION.

8 F. A GROUNDWATER USER SHALL ANNUALLY REPORT TO THE DEPARTMENT AN  
9 ESTIMATE OF GROUNDWATER USE BASED ON PUMPING CAPACITY AND THE POWER USAGE  
10 OF THE USER'S GROUNDWATER PUMPING OR OTHER SIMILARLY RELIABLE AND  
11 ACCESSIBLE METHODS. FOR THE PURPOSES OF THIS SUBSECTION:

12 1. A USER MAY VOLUNTARILY ACQUIRE AND REPORT METERING DATA.

13 2. THE ANNUAL REPORT A GROUNDWATER USER SUBMITS TO THE DEPARTMENT IS  
14 A PUBLIC RECORD.

15 3. REPORTS AND THE CORRESPONDING DATA MAY BE PRESENTED AS EVIDENCE  
16 IN ANY COURT IN THIS STATE ONLY IF THE CASE DOES NOT INVOLVE A GENERAL  
17 STREAM ADJUDICATION OR A FEDERALLY RESERVED WATER RIGHT. A GROUNDWATER USER  
18 MAY CONSENT TO THE WAIVER OF THIS PRIVILEGE.

19 G. AN APPLICATION FOR A CERTIFICATE OF GROUNDWATER RIGHTS SHALL  
20 INCLUDE ALL OF THE FOLLOWING:

21 1. THE APPLICANT'S NAME AND MAILING ADDRESS.

22 2. THE NAME OF THE BASIN MANAGEMENT AREA SUBJECT TO THE APPLICATION  
23 FROM WHICH THE APPLICANT HAS WITHDRAWN GROUNDWATER.

24 3. A SWORN STATEMENT THAT ALL INFORMATION CONTAINED IN THE  
25 APPLICATION IS TRUE, COMPLETE AND CORRECT ACCORDING TO THE BEST BELIEF AND  
26 KNOWLEDGE OF THE APPLICANT.

27 4. IF THE APPLICATION IS FOR MUNICIPAL OR INDUSTRIAL GROUNDWATER  
28 USE:

29 (a) THE MAXIMUM AMOUNT OF GROUNDWATER THE APPLICANT WITHDREW AND  
30 USED IN ANY ONE YEAR DURING THE FIVE YEARS PRECEDING THE DATE OF FORMATION  
31 OF THE BASIN MANAGEMENT AREA.

32 (b) THE APPLICANT'S USE OR TYPE OF USE OF GROUNDWATER WITHDRAWN BY  
33 THE APPLICANT.

34 (c) THE LOCATION OF EACH WELL FROM WHICH THE APPLICANT WITHDRAWS  
35 GROUNDWATER OR HAS WITHDRAWN GROUNDWATER.

36 5. IF THE APPLICATION IS FOR AGRICULTURAL GROUNDWATER USE:

37 (a) A LEGAL DESCRIPTION AND A MAP OF ALL LAND OWNED BY THE APPLICANT  
38 FOR WHICH THE APPLICANT CLAIMS THE RIGHT TO WITHDRAW AND USE GROUNDWATER.

39 (b) THE AMOUNT OF WATER THE APPLICANT HAS USED FOR AGRICULTURAL  
40 PURPOSES ON THE LAND EACH YEAR DURING THE TEN YEARS PRECEDING THE DATE OF  
41 FORMATION OF THE BASIN MANAGEMENT AREA.

42 H. FOR IRRIGATION USERS, SUBSTANTIAL CAPITAL INVESTMENT INCLUDES:

43 1. THE IMPROVEMENT OF LAND, INFRASTRUCTURE OR ON-SITE IRRIGATION  
44 DISTRIBUTION FACILITIES, INCLUDING THE DRILLING OF WELLS.

45 2. THE PURCHASE OR PLANTING OF PERENNIAL CROPS FOR COMMERCIAL  
46 AGRICULTURAL PURPOSES. FOR THE PURPOSES OF THIS PARAGRAPH, THE DIRECTOR  
47 SHALL ISSUE GROUNDWATER RIGHTS TO AN IRRIGATION USER PURSUANT TO THIS  
48 PARAGRAPH IN A VOLUME THAT IS SUFFICIENT TO IRRIGATE THE PERENNIAL CROPS AT  
49 FULL MATURITY AS DETERMINED BY THE LAND GRANT UNIVERSITY OF THIS STATE.

1           3. THE IRRIGATION OR PLANTING OF PERMANENT CROPS, INCLUDING PECAN  
2       TREES AND PISTACHIO TREES, THAT HAVE NOT YET REACHED MATURITY AS OF THE  
3       DATE THE BASIN MANAGEMENT AREA IS ESTABLISHED. FOR THE PURPOSES OF THIS  
4       PARAGRAPH, THE DIRECTOR SHALL GRANT THE IRRIGATION USER THAT IRRIGATES  
5       PERMANENT CROPS A CERTIFICATE OF GRANDFATHERED RIGHT THAT ALLOCATES THREE  
6       ACRE-FEET PER ACRE OF GROUNDWATER FOR THE PERMANENT CROPS. FOR PERMANENT  
7       CROPS THAT WERE PLANTED LESS THAN NINE YEARS BEFORE THE DATE THE BASIN  
8       MANAGEMENT AREA IS ESTABLISHED AND UNTIL THE PLANTS HAVE BEEN PLANTED FOR  
9       NINE YEARS OR MORE, THE IRRIGATION USER MAY NOT CONVEY THE ASSOCIATED  
10      VOLUME OF GROUNDWATER OR USE THE ASSOCIATED VOLUME OF GROUNDWATER FOR ANY  
11      PURPOSE OTHER THAN IRRIGATION OF THE PERMANENT CROPS.

12           I. FOR NON-IRRIGATION USERS, SUBSTANTIAL CAPITAL INVESTMENT INCLUDES  
13      COSTS RELATED TO ANY OF THE FOLLOWING:

14           1. THE ACQUISITION OF PERMITS AND APPROVALS, INCLUDING LEGAL,  
15      TECHNICAL AND ENVIRONMENTAL SERVICES THAT ARE NECESSARY FOR THE  
16      AUTHORIZATION TO PROCEED WITH THE PROJECT.

17           2. THE ACQUISITION OR LEASE OF LAND FOR PURPOSES OF RIGHTS-OF-WAY,  
18      EASEMENT OR OTHER STATE OR FEDERAL LAND USE AUTHORIZATION.

19           3. THE IMPROVEMENT OF LAND FOR THE INTENDED NON-IRRIGATION USE.

20           4. THE CONSTRUCTION OF GROUNDWATER-RELATED INFRASTRUCTURE OR  
21      IMPROVEMENTS, INCLUDING WATER DISTRIBUTION FACILITIES, STORAGE FACILITIES,  
22      RECHARGE FACILITIES, THE DRILLING OR EQUIPPING OF WELLS, GROUNDWATER  
23      TREATMENT FACILITIES WATER AND POWER TRANSMISSION AND OTHER  
24      PROJECT-ASSOCIATED FACILITIES.

25           5. THE CONSTRUCTION AND MAINTENANCE OF ANCILLARY STRUCTURES THAT ARE  
26      CRITICAL TO A NON-IRRIGATION PROJECT.

27           J. IF AN APPLICANT DEMONSTRATES A SUBSTANTIAL CAPITAL INVESTMENT IN  
28      THE FACILITIES ASSOCIATED WITH A NON-IRRIGATION USE, THE DIRECTOR SHALL  
29      ISSUE A GROUNDWATER PERMIT FOR THE IDENTIFIED USE. IF THE APPLICANT PUTS  
30      GROUNDWATER TO BENEFICIAL USE FOR THE PURPOSES ASSOCIATED WITH THE PERMIT,  
31      THAT VOLUME OF WATER BECOMES PERFECTED AND THE DIRECTOR SHALL ISSUE A  
32      CERTIFICATE FOR THAT VOLUME OR INCREASE THE GROUNDWATER RIGHT ON THE  
33      APPLICANT'S EXISTING CERTIFICATE. FOR THE PURPOSES OF THIS SUBSECTION, A  
34      PERMIT HOLDER MAY APPLY TO PERFECT ALL OR PART OF THE PERMIT  
35      VOLUME. PERMITS THAT ARE UNPERFECTED CANNOT BE TRANSFERRED AND PERMITS  
36      CANNOT EARN FLEXIBILITY CREDITS.

37           K. FOR THE PURPOSES OF THIS ARTICLE, ANY DATA OR ESTIMATE A PERSON  
38      SUBMITS REGARDING A PERSON'S GROUNDWATER USE IS A PUBLIC RECORD UNDER TITLE  
39      39, CHAPTER 1 AND MAY BE PRESENTED AS EVIDENCE IN ANY COURT IN THIS STATE  
40      ONLY IF THE CASE DOES NOT INVOLVE A GENERAL STREAM ADJUDICATION OR A  
41      FEDERALLY RESERVED WATER RIGHT OR THE GROUNDWATER USER CONSENTS TO THE  
42      WAIVER OF THIS PRIVILEGE. IF A GROUNDWATER USER VOLUNTARILY SUBMITS  
43      EVIDENCE OF WATER CONSERVATION, THE DEPARTMENT SHALL ISSUE THE WATER USER A  
44      RECEIPT OF WATER CONSERVATION ACKNOWLEDGING THE AMOUNT OF WATER  
45      CONSERVED. THE DEPARTMENT SHALL PROVIDE THE BASIN MANAGEMENT COUNCIL WITH  
46      A COPY OF ALL PAST AND FUTURE RECEIPTS GRANTED IN THE GROUNDWATER BASIN  
47      PURSUANT TO THIS SECTION.

45-445.03. Basin management areas; withdrawals of groundwater right; flexibility account; conveyances; rules; extinguishment

A. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT MAY:

1. USE GROUNDWATER IN EXCESS OF THE AMOUNT ALLOWED BY THE RIGHT IN AN AMOUNT DETERMINED PURSUANT TO SUBSECTION E OF THIS SECTION.

2. USE LESS THAN THE AMOUNT ALLOWED BY THE RIGHT IN ONE ACCOUNTING PERIOD AND USE THE REMAINING AMOUNT ALLOWED BY THE RIGHT IN A SUCCEEDING ACCOUNTING PERIOD OR PERIODS.

B. THE DIRECTOR SHALL ESTABLISH RULES FOR THE MAINTENANCE OF A FLEXIBILITY ACCOUNT FOR EACH CERTIFICATE OF GROUNDWATER RIGHT IN A BASIN MANAGEMENT AREA.

C. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT USES SOLELY GROUNDWATER DURING ANY ACCOUNTING PERIOD, THE DIRECTOR SHALL:

1. REGISTER A DEBIT TO THE FLEXIBILITY ACCOUNT IF THE AMOUNT OF GROUNDWATER THAT IS USED DURING THE ACCOUNTING PERIOD IS GREATER THAN THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER A BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-445.12.

2. REGISTER A CREDIT TO THE FLEXIBILITY ACCOUNT IF THE AMOUNT OF GROUNDWATER THAT IS USED DURING THE ACCOUNTING PERIOD IS LESS THAN THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER A BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-445.12.

D. IF A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHT USES A COMBINATION OF SURFACE WATER, EFFLUENT OR GROUNDWATER OR ANY COMBINATION THEREOF AND THE USES OF WATER BY THE PERSON FROM ALL SOURCES, EXCEPT FOR SURFACE WATER, OTHER THAN COLORADO RIVER WATER, RELEASED FOR BENEFICIAL USE FROM STORAGE, DIVERSION OR DISTRIBUTION FACILITIES TO AVOID SPILLING THAT WOULD OTHERWISE OCCUR DUE TO UNCONTROLLED SURFACE WATER INFLOWS THAT EXCEED FACILITY CAPACITY, IN THE ACCOUNTING PERIOD:

1. EXCEED THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER A BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-445.12, THE AMOUNT OF GROUNDWATER USED UP TO THE AMOUNT OF THE EXCESS, LESS ANY EFFLUENT USED, SHALL BE REGISTERED AS A DEBIT TO THE FLEXIBILITY ACCOUNT.

2. ARE LESS THAN THE AMOUNT OF THE ANNUAL ALLOCATION OF WATER GRANTED PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHT OR THE AMOUNT OF WATER THAT THE PERSON IS ENTITLED TO USE UNDER A BASIN MANAGEMENT AREA MANAGEMENT PLAN PURSUANT TO SECTION 45-445.12, THE AMOUNT OF WATER NOT USED THAT WOULD HAVE BEEN GROUNDWATER SHALL BE REGISTERED AS A CREDIT TO THE FLEXIBILITY ACCOUNT.

1 E. THE MAXIMUM EXCESS AMOUNT OF GROUNDWATER THAT A PERSON MAY USE  
2 PURSUANT TO THIS SECTION IN ANY ONE YEAR SHALL BE EQUAL TO TWENTY-FIVE  
3 PERCENT OF THE ANNUAL ALLOCATION OF WATER THAT IS GRANTED PURSUANT TO A  
4 CERTIFICATE OF GROUNDWATER RIGHT. AN OWNER OF A CERTIFICATE OF GROUNDWATER  
5 RIGHT AND THE PERSON USING GROUNDWATER PURSUANT TO THE RIGHT ARE DEEMED TO  
6 VIOLATE THIS SECTION IF THE FLEXIBILITY ACCOUNT FOR THE RIGHT IS IN ARREARS  
7 AT ANY TIME IN EXCESS OF THIS AMOUNT. GROUNDWATER EQUAL TO THE CREDIT  
8 BALANCE IN THE FLEXIBILITY ACCOUNT MAY BE USED AT ANY TIME.

9 F. IF A CERTIFICATE OF GROUNDWATER RIGHT IS CONVEYED IN WHOLE OR IN  
10 PART, EACH ACRE-FOOT CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF  
11 ANY DEBITS OR CREDITS IN THE FLEXIBILITY ACCOUNT FOR THE RIGHT.

12 G. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND WHOSE  
13 RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY CONVEY  
14 OR SELL ALL OR A PORTION OF THE CREDIT BALANCE TO ANY PERSON, INCLUDING THE  
15 CONVEYOR OR SELLER OF THE CREDIT BALANCE, WHO OWNS ANOTHER CERTIFICATE OF  
16 GROUNDWATER RIGHT IN THE SAME GROUNDWATER BASIN. A PERSON WHO SELLS OR  
17 CONVEYS ALL OR A PORTION OF A CREDIT BALANCE PURSUANT TO THIS SUBSECTION,  
18 AND THE PERSON TO WHOM THE CREDIT BALANCE IS SOLD OR CONVEYED, SHALL NOTIFY  
19 THE DIRECTOR OF THE SALE OR CONVEYANCE WITHIN THIRTY DAYS AFTER THE SALE OR  
20 CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR.

21 H. A SALE OR CONVEYANCE OF ALL OR PART OF A CREDIT BALANCE UNDER  
22 SUBSECTION G OF THIS SECTION IS EFFECTIVE ONLY IF THE DIRECTOR RECEIVES THE  
23 NOTICE REQUIRED BY SUBSECTION G OF THIS SECTION WITHIN THIRTY DAYS AFTER  
24 THE SALE OR CONVEYANCE. AFTER RECEIVING THE NOTICE, THE DIRECTOR SHALL  
25 REGISTER A DEDUCTION OF THE CREDIT AMOUNT CONVEYED OR SOLD FROM THE  
26 CONVEYOR'S OR SELLER'S FLEXIBILITY ACCOUNT BALANCE AND THE CORRESPONDING  
27 ADDITION TO THE CONVEYEE'S OR PURCHASER'S FLEXIBILITY ACCOUNT BALANCE. THE  
28 DEDUCTION AND ADDITION TO THE FLEXIBILITY ACCOUNT BALANCES ARE EFFECTIVE AS  
29 OF THE DATE OF THE SALE OR CONVEYANCE.

30 I. EACH PERSON WHO OWNS A CERTIFICATE OF GROUNDWATER RIGHT AND WHOSE  
31 RIGHT HAS REGISTERED A CREDIT BALANCE TO ITS FLEXIBILITY ACCOUNT MAY  
32 EXTINGUISH ALL OR A PORTION OF THE CREDIT BALANCE. THE PERSON WHO  
33 EXTINGUISHES ALL OR A PORTION OF A CREDIT BALANCE PURSUANT TO THIS  
34 SUBSECTION SHALL NOTIFY THE DIRECTOR OF THE EXTINGUISHMENT ON A FORM  
35 PRESCRIBED AND FURNISHED BY THE DIRECTOR.

36 J. THE EXTINGUISHMENT OF ALL OR PART OF A CREDIT BALANCE UNDER  
37 SUBSECTION I OF THIS SECTION IS EFFECTIVE AS OF THE DATE THE DIRECTOR  
38 RECEIVES THE NOTICE REQUIRED BY SUBSECTION I OF THIS SECTION. AFTER  
39 RECEIVING THE NOTICE, THE DIRECTOR SHALL REGISTER A DEDUCTION OF THE CREDIT  
40 AMOUNT EXTINGUISHED FROM THE FLEXIBILITY ACCOUNT BALANCE OF THE PERSON WHO  
41 EXTINGUISHED THE CREDIT BALANCE.

42 45-445.04. Use of municipal and industrial groundwater rights

43 THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER  
44 RIGHTS MAY:

45 1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE CERTIFICATE OF  
46 GROUNDWATER RIGHTS FOR ANY NONAGRICULTURAL USE AT ANY LOCATION IN THE BASIN  
47 MANAGEMENT AREA SUBJECT TO THE PROVISIONS GOVERNING TRANSPORTATION OF  
48 GROUNDWATER PRESCRIBED IN ARTICLE 8 OF THIS CHAPTER.

1           2. WITHDRAW GROUNDWATER PURSUANT TO THE CERTIFICATE OF GROUNDWATER  
2 RIGHTS ONLY FROM THOSE WELLS OUTLINED ON THE USER'S CERTIFICATE OF  
3 GROUNDWATER RIGHTS.

4           3. REQUEST THE DIRECTOR TO ISSUE A REVISED CERTIFICATE OF  
5 GROUNDWATER RIGHTS TO REFLECT NEW OR ADDITIONAL POINTS OF WITHDRAWAL OR NEW  
6 OR ADDITIONAL TYPES OF NONAGRICULTURAL USE.

7           4. LEASE ALL OR PART OF THE MUNICIPAL AND INDUSTRIAL GROUNDWATER  
8 RIGHT. IF A GROUNDWATER RIGHT IS LEASED, THE LESSEE MAY USE GROUNDWATER  
9 WITHDRAWN PURSUANT TO THE GROUNDWATER RIGHT AS PRESCRIBED BY THIS SECTION.

10       45-445.05. Use of agricultural groundwater rights

11       A. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
12 ISSUED PURSUANT TO SECTION 45-445.02 MAY:

13           1. USE GROUNDWATER WITHDRAWN PURSUANT TO THE CERTIFICATE OF  
14 GROUNDWATER RIGHTS FOR ANY AGRICULTURAL USE ON ANY LAND DESCRIBED IN THE  
15 CERTIFICATE OF GROUNDWATER RIGHTS.

16           2. REQUEST THE DIRECTOR TO ISSUE A REVISED CERTIFICATE OF  
17 GROUNDWATER RIGHTS TO REFLECT NEW OR ADDITIONAL ACRES OF LAND WITHIN THE  
18 BASIN MANAGEMENT AREA ON WHICH THE OWNER WISHES TO USE GROUNDWATER  
19 WITHDRAWN PURSUANT TO THE CERTIFICATE OF GROUNDWATER RIGHTS FOR  
20 AGRICULTURAL PURPOSES.

21       B. THE RIGHT TO USE GROUNDWATER PURSUANT TO THIS SECTION IS  
22 APPURTENANT TO THE ACRES OF LAND DESCRIBED IN THE AGRICULTURAL CERTIFICATE  
23 OF GROUNDWATER RIGHTS. AN AGRICULTURAL GROUNDWATER RIGHT IS OWNED BY THE  
24 OWNER OF THE LAND TO WHICH THE GROUNDWATER RIGHT IS APPURTENANT AND MAY BE  
25 LEASED FOR AGRICULTURAL USE WITH THE LAND TO WHICH IT IS APPURTENANT.

26       C. THE OWNER OR LESSEE OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER  
27 RIGHTS MAY WITHDRAW OR RECEIVE GROUNDWATER FROM ANY LOCATION IN THE BASIN  
28 MANAGEMENT AREA THAT IS SUBJECT TO THE PROVISIONS GOVERNING TRANSPORTATION  
29 OF GROUNDWATER PRESCRIBED IN ARTICLE 8 OF THIS CHAPTER.

30       45-445.06. Conversion of agricultural groundwater rights to  
31                           municipal and industrial use

32       A. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
33 MAY CONVERT ALL OR PART OF THE GROUNDWATER RIGHT TO A MUNICIPAL AND  
34 INDUSTRIAL USE.

35       B. A MUNICIPAL OR INDUSTRIAL GROUNDWATER USER MAY WITHDRAW AND USE A  
36 CONVERTED AGRICULTURAL GROUNDWATER RIGHT ANNUALLY FOR MUNICIPAL AND  
37 INDUSTRIAL USE IN ONE OF THE FOLLOWING AMOUNTS:

38           1. IF THE MUNICIPAL AND INDUSTRIAL USE IS ON LAND DESCRIBED IN THE  
39 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS, EIGHTY-FIVE PERCENT OF THE  
40 AMOUNT OF THE AGRICULTURAL GROUNDWATER RIGHT ALLOCATION.

41           2. IF THE MUNICIPAL AND INDUSTRIAL USE IS ON LAND OTHER THAN LAND  
42 DESCRIBED IN THE AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS,  
43 EIGHTY-FIVE PERCENT OF THE AMOUNT OF THE AGRICULTURAL GROUNDWATER RIGHT  
44 ALLOCATION.

45       C. A PERSON WHO PROPOSES TO CONVERT AN AGRICULTURAL GROUNDWATER  
46 RIGHT TO A MUNICIPAL AND INDUSTRIAL USE SHALL NOTIFY THE DIRECTOR, ON A  
47 FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR, OF THE CONVERSION AND THE  
48 LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE WITHDRAWN FOR A

1 MUNICIPAL AND INDUSTRIAL USE AND THE TYPES OF USE FOR WHICH GROUNDWATER  
2 WILL BE WITHDRAWN.

3 D. AFTER RECEIVING NOTICE OF A CONVERSION OF AN AGRICULTURAL  
4 GROUNDWATER RIGHT TO A MUNICIPAL AND INDUSTRIAL USE, THE DIRECTOR SHALL  
5 ISSUE TO THE OWNER A REVISED AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
6 FOR THE REMAINING AGRICULTURAL USE, IF ANY, AND A NEW MUNICIPAL AND  
7 INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE CONVERTED MUNICIPAL  
8 AND INDUSTRIAL USE.

9 45-445.07. Conveyance of certificate of groundwater rights

10 A. THE OWNER OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF  
11 GROUNDWATER RIGHTS MAY SELL OR CONVEY ALL OR PART OF THE GROUNDWATER RIGHT  
12 FOR ANY NONAGRICULTURAL USE IN THE SAME GROUNDWATER BASIN. THE FOLLOWING  
13 APPLY TO A SALE OR CONVEYANCE OF A MUNICIPAL AND INDUSTRIAL CERTIFICATE OF  
14 GROUNDWATER RIGHTS PURSUANT TO THIS SUBSECTION:

15 1. WITHIN THIRTY DAYS AFTER A CONVEYANCE OF A GROUNDWATER RIGHT, THE  
16 CONVEYOR OF ALL OR PART OF A MUNICIPAL AND INDUSTRIAL RIGHT AND THE  
17 CONVEYEE OF THE MUNICIPAL AND INDUSTRIAL RIGHT SHALL NOTIFY THE DIRECTOR OF  
18 THE CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE  
19 NOTICE SHALL INCLUDE THE FOLLOWING:

20 (a) THE AMOUNT IN ACRE-FEET THAT IS RETAINED BY THE CONVEYOR, IF  
21 ANY.

22 (b) THE AMOUNT IN ACRE-FEET THAT IS TRANSFERRED TO THE CONVEYEE.

23 (c) THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE  
24 CONVEYOR, IF ANY.

25 (d) THE TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN BY THE  
26 CONVEYEE.

27 (e) THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE  
28 WITHDRAWN BY THE CONVEYOR, IF ANY.

29 (f) THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE  
30 WITHDRAWN BY THE CONVEYEE.

31 (g) ANY OTHER INFORMATION THE DIRECTOR REASONABLY REQUIRES.

32 2. AFTER RECEIVING NOTICE OF A CONVEYANCE OF A MUNICIPAL AND  
33 INDUSTRIAL GROUNDWATER RIGHT, THE DIRECTOR SHALL ISSUE TO THE CONVEYOR A  
34 REVISED MUNICIPAL AND INDUSTRIAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE  
35 PORTION OF THE GROUNDWATER RIGHT THAT IS RETAINED BY THE CONVEYOR, IF ANY,  
36 AND ISSUE TO THE CONVEYEE A NEW MUNICIPAL AND INDUSTRIAL CERTIFICATE OF  
37 GROUNDWATER RIGHTS FOR THE PORTION OF THE GROUNDWATER RIGHT CONVEYED.

38 B. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
39 MAY CONVEY LAND DESCRIBED IN THE GROUNDWATER USER'S CERTIFICATE. EACH ACRE  
40 CONVEYED SHALL CARRY WITH IT A PROPORTIONAL SHARE OF THE ANNUAL ALLOCATION  
41 OF GROUNDWATER THAT IS GRANTED PURSUANT TO THE CERTIFICATE. THE FOLLOWING  
42 APPLY TO A CONVEYANCE OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
43 PURSUANT TO THIS SUBSECTION:

44 1. WITHIN THIRTY DAYS AFTER THE CONVEYANCE OF LAND DESCRIBED IN AN  
45 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS, THE CONVEYOR AND THE  
46 CONVEYEE SHALL EACH NOTIFY THE DIRECTOR OF THE CONVEYANCE ON A FORM  
47 PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE SHALL INCLUDE ALL OF  
48 THE FOLLOWING:

1 (a) A LEGAL DESCRIPTION AND A MAP OF THE LAND THAT IS RETAINED BY  
2 THE CONVEYOR, IF ANY.

3 (b) A LEGAL DESCRIPTION AND A MAP OF THE LAND THAT IS CONVEYED TO  
4 THE CONVEYEE.

5 (c) ANY OTHER INFORMATION THE DIRECTOR REASONABLY REQUIRES.

6 2. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN AGRICULTURAL  
7 CERTIFICATE OF GROUNDWATER RIGHT, THE DIRECTOR SHALL ISSUE TO THE CONVEYOR  
8 A REVISED CERTIFICATE FOR THE PORTION OF THE GROUNDWATER RIGHT THAT IS  
9 RETAINED BY THE CONVEYOR, IF ANY, AND ISSUE TO THE CONVEYEE A NEW  
10 AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS FOR THE PORTION OF THE  
11 GROUNDWATER RIGHT CONVEYED.

12 C. THE OWNER OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
13 MAY SELL OR CONVEY ALL OR PART OF THE RIGHT FOR AGRICULTURAL USE ON OTHER  
14 LAND IN THE SAME GROUNDWATER BASIN. THE FOLLOWING APPLY TO THE SALE OR  
15 CONVEYANCE OF AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS PURSUANT TO  
16 THIS SUBSECTION:

17 1. WITHIN THIRTY DAYS AFTER THE SALE OR CONVEYANCE, THE CONVEYOR OF  
18 AN AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS AND THE CONVEYEE SHALL  
19 NOTIFY THE DIRECTOR OF THE CONVEYANCE ON A FORM PRESCRIBED AND FURNISHED BY  
20 THE DIRECTOR. THE NOTICE PROVIDED BY THE CONVEYOR AND THE CONVEYEE SHALL  
21 INCLUDE THE FOLLOWING:

22 (a) THE AMOUNT IN ACRE-FEET THAT IS RETAINED BY THE CONVEYOR, IF  
23 ANY.

24 (b) THE AMOUNT IN ACRE-FEET THAT IS TRANSFERRED TO THE CONVEYEE.

25 (c) A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEYOR  
26 DESIRES TO USE GROUNDWATER FOR AN AGRICULTURAL PURPOSE AND THE PORTION OF  
27 THE AGRICULTURAL GROUNDWATER RIGHT RETAINED.

28 (d) A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE CONVEYEE  
29 DESIRES TO USE GROUNDWATER FOR AGRICULTURAL USE PURSUANT TO THE  
30 AGRICULTURAL GROUNDWATER RIGHT CONVEYED.

31 (e) ANY OTHER INFORMATION THE DIRECTOR REASONABLY REQUIRES.

32 2. AFTER RECEIVING NOTICE OF A SALE OR CONVEYANCE OF AN AGRICULTURAL  
33 CERTIFICATE OF GROUNDWATER RIGHTS FOR USE ON OTHER AGRICULTURAL LAND, THE  
34 DIRECTOR SHALL ISSUE TO THE CONVEYOR A REVISED CERTIFICATE OF GROUNDWATER  
35 RIGHTS FOR THE PORTION OF THE RIGHT RETAINED BY THE CONVEYOR, IF ANY, AND  
36 ISSUE TO THE CONVEYEE A NEW AGRICULTURAL CERTIFICATE OF GROUNDWATER RIGHTS  
37 FOR THE PORTION OF THE RIGHT CONVEYED.

38 D. NOTWITHSTANDING ANY OTHER LAW, THE TRANSFER OF FLEXIBILITY  
39 CREDITS BETWEEN AN IRRIGATION USER AND A LIVESTOCK INDUSTRIAL USER THAT  
40 SHARE COMMON OWNERSHIP IS NOT SUBJECT TO ANY REDUCTION IN THE IRRIGATION  
41 GROUNDWATER RIGHT ALLOCATION.

42 45-445.08. Retirement; certificate of groundwater rights

43 A. THE OWNER OF A CERTIFICATE OF GROUNDWATER RIGHTS MAY RETIRE ALL  
44 OR PART OF THE GROUNDWATER RIGHTS.

45 B. A PERSON WHO PROPOSES TO RETIRE ALL OR PART OF A CERTIFICATE OF  
46 GROUNDWATER RIGHTS SHALL NOTIFY THE DIRECTOR OF THE RETIREMENT ON A FORM  
47 PRESCRIBED AND FURNISHED BY THE DIRECTOR. THE NOTICE SHALL INCLUDE THE  
48 FOLLOWING:

49 1. THE AMOUNT IN ACRE-FEET OF THE GROUNDWATER RIGHT TO BE RETIRED.

1           2. IF THE GROUNDWATER RIGHT TO BE RETIRED IS A MUNICIPAL AND  
2 INDUSTRIAL GROUNDWATER RIGHT:

3           (a) THE TYPE OR TYPES OF USE FOR WHICH GROUNDWATER WILL BE WITHDRAWN  
4 UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

5           (b) THE LOCATION OF EACH WELL FROM WHICH GROUNDWATER WILL BE  
6 WITHDRAWN UNDER THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

7           (c) ANY OTHER INFORMATION THE DIRECTOR REASONABLY REQUIRES.

8           3. IF THE GROUNDWATER RIGHT TO BE RETIRED IS AN AGRICULTURAL  
9 GROUNDWATER RIGHT:

10          (a) A LEGAL DESCRIPTION AND A MAP OF THE LAND ON WHICH THE PERSON  
11 PROPOSING TO RETIRE THE GROUNDWATER RIGHT DESIRES TO USE GROUNDWATER FOR AN  
12 AGRICULTURAL PURPOSE AND THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED,  
13 IF ANY.

14          (b) ANY OTHER INFORMATION THE DIRECTOR MAY REQUIRE.

15          C. AFTER RECEIVING NOTICE OF RETIREMENT OF ALL OR PART OF A  
16 CERTIFICATE OF GROUNDWATER RIGHTS, THE DIRECTOR SHALL ISSUE TO THE PERSON  
17 WHO RETIRES THE GROUNDWATER RIGHT A REVISED CERTIFICATE OF GROUNDWATER  
18 RIGHTS FOR THE PORTION OF THE GROUNDWATER RIGHT NOT RETIRED, IF ANY.

19          45-445.09. Basin management area designated as active  
20 management area or irrigation non-expansion area;  
21 prohibition

22          THE DIRECTOR OR THE VOTERS OF A BASIN MANAGEMENT AREA MAY NOT  
23 DESIGNATE A BASIN MANAGEMENT AREA AS AN ACTIVE MANAGEMENT AREA OR  
24 IRRIGATION NON-EXPANSION AREA.

25          45-445.10. Irrigation non-expansion area to basin management  
26 area

27          IF A BASIN MANAGEMENT AREA IS ESTABLISHED PURSUANT TO THIS ARTICLE IN  
28 AN AREA THAT WAS PREVIOUSLY DESIGNATED AS AN IRRIGATION NON-EXPANSION AREA,  
29 THE DIRECTOR SHALL DECLARE ALL BASINS IN THE IRRIGATION NON-EXPANSION AREA  
30 AS A BASIN MANAGEMENT AREA, AND THE IRRIGATION NON-EXPANSION AREA AND ANY  
31 REGULATIONS ADOPTED PURSUANT TO THE DESIGNATION AS AN IRRIGATION  
32 NON-EXPANSION AREA TERMINATE.

33          45-445.11. Preemption; groundwater transportation

34          THIS ARTICLE DOES NOT PREEMPT THE TRANSPORTATION OF GROUNDWATER  
35 PURSUANT TO ARTICLES 8 AND 8.1 OF THIS CHAPTER.

36          45-445.12. Basin management council; members; term; duties;  
37 exemption

38          A. A BASIN MANAGEMENT COUNCIL SHALL BE ESTABLISHED IN EACH BASIN  
39 MANAGEMENT AREA CONSISTING OF THE FOLLOWING FIVE MEMBERS:

40           1. ONE MEMBER WHO REPRESENTS OR IS AN INDUSTRIAL USER WITH A  
41 CERTIFICATE OF GROUNDWATER RIGHTS IN THE BASIN AND WHO IS A RESIDENT OF  
42 THIS STATE.

43           2. TWO MEMBERS WHO REPRESENT OR ARE IRRIGATION USERS WITH A  
44 CERTIFICATE OF GROUNDWATER RIGHTS IN THE BASIN AND WHO ARE RESIDENTS OF  
45 THIS STATE.

46           3. ONE MEMBER WHO REPRESENTS A MUNICIPAL USER WITH A CERTIFICATE OF  
47 GROUNDWATER RIGHTS IN THE BASIN AND WHO IS A RESIDENT OF THIS STATE.

48           4. ONE AT-LARGE MEMBER WHO RESIDES IN THE BASIN.

1           B. THE FOLLOWING ENTITIES SHALL APPOINT MEMBERS OF THE BASIN  
2 MANAGEMENT COUNCIL IN THE FOLLOWING ORDER:

3           1. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR.

4           2. ONE MEMBER WHO IS APPOINTED BY THE SPEAKER OF THE HOUSE OF  
5 REPRESENTATIVES.

6           3. ONE MEMBER WHO IS APPOINTED BY THE PRESIDENT OF THE SENATE.

7           4. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
8 NAMES THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES PROVIDES TO THE  
9 GOVERNOR.

10          5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
11 NAMES THE MINORITY LEADER OF THE SENATE PROVIDES TO THE GOVERNOR.

12          C. IF A COUNCIL MEMBER POSITION IS VACATED, THE APPOINTING AUTHORITY  
13 SHALL IMMEDIATELY APPOINT A NEW MEMBER WHO REPRESENTS THE SAME CLASS OF  
14 CERTIFICATED GROUNDWATER RIGHT HOLDER OR RESIDENT OF THIS STATE AT LARGE AS  
15 THE PRIOR APPOINTEE. COUNCIL MEMBERS MAY BE REMOVED ONLY FOR CAUSE. IF A  
16 COUNCIL MEMBER IS REMOVED THE REPLACEMENT MEMBER'S TERM ENDS AT THE SAME  
17 TIME AS THE REPLACED MEMBER'S TERM.

18          D. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, BASIN  
19 MANAGEMENT COUNCIL MEMBERS ARE SUBJECT TO A RETENTION ELECTION EVERY FOUR  
20 YEARS AND MAY CONTINUE TO SERVE ONLY IF RETAINED BY A MAJORITY VOTE OF  
21 ELIGIBLE VOTERS.

22          E. BASIN MANAGEMENT COUNCIL MEMBERS ARE NOT ELIGIBLE TO RECEIVE  
23 COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO  
24 TITLE 38, CHAPTER 4, ARTICLE 2.

25          F. THE INITIAL BASIN MANAGEMENT COUNCIL MEMBERS SHALL ASSIGN  
26 THEMSELVES BY LOT TO CLASS ONE AND CLASS TWO. CLASS ONE SHALL HAVE THREE  
27 MEMBERS AND CLASS TWO SHALL HAVE TWO MEMBERS. IF A BASIN MANAGEMENT  
28 COUNCIL IS ESTABLISHED SIXTY DAYS OR MORE BEFORE A REGULAR GENERAL  
29 ELECTION, CLASS ONE SHALL BE SUBJECT TO RETENTION AT THE NEXT REGULAR  
30 GENERAL ELECTION AFTER ESTABLISHMENT AND CLASS TWO SHALL BE SUBJECT TO  
31 RETENTION ON THE REGULAR GENERAL ELECTION IMMEDIATELY FOLLOWING THE NEXT  
32 REGULAR GENERAL ELECTION AFTER ESTABLISHMENT. IF A BASIN MANAGEMENT  
33 COUNCIL IS ESTABLISHED FEWER THAN SIXTY DAYS BEFORE A REGULAR GENERAL  
34 ELECTION, CLASS ONE SHALL BE SUBJECT TO RETENTION AT THE SECOND NEXT  
35 REGULAR GENERAL ELECTION AFTER ESTABLISHMENT AND CLASS TWO SHALL BE SUBJECT  
36 TO RETENTION AT THE THIRD REGULAR GENERAL ELECTION AFTER ESTABLISHMENT.

37          G. AT LEAST SIXTY BUT NOT MORE THAN NINETY DAYS BEFORE THE REGULAR  
38 GENERAL ELECTION IN WHICH A BASIN MANAGEMENT COUNCIL MEMBER IS SUBJECT TO  
39 RETENTION, A COUNCIL MEMBER WHO DESIRES TO BE RETAINED SHALL FILE, IN THE  
40 OFFICE OF THE CLERK OR CLERKS OF THE BOARD OF SUPERVISORS IN WHICH THE  
41 BASIN MANAGEMENT AREA IS LOCATED, A DECLARATION OF THE COUNCIL MEMBER'S  
42 DESIRE TO BE RETAINED IN OFFICE. IF A COUNCIL MEMBER WHO IS SUBJECT TO  
43 RETENTION DOES NOT FILE A DECLARATION OF THE COUNCIL MEMBER'S DESIRE TO BE  
44 RETAINED IN OFFICE, THE COUNCIL MEMBER'S OFFICE BECOMES VACANT ON JANUARY 1  
45 FOLLOWING THE GENERAL ELECTION IN WHICH THE COUNCIL MEMBER WOULD HAVE BEEN  
46 A CANDIDATE FOR RETENTION.

47          H. THE NAME OF ANY BASIN MANAGEMENT COUNCIL MEMBER WHOSE DECLARATION  
48 TO BE RETAINED IN OFFICE IS FILED AS PROVIDED IN THIS SECTION SHALL BE  
49 PLACED ON THE APPROPRIATE OFFICIAL BALLOT AT THE NEXT REGULAR GENERAL

1 ELECTION UNDER A NONPARTISAN DESIGNATION AND IN SUBSTANTIALLY THE FOLLOWING  
2 FORM: SHALL (NAME OF COUNCIL MEMBER) OF THE (NAME OF BASIN) BASIN  
3 MANAGEMENT COUNCIL BE RETAINED IN OFFICE? YES \_\_\_ NO \_\_\_ (MARK X AFTER ONE).

4 I. IF A MAJORITY OF THOSE VOTING ON THE QUESTION VOTE "NO", A  
5 VACANCY SHALL EXIST, WHICH SHALL BE FILLED AS PROVIDED IN THIS SECTION. A  
6 COUNCIL MEMBER WHO RECEIVES A MAJORITY OF "NO" VOTES IS NOT RETAINED IN  
7 OFFICE AND IS NOT ELIGIBLE FOR APPOINTMENT ON ANY BASIN MANAGEMENT  
8 COUNCIL. IF A MAJORITY OF THOSE VOTING ON THE QUESTION VOTE "YES", THE  
9 COUNCIL MEMBER IS RETAINED IN OFFICE FOR ANOTHER FOUR-YEAR TERM, SUBJECT TO  
10 REMOVAL FOR CAUSE ONLY BY THE GOVERNOR OR BY RECALL AS PROVIDED IN TITLE  
11 19, CHAPTER 2.

12 J. COUNCIL MEMBERS WHO ARE REMOVED FOR CAUSE OR WHO ARE RECALLED  
13 FROM OFFICE ARE NOT ELIGIBLE FOR APPOINTMENT ON ANY BASIN MANAGEMENT  
14 COUNCIL. COUNCIL MEMBERS WHO ARE NOT RECALLED OR REMOVED FOR CAUSE OR WHO  
15 DO NOT RECEIVE A MAJORITY OF "NO" VOTES IN A RETENTION ELECTION ARE  
16 ELIGIBLE TO SERVE AS MANY TERMS AS DESIRED UNTIL RECALLED, REMOVED FOR  
17 CAUSE OR RECEIVING A MAJORITY OF "NO" VOTES IN A RETENTION ELECTION.

18 K. THE BASIN MANAGEMENT COUNCIL SHALL:

19 1. SELECT A CHAIRPERSON FROM THE COUNCIL'S MEMBERSHIP.

20 2. MEET AS OFTEN AS THE CHAIRPERSON DEEMS NECESSARY.

21 3. HOLD AT LEAST TWO PUBLIC MEETINGS IN THE BASIN AND ALLOW PUBLIC  
22 COMMENT BEFORE ADOPTING A BASIN MANAGEMENT AREA MANAGEMENT PLAN.

23 4. SUBMIT A PROPOSED BASIN MANAGEMENT AREA MANAGEMENT PLAN TO THE  
24 CHAIRPERSONS OF THE HOUSE OF REPRESENTATIVES AND SENATE NATURAL RESOURCES,  
25 ENERGY AND WATER COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, BEFORE ADOPTING  
26 A MANAGEMENT PLAN.

27 5. ON REQUEST OF THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES OR  
28 SENATE NATURAL RESOURCES AND ENERGY COMMITTEE, OR ITS SUCCESSOR COMMITTEE,  
29 ATTEND A JOINT LEGISLATIVE HEARING TO EVALUATE A PROPOSED BASIN MANAGEMENT  
30 AREA MANAGEMENT PLAN.

31 6. IN CONJUNCTION WITH THE DEPARTMENT, APPLY FOR AND DISTRIBUTE  
32 GRANTS FOR WATER CONSERVATION, WATER AUGMENTATION OR WATER SYSTEM UPGRADES  
33 WITHIN THE BASIN MANAGEMENT AREA. MONIES AWARDED PURSUANT TO THIS  
34 PARAGRAPH SHALL BE DISTRIBUTED EQUITABLY ACROSS ALL SECTORS.

35 7. SUBMIT A PLAN FOR WATER MANAGEMENT TO THE DIRECTOR. THE PLAN  
36 SHALL BE CONSISTENT WITH THE MANAGEMENT GOALS OF A BASIN MANAGEMENT AREA,  
37 SHALL BE LEGALLY AND ECONOMICALLY FEASIBLE AND MUST BE APPROVED BY A  
38 MAJORITY OF THE MEMBERS OF THE COUNCIL. THE PLAN MAY NOT REQUIRE MORE THAN  
39 A ONE PERCENT ANNUAL REDUCTION IN A WATER USER'S ORIGINAL ALLOTMENT GRANTED  
40 PURSUANT TO A CERTIFICATED GROUNDWATER RIGHT OR PROHIBIT A GROUNDWATER USER  
41 FROM WITHDRAWING INTENTIONALLY CREATED GROUNDWATER RECHARGE, INCLUDING  
42 EFFLUENT WITH A TEN PERCENT NET BENEFIT TO THE AQUIFER. THE PLAN SHALL  
43 REQUIRE ANY ANNUAL REDUCTION IN WATER USE TO BE EQUAL IN PERCENTAGE FOR ALL  
44 USERS WITH A CERTIFICATED GROUNDWATER RIGHT. THE PLAN MAY NOT REQUIRE A  
45 WATER USER TO REDUCE ANNUAL WATER USE BY MORE THAN TEN PERCENT OF THE  
46 ANNUAL ALLOCATION OF WATER THAT THE USER IS ENTITLED TO PURSUANT TO A  
47 CERTIFICATE OF GROUNDWATER RIGHTS WITHIN TEN YEARS AFTER THE FORMATION OF  
48 THE BASIN MANAGEMENT AREA AND MAY NOT REQUIRE ANY WATER USER TO ACHIEVE  
49 TOTAL WATER USE REDUCTIONS IN INCREMENTS GREATER THAN ONE PERCENT PER YEAR.

1           8. PROVIDE EDUCATION TO WATER USERS AND THE PUBLIC ON EFFICIENT  
2 WATER MANAGEMENT AND CONSERVATION.

3           L. AFTER RECEIVING THE REPORT OF HYDROLOGICAL CONDITIONS IN THE  
4 BASIN PROVIDED BY THE DEPARTMENT IN YEAR FOURTEEN AFTER FORMATION OF THE  
5 BASIN MANAGEMENT AREA AND BY AN AFFIRMATIVE VOTE OF FOUR OR MORE COUNCIL  
6 MEMBERS, THE COUNCIL MAY:

7           1. INCREASE THE MANDATORY REDUCTION IN THE ANNUAL ALLOCATION OF  
8 WATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHTS BEGINNING IN YEAR  
9 FIFTEEN AFTER FORMATION OF THE BASIN MANAGEMENT AREA BY NOT GREATER THAN  
10 ONE PERCENT EACH YEAR AND IN A TOTAL AGGREGATE AMOUNT THAT IS EQUAL OR LESS  
11 THAN THE DIRECTOR'S RECOMMENDATION IF ALL OF THE FOLLOWING APPLY:

12           (a) THE HYDROLOGICAL STUDY DEMONSTRATES THAT THE CONDITIONS IN  
13 SUBSECTION M, PARAGRAPH 2, SUBDIVISION (c) OF THIS SECTION EXIST IN THE  
14 BASIN.

15           (b) THE COUNCIL HOLDS AT LEAST ONE PUBLIC MEETING ON THE  
16 HYDROLOGICAL REPORT AND THE DIRECTOR'S RECOMMENDATION BEFORE VOTING ON ANY  
17 REDUCTION IN THE ANNUAL ALLOCATION.

18           (c) THE DIRECTOR RECOMMENDS THAT THE COUNCIL INCREASE THE MANDATORY  
19 REDUCTION IN THE ANNUAL ALLOCATION OF WATER PURSUANT TO A CERTIFICATE OF  
20 GROUNDWATER RIGHTS BETWEEN ONE AND TEN PERCENT.

21           2. DECREASE THE MANDATORY REDUCTION IN THE ANNUAL ALLOCATION OF  
22 WATER PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHTS BEGINNING IN YEAR  
23 FIFTEEN AFTER FORMATION OF THE BASIN MANAGEMENT AREA BY NOT GREATER THAN  
24 ONE PERCENT A YEAR IF THE HYDROLOGICAL STUDY DEMONSTRATES THAT THE  
25 CONDITIONS IN SUBSECTION M, PARAGRAPH 2, SUBDIVISION (c) OF THIS SECTION  
26 EXIST IN THE BASIN.

27           M. THE DIRECTOR SHALL:

28           1. BEGINNING FIVE YEARS AFTER FORMATION OF A BASIN MANAGEMENT AREA,  
29 CONDUCT AN ECONOMIC STUDY TO BE RELEASED TO THE PUBLIC THAT EXAMINES THE  
30 FOLLOWING:

31           (a) THE COSTS OF PERMANENTLY CLOSING THE BASIN MANAGEMENT AREA,  
32 INCLUDING THE REDUCTION IN LOCAL PROPERTY, SALES AND TRANSACTION PRIVILEGE  
33 AND INCOME TAXES.

34           (b) THE COSTS OF THE MANDATORY REDUCTION IN ANNUAL GROUNDWATER USE  
35 PURSUANT TO CERTIFICATED GROUNDWATER RIGHTS, INCLUDING THE REDUCTION IN  
36 LOCAL PROPERTY, SALES AND TRANSACTION PRIVILEGE AND INCOME TAXES.

37           (c) THE TANGIBLE ECONOMIC BENEFITS OF PERMANENTLY CLOSING THE BASIN  
38 MANAGEMENT AREA AND THE MANDATORY REDUCTION IN ANNUAL GROUNDWATER USE  
39 PURSUANT TO CERTIFICATED GROUNDWATER RIGHTS. FOR THE PURPOSES OF THIS  
40 SUBDIVISION, ECOSYSTEM BENEFITS DO NOT CONSTITUTE TANGIBLE ECONOMIC  
41 BENEFITS.

42           2. NOT EARLIER THAN TEN YEARS AFTER FORMATION OF A BASIN MANAGEMENT  
43 AREA, INITIATE A HYDROLOGICAL ANALYSIS OF THE GROUNDWATER BASIN THAT IS  
44 RELEASED TO THE PUBLIC AND THE BASIN MANAGEMENT COUNCIL NOT MORE THAN  
45 FOURTEEN YEARS AFTER FORMATION OF THE BASIN MANAGEMENT AREA. THE ANALYSIS  
46 SHALL INCLUDE ALL OF THE FOLLOWING:

47           (a) A SUMMARY OF HYDROLOGICAL IMPROVEMENTS IN THE BASIN CAUSED BY  
48 THE BASIN CLOSURE AND REGULATION.

1 (b) A REPORT OF TRANSFERS INVOLVING ALL OR PORTIONS OF CERTIFICATES  
2 OF GROUNDWATER RIGHTS AND THE VOLUME OF WATER IN ACRE-FEET THAT WAS SAVED  
3 AS A RESULT.

4 (c) A DETERMINATION AS TO WHETHER THE FOLLOWING CONDITIONS EXIST IN  
5 THE BASIN:

6 (i) LAND SUBSIDENCE WITHIN THE BASIN DUE TO GROUNDWATER WITHDRAWAL  
7 IS ENDANGERING PROPERTY OR POTENTIAL STORAGE CAPACITY.

8 (ii) THERE HAS BEEN ACCELERATED DECLINE IN GROUNDWATER LEVELS WITHIN  
9 THE GROUNDWATER BASIN OVER THE PRECEDING FIVE YEARS AS MEASURED BY AT LEAST  
10 TEN INDEX WELLS ACROSS THE BASIN.

11 (iii) THE DEPARTMENT HAS REPORTED OBSERVED MEAN DECLINES IN  
12 GROUNDWATER LEVELS IN THE BASIN GREATER THAN FIFTY FEET DURING THE  
13 PRECEDING TEN-YEAR.

14 (d) AN ASSESSMENT WHETHER THE BASIN MANAGEMENT COUNCIL COULD RESTORE  
15 ALL OR A PORTION OF USERS' MAXIMUM ANNUAL ALLOCATION OF WATER PURSUANT TO  
16 CERTIFICATED GROUNDWATER RIGHTS WITHOUT SUBSTANTIALLY ADVERSELY AFFECTING  
17 THE HYDROLOGICAL CONDITIONS IN THE BASIN.

18 (e) A RECOMMENDATION AS TO WHETHER THE BASIN MANAGEMENT COUNCIL  
19 SHOULD RESTORE ALL OR A PORTION OF THE BASIN'S GROUNDWATER USERS'  
20 CERTIFICATED WATER RIGHTS WITHOUT SUBSTANTIALLY AFFECTING THE BASIN.

21 3. PROVIDE TECHNICAL AND LEGAL SUPPORT TO THE COUNCIL ON REQUEST OF  
22 ANY COUNCIL MEMBER.

23 4. NOT REQUIRE ANY USER IN A BASIN MANAGEMENT AREA TO MEASURE OR  
24 REPORT WATER USE WITH THE USE OF DEVICES OR METHODS THAT ARE NOT PRESCRIBED  
25 IN THIS ARTICLE.

26 5. NOT REQUIRE ANY GROUNDWATER USER IN A BASIN MANAGEMENT AREA TO  
27 MEASURE WITHDRAWALS FROM ANY WELLS IN THE BASIN MANAGEMENT AREA EXCEPT AS  
28 PRESCRIBED IN THIS ARTICLE.

29 6. ADOPT A WELL-SPACING REQUIREMENT FOR NONEXEMPT WELLS THAT ARE  
30 DRILLED AFTER THE BASIN IS CLOSED.

31 7. ALLOW A PERSON TO DEEPEN OR CONSTRUCT A REPLACEMENT WELL AT  
32 APPROXIMATELY THE SAME LOCATION WITHOUT CONDUCTING A WELL IMPACT ANALYSIS.

33 N. TWENTY-FOUR YEARS AFTER THE FORMATION OF A BASIN MANAGEMENT AREA  
34 AND EVERY FIFTEEN YEARS THEREAFTER, THE BASIN MANAGEMENT COUNCIL SHALL SET  
35 A SCHEDULE FOR THE FOLLOWING TEN-YEAR PERIOD OF MANDATORY REDUCTIONS IN  
36 ANNUAL ALLOCATIONS OF GROUNDWATER PURSUANT TO CERTIFICATES OF GROUNDWATER  
37 RIGHTS IN AN AMOUNT BETWEEN ZERO AND TEN PERCENT, WHICH SHALL TAKE EFFECT  
38 AT THE BEGINNING OF THE NEXT YEAR. FOR THE PURPOSES OF THIS SUBSECTION,  
39 MANDATORY REDUCTIONS IN ANNUAL ALLOCATIONS SHALL NOT INCREASE OR DECREASE  
40 BY MORE THAN ONE PERCENT A YEAR.

41 O. BEGINNING TWENTY-FIVE YEARS AFTER THE FORMATION OF A BASIN  
42 MANAGEMENT AREA AND EVERY TEN YEARS THEREAFTER, THE DIRECTOR SHALL RELEASE  
43 A HYDROLOGICAL REPORT AS PRESCRIBED BY THIS SECTION BASED ON THE PRIOR TEN-  
44 YEAR PERIOD.

45 P. AT THE END OF EVERY TEN-YEAR PERIOD OF MANDATORY REDUCTIONS  
46 PRESCRIBED IN SUBSECTION N OF THIS SECTION AND BEFORE THE BEGINNING OF THE  
47 FOLLOWING TEN-YEAR PERIOD PRESCRIBED IN SUBSECTION N OF THIS SECTION, ALL  
48 MANDATORY REDUCTIONS IN ANNUAL ALLOCATION AS PRESCRIBED BY THE BASIN  
49 MANAGEMENT COUNCIL SHALL REMAIN IN EFFECT.

1 Q. NOTWITHSTANDING ANY OTHER LAW, A BASIN MANAGEMENT COUNCIL MAY NOT  
2 REDUCE THE ANNUAL ALLOCATION OF GROUNDWATER AWARDED TO AN IRRIGATION USER  
3 PURSUANT TO A CERTIFICATE OF GROUNDWATER RIGHTS IF THE IRRIGATION USER  
4 FARMS LESS THAN ONE HUNDRED TWENTY ACRES PER YEAR.

5 R. A BASIN MANAGEMENT COUNCIL MAY HAVE ONLY THOSE POWERS GIVEN TO IT  
6 BY STATUTE AND MAY EXERCISE THE POWERS OF THE COUNCIL, INCLUDING THE  
7 SUBMISSION AND ADOPTION OF A BASIN MANAGEMENT AREA MANAGEMENT PLAN, ONLY ON  
8 A MAJORITY VOTE OF THE COUNCIL OR A FOUR PERSON MAJORITY AS PRESCRIBED BY  
9 THIS SECTION. UNLESS OTHERWISE AUTHORIZED BY LAW, THE DIRECTOR MAY NOT  
10 TAKE ANY ACTION IN A BASIN MANAGEMENT AREA NOT RECOMMENDED BY THE COUNCIL.

11 45-445.13. Basin management areas; goals

12 THE GOALS OF A BASIN MANAGEMENT AREA AND A BASIN MANAGEMENT COUNCIL  
13 MAY BE ANY OF THE FOLLOWING AS DETERMINED BY THE COUNCIL:

14 1. TO PROTECT THE ECONOMY WHILE CONSIDERING THE NEED TO PRESERVE  
15 GROUNDWATER FOR FUTURE NON-IRRIGATION USES.

16 2. TO GATHER AND OBTAIN A BETTER UNDERSTANDING OF THE GROUNDWATER  
17 BASIN AND AQUIFER HEALTH BY INSTALLING INDEX WELLS AND PERSUADING WATER  
18 USERS IN THE GROUNDWATER BASIN TO VOLUNTARILY PROVIDE GROUNDWATER DATA TO  
19 THE COUNCIL.

20 3. TO PRESERVE EXISTING GROUNDWATER USES IN THE GROUNDWATER BASIN  
21 WHILE ALLOWING THE DEVELOPMENT OF OTHER USES AND PRESERVING FUTURE WATER  
22 SUPPLIES FOR OTHER USES.

23 4. TO REDUCE THE RATE OF AQUIFER DEPLETION, FROM THE CURRENT  
24 DEPLETION RATE AT THE TIME A BASIN MANAGEMENT AREA IS ESTABLISHED TO A SET  
25 RATE BY A SET YEAR AS DETERMINED BY THE COUNCIL.

26 5. TO ADDRESS THE ANNUAL AVERAGE DEPTH-TO-STATIC LEVEL ACROSS THE  
27 GROUNDWATER BASIN FROM DROPPING BELOW A SET LEVEL.

28 6. TO MAINTAIN GROUNDWATER PROGRAMS IN THE GROUNDWATER BASIN THAT  
29 PROVIDE REASONABLE ACCESS TO A SUPPLY OF WATER TO MEET REASONABLE  
30 COMMERCIAL AND BASIC DOMESTIC NEEDS.

31 7. TO INCREASE THE TOTAL AMOUNT OF NATURAL, INCIDENTAL OR ARTIFICIAL  
32 RECHARGE IN THE GROUNDWATER BASIN EACH YEAR, FROM A SET LEVEL IN ACRE-FEET  
33 PER YEAR TO A HIGHER SET LEVEL IN ACRE-FEET PER YEAR, BY A SET YEAR AS  
34 DETERMINED BY THE COUNCIL.

35 8. TO INCREASE THE TOTAL AMOUNT OF WATER REUSE IN THE GROUNDWATER  
36 BASIN EACH YEAR, FROM A SET LEVEL IN ACRE-FEET PER YEAR TO A HIGHER SET  
37 LEVEL IN ACRE-FEET PER YEAR, BY A SET YEAR AS DETERMINED BY THE COUNCIL.

38 Sec. 2. Section 49-1270, Arizona Revised Statutes, is amended to  
39 read:

40 49-1270. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Eligible entity" means any of the following:

43 (a) A water provider that distributes or sells water outside of the  
44 boundaries of an initial active management area in which part of the  
45 central Arizona project aqueduct is located.

46 (b) Any city, town, county, district, commission, authority or other  
47 public entity that is organized and that exists under the statutory law of  
48 this state or under a voter-approved charter or initiative of this state

1 that is located outside of the boundaries of an initial active management  
2 area in which part of the central Arizona project aqueduct is located.

3 (c) A BASIN MANAGEMENT COUNCIL ESTABLISHED PURSUANT TO TITLE 45,  
4 CHAPTER 2, ARTICLE 3.1.

5 2. "Loan" means leases, loans or other evidence of indebtedness for  
6 water supply development purposes issued from the water supply development  
7 revolving fund.

8 3. "Loan repayment agreement" means an agreement to repay a loan  
9 issued from the water supply development revolving fund entered into by an  
10 eligible entity.

11 4. "Water supply development revolving fund" or "fund" means the  
12 water supply development revolving fund established by section 49-1271.

13 Sec. 3. Willcox basin; designation as basin management area;  
14 delayed repeal

15 A. On the effective date of this act:

16 1. The Willcox active management area established pursuant to  
17 section 45-412, Arizona Revised Statutes, is repealed and supplanted by the  
18 Willcox basin management area.

19 2. The director of the department of water resources shall file an  
20 order designating the Willcox active management area as repealed and  
21 supplanted by the Willcox basin management area. The order shall be  
22 published at least once each week for two weeks immediately following the  
23 effective date of this act in a newspaper of general circulation in each  
24 county where the Willcox basin management area is located.

25 B. This section is repealed from and after December 31, 2025.

26 Sec. 4. Emergency

27 This act is an emergency measure that is necessary to preserve the  
28 public peace, health or safety and is operative immediately as provided by  
29 law."

30 Amend title to conform

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