Senate Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 161

SENATE BILL 1312

AN ACT

AMENDING SECTION 45-871.01, ARIZONA REVISED STATUTES; RELATING TO UNDERGROUND WATER STORAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-871.01, Arizona Revised Statutes, is amended to read:

45-871.01. Permit application; fee; notice of application; objections; hearing; appeal

A. The director shall prescribe and furnish application forms for the permits prescribed by articles 2 and 3 of this chapter. The application forms shall require the applicant to submit the information needed by the director to determine whether the permit may be issued. The director shall establish and collect a reasonable fee from the applicant to cover the cost of administrative services and other expenses associated with evaluating and issuing each permit. All fees collected pursuant to this subsection shall be remitted pursuant to section 45-615, paragraph 1.

B. On receipt of an application for a permit pursuant to this chapter, the director shall endorse on the application the date of its receipt and shall keep a record of the application. WITHIN FIFTEEN DAYS AFTER RECEIPT OF AN APPLICATION FOR AN UNDERGROUND STORAGE FACILITY PERMIT, THE DIRECTOR SHALL POST NOTICE OF THE APPLICATION ON THE DEPARTMENT'S WEBSITE UNTIL THE DIRECTOR ISSUES A DECISION ON THE APPLICATION. THE NOTICE SHALL STATE THE NAME OF THE APPLICANT, THE LOCATION OF THE PROPOSED UNDERGROUND STORAGE FACILITY, THE DATE THE APPLICATION WAS FILED AND THE APPLICATION NUMBER. THE NOTICE REQUIRED BY THIS SUBSECTION IS IN ADDITION TO THE NOTICE REQUIREMENT IN SUBSECTION D OF THIS SECTION. The director shall conduct a review of the application within one hundred days of receipt of the application. If the director determines in the review that the application is incomplete or incorrect, the director shall notify the applicant and the review period is extended by fifteen days. The application is incomplete or incorrect until the applicant files the information requested in the application. The director may conduct independent investigations as necessary to determine whether the application should be approved or rejected.

C. If the application is for water storage at an underground storage facility that is exempt from the requirement for an aquifer protection permit under section 49-250, subsection B, paragraph 12, 13 or 24, the director of water resources shall consult with the director of environmental quality and shall develop a coordinated and unified permit review process, that conforms to the time schedule prescribed by this section, to determine whether the permit application is correct and whether the development of a plan of action for monitoring and data analysis shall be required.

D. Except as provided in subsection E of this section, if the application is determined to be complete and correct and the application is for a storage facility permit or a water storage permit, the director, within fifteen days of that determination or a longer period if requested by the applicant, shall give notice of the application once each week for two consecutive weeks in a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be

affected by the water storage. The director shall also give notice by first class mail to each city, town, private water company, conservation district, irrigation district and electrical district that serves land within the area of impact of the stored water. The notice shall state that persons who may be adversely affected by the water storage may file written objections to the issuance of the permit with the director for fifteen days after the last publication of notice. An objection shall state the name and mailing address of the objector, shall be signed by the objector or the objector's agent or attorney and shall clearly set forth the reasons why the permit should not be issued. The grounds for objection are limited to whether the application meets the criteria for issuing the permit being requested as prescribed by articles 2 and 3 of this chapter.

E. If the application is determined to be complete and correct and the application is for a water storage permit to store Colorado river water at a storage facility where storage of Colorado river water has previously been permitted, the director may issue the permit within twenty days of that determination if all of the following apply:

1. The holder of the storage facility permit with which the water storage permit will be affiliated has consented to the water storage.

2. The water storage permit will not require a modification of an affiliated water storage facility permit.

3. Colorado river water will be the only type of water stored under the water storage permit.

4. The applicant has the right to use the Colorado river water.

F. Except as provided in section 45-834.01, subsection D, if the application is determined to be complete and correct and the application is for a recovery well permit, the director, within fifteen days of the determination or a longer period if requested by the applicant, shall give notice of the application once each week for two consecutive weeks in a newspaper of general circulation in the county in which the applicant proposes to recover stored water. If the application is for a well located inside of or within three miles of the exterior boundaries of the service area of a city, town, private water company or irrigation district, the applicant shall give notice of the application by first class mail to each city, town, private water company or irrigation district within that distance. The applicant shall file proof of the notice with the director. The notice shall state that persons who may be adversely affected by the recovery well may file written objections to the issuance of the permit with the director for fifteen days after the last publication of notice. An objection shall state the name and mailing address of the objector, shall be signed by the objector or the objector's agent or attorney and shall clearly set forth reasons why the permit should not be issued. The grounds for objection are limited to whether the application meets the criteria for issuing a recovery well permit as set forth in section 45-834.01, subsection B. For the purposes of this subsection, if the proposed recovery

well is located within three miles outside of the exterior boundaries of the service area of a city, town, private water company or irrigation district, a city, town, private water company or irrigation district within that distance shall be considered a person who may be adversely affected by the recovery well.

G. In appropriate cases, including cases in which a proper objection to the permit application has been filed, an administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary. At least thirty days before the hearing, the director shall notify the applicant and any person who filed a proper objection to the issuance of the permit. The hearing shall be scheduled for at least sixty days but not more than ninety days after the expiration of the time in which to file objections.

H. If a hearing is not held, the director shall issue a decision and order within six months of the date notice of the application is first given pursuant to subsection D or F of this section, or within ninety days in the case of an application under article 6 of this chapter. The director shall record and endorse the approval or rejection of the application on the application. If the permit is denied, the director shall return a copy of the application to the applicant specifically stating the reasons for denial.

I. The applicant or any person who filed a proper objection to the application may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in superior court as provided in section 45-405.

J. Section 45-114, subsections A and B govern administrative proceedings, rehearings or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area in which the storage or recovery is located.

K. On receipt of an application for a permit pursuant to this section, the director shall provide written notice of the proposed permit to the city, town or county that has land use jurisdiction over the site that is the subject of the permit. The notice shall be given at the same time and in the same manner as the notices prescribed by subsections D and F of this section in order to provide the city, town or county with the opportunity to comment on the proposed facility's or well's compliance with site planning and operational requirements of the city, town or county. This subsection shall not be construed to limit the exclusive authority of the director to determine the issuance of the permit or the site of the facility or well or to reduce the authority of the city, town or county to enforce its applicable ordinances governing site planning and operational requirements.

APPROVED BY THE GOVERNOR MAY 1, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2007.

Passed the House April 23, 20 07,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

Passed the Senate February 19, 20 07,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Timothy S. Bee

President of the Senate

Charmion Billington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25th day of April, 2007,

at 11:58 o'clock a. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 1 day of

May, 20 07,

at 1:30 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1ST day of MAY, 20 07,

at 4:30 o'clock P. M.

Janice K. Brewer

Secretary of State

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