

Replacement Water Wells

§46-602(2) For purposes of this section, replacement water well means a water well which (i) replaces an abandoned water well within three years after the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be abandoned within one year after such construction and (ii) is constructed to provide water to the same tract of land served by the water well being replaced.

Some have more restrictive defin of consumptive use 2B

§46-714(3)(h) water wells defined by the applicable natural resources district as replacement water wells, but the consumptive use of any such replacement water well can be no greater than the historic consumptive use of the water well it is to replace, or, if applicable, the historic consumptive use of the surface water use it is to replace,

§46-706(5) Illegal water well means... any water well not properly registered in accordance with sections 46-602 to 46-604

§46-735(1)(c) a district may provide by rule and regulation that a permit need not be obtained for water wells defined by the district to be replacement water wells.

§46-739(6)(d) Except as otherwise authorized by law, the district shall make a replacement water well as defined in section 46-602, or as further defined in district rules and regulations, subject to the same provisions as the water well it replaces.

QUESTIONS WE NEED TO ANSWER:

1. Can an NRD redefine replacement well, or can they only further define it? what they are really doing is waiving the moratorium not the registration and spacing requirement
2. What is intended by 46-714(3)(h)? How is this supposed to work with the surface water use it is "replacing". Can the surface water use be transferred off? This is what NPPD wants to do. If this is a new well that is going to irrigate a tract that has historically been irrigated with surface water, are we supposed to now register this well as a "replacement" well, or does it mean that if there is a replacement well that has been used as a supplemental well and is now going to be the sole well it can only be used for historic consumptive use purposes?
3. How do we interpret 46-706(5) which says a well must be registered in accordance with 46-602 and 46-602 defines replacement well?

NO

can't waive state law  
I think they should abandon the sw rt if use well  
relinquish

nrds can be more restrictive but not broader

Swan to writeup & then talk to Justin & to the 2 nrds most affected  
these have to get a variance to be new well & off-set by decommissioning old well