

**Update on SB 1359**  
**Department of Water Resources Fund**  
**Tom Farley, CEO**

The Arizona Association of REALTORS® (AAR) has received some inquiries on a piece of state legislation that went into effect July 29, 2010 and its possible impacts on certain real estate transactions that have a well. We have also received some questions as to why the Arizona Department of Water Resources (ADWR) went the route of raising its fees or charging new ones. In short, the ADWR was one of many agencies that have experienced the effect of budget cutting at the Arizona State Legislature due to our state's serious deficits. When you are dealing with a \$3 billion plus deficit, there are going to be casualties.

ADWR's budget has been cut from \$21 million to \$7 million and their staff has been reduced from a high of 236 to 95 full-time employees. In order for the ADWR to carry on some semblance of its regulatory responsibilities, SB 1359 was passed to help fund the agency in meeting its regulatory responsibilities. SB 1359 is expected to produce less than \$2 million dollars annually as revenue to the agency.

The FAQ below was provided by our "Water Counsel" Sheryl Sweeney, Esq. with the law firm Ryley, Carlock and Applewhite in Phoenix. It should help answer some of the questions AAR has been receiving. We hope you will find this information useful in assisting your clients with their transactions.

**ADWR Fixed Fee Schedule**  
**FAQ**

1. **QUESTION:** ADWR's fixed fee schedule refers to "well assignment" and sets the fee for such assignment at \$120 per well (previously \$10). Is a well assignment the same as the Statement of Change of Well Ownership addressed in Section 3 on DWR Form 55-71A (7/20/07)?

**ANSWER:** Yes. A well assignment and a Statement of Change of Well Ownership is the same thing for purposes of the fixed fee schedule.

2. **QUESTION:** The fixed fee schedule refers to a "statement of claim for a water right." Does this refer to the Statement of Claimant form?

**ANSWER:** No. A statement of claim is a claim for a pre-1919 surface water right. A Statement of Claimant is a form filed in the general water adjudications.

3. **QUESTION:** The fixed fee schedule refers to "Assignment of Application, Permit, Certificate or Statement of Claim" and sets the rate for such assignments at \$500. Does this include an assignment of the adjudication Statement of Claimant form?

**ANSWER:** No. The fee schedule does not change the fees associated with filing or assigning a Statement of Claimant.

4. **QUESTION:** An owner who files the original statement of claim for a water right pays a fee of \$5. Yet when a change of ownership occurs and buyer and seller attempt to file an assignment of this claim, a \$500 fee is charged. Why?

**ANSWER:** We do not know.

5. **QUESTION:** For a typical sale of real property, what ADWR fees do I need to keep in mind?

**ANSWER:**

♦ Well Assignment	\$120 per well
♦ Conveyance of Certificate of Grandfathered Right (inside AMAs)	\$500
♦ Assignment of application, permit, certificate or statement of claim (surface water rights)	\$500

**Please note that ADWR has not yet updated its forms to reflect the new fees but will still require the new fees to be paid.**