

**WATER & SEWER COMMISSION  
MINUTES OF MEETING HELD APRIL 03, 2023  
THOMAS F. ALLT UTILITIES TRAINING ROOM  
270 WEST 1<sup>TH</sup> STREET  
YUMA, AZ 85364**

**Chairman Vinod Mohindra** called the meeting to order at 5:00 p.m.

**MEMBERS PRESENT:** Cecil Boelts Vinod Mohindra  
Mike Wicks Carrie Scott

**MEMBERS ABSENT:** Walt Schumacher Tim Eisenmann  
Lorna Brooks

**STAFF PRESENT:** Jeremy McCall, Utilities Director  
Rodney Short, Deputy City Attorney  
Kervina Landry, Administrative Specialist

**PUBLIC PRESENT:** None

**Administrative Items**

- **Approval of Minutes from March 13, 2022**

**Mike Wicks** made a motion to approve the minutes; **Cecil Boelts** seconded the motion.

Ayes: Commission Members Scott, Boelts, Wicks, and Chairman Mohindra

Nays: Commission Members

## **Presentation – Historic and Current Colorado River Conditions**

Rodney Short and Jeremy McCall went over the historic and current Colorado River conditions using a power point presentation.

### Historical Legal Precedents

- 1922 - Colorado River Compact signed (where is Arizona?)
  - Apportioned 7.5 million acre-feet (MAF) to each Basin (15 MAF total)
  - No regard to prior appropriation
  - Prohibited Upper Basin states from depleting the flow at Lee Ferry below 75 MAF for any period of 10 consecutive years
  - Prohibited Upper Basin states from withholding water which could not be applied to beneficial consumptive use
  - Provided for eventual treaty with Mexico
  - Compact acknowledge federal obligations to Native American tribes
- 1928 - Boulder Canyon Project Act
  - Congressional ratification of Colorado River Compact of 1922 and appropriates funds for Hoover Dam and All American Canal
  - Authorizes Secretary of the Interior to become Water Master; sets up contract system for Colorado River water Sets Lower Basin allocations: CA - 4.4 MAF; AZ - 2.8 MAF; NV - 0.3 MAF; and Mexico 1.5 MAF
  - CA irrevocably agrees to limit its annual consumptive use to no more than 4.4 MAF and ½ of any surplus
  - Leads to CA cutting new deal in 1931 Seven Party Agreement with Imperial, Palo Verde, Coachella Valley, LA Metro, SD County, SD City, and Yuma Project
  - CA Districts start contracting to move CA water off-River
- 1931 - California Seven Party Agreement
- 1944 - Mexican Water Treaty (where is Arizona?)
  - Committed 1.5 MAF of annual Colorado River water flow to Mexico
  - Implementing agreements of the treaty- Minutes (operational)
  - Minute 242 (1973) - Salinity in the River. Congressional Act that allocates funds for Yuma Desalination Plant

- Minute 319 (2012)- US/Mexico sharing in surpluses and shortages
  - Minute 323 (2017)- Expands collaborations and shortage risks between countries and forms work group for desalination at Sea of Cortez
- 1956 - Colorado River Storage Project
  - In 1948, Upper Basin divides its 7.5 MAF on percentage: CO 51.75%; UT 23%; WY 14%; and NM 11.25% and AZ above Lee Ferry 50k AF
  - 1956 Project builds dams for water storage and power generation
  - Big tickets are Flaming Gorge, Navajo, Curecanti, and
  - Glen Canyon (Lake Powell) which was completed in 1963
- 1964 - Arizona v. California U.S. Supreme Court Decree (AZ v. CA IV or V)
  - Series of lawsuits since 1922. Arizona refuses to sign onto Compact and sues under Boulder Canyon Project Act and AZ seeks to move water to populations, much like California and Upper Basins
  - 1963, Supreme Court issues decision settling 25-year-old dispute between AZ and CA. Underlying issue is Central Arizona Project
  - CA objects, argues that AZ use of Gila River is Colorado River and CA has already historically beneficially used AZ's water under doctrine of prior appropriation
  - Supreme Court says no. Common law doctrine of prior appropriation does not apply to Lower Basin apportionments
  - Secretary of Interior {Water Master} can only deliver within apportionment framework and mandated annual reports for uses of water in the three Lower Basin states
  - 1979 - Supreme Court recognizes entitlements perfected before Colorado River Compact and in the Boulder Canyon Project Act
- 1968 - Colorado River Basin Project Act
  - Authorizes funding for projects on Upper and Lower basins, but especially authorizes the Central Arizona Water Conservation District to develop a project to send water off-River to central AZ. It is known as the Central Arizona Project (CAP)
  - CAP water supply has lower priority to CA's apportionment in time of shortage. AZ agreed because CA could have killed the bill

- CA lost the war in Supreme Court but won the war in Congress
  - From § 301(b): in any year in which the Secretary determines there is insufficient mainstream water to satisfy 7.5 MAF consumptive use in AZ, CA, and NV, diversions to the CAP will be limited to ensure the availability of water first to satisfy 4.4 MAF of water use in CA and water uses in AZ and NV that predate the CAP.
  - CAP is 4th Priority, 5th Priority (unused), or 6th Priority (surplus)
- 1974 - Colorado River Basin Salinity Control Act (Minute 242)
- 2007 - Interim Guidelines (12/31/2025)
  - Seven (7) state negotiations to provide shortage guidelines and coordinated criteria for operating Lake Powell and Lake Mead
  - Designed to be applied each year from 2008 to 2026 in implementing the Long-Range Operating Criteria (LROC) for the Colorado River reservoirs
  - Levels and Lake Powell and Lake Mead drop well-below expectations
  - May not make it to 2026
  - Drought Contingency Plan (The DCP Makes Colorado River Water delivery shortfalls less painful, but it does not make the shortfalls go away. Tom Buschatzke and Ted Cooke)
- 2012 - 2017 Minute 319 (U.S./Mexico sharing in water surpluses and shortages) and Minute 323 (shortage risks and creation of desalination)
- 2019 - Drought Contingency Plan Authorization Act
  - Drought Response Lake Mead Elevation
  - Tier Zero 1,090'
  - Tier One 1,075'
  - Tier Two(a) 1,050' (minimum power generation)
  - Tier Two (b) 1,045'
  - Tier Three 1,025'
  - DEAD POOL 895'
- Arizona Priority System
  - Priority One: Present Perfected Rights (AZ v. CA)
  - Priority Two/Three: Federal Reservations and Perfected Rights prior to September 30, 1968
  - Priority Four:
    - (i): Contracts between U.S. and AZ water users after September 30, 1968 (non-CAP water)

- (ii): Project Water pursuant to Contract No. 14-06-W-245 dated December 15, 1972, between U.S. and CAWCD for the delivery of Mainstream Water (mainstem) for the CAP, including use of Mainstream Water on Indian lands
    - Priority Five: Satisfaction of Entitlements to any UNUSED Arizona Entitlement
    - Priority Six: Satisfaction of Entitlements to any SURPLUS Apportionment Water
  - Drought Significant Actions
    - August 15, 2022
      - Bureau of Reclamation Deadline
    - November 17, 2022
      - sEIS to the 2007 Record of Decision the 2007 Interim Guidelines
        - Draft sEIS is anticipated to be available in Spring 2023
        - Record of Decision is anticipated to be late Summer 2023
    - January 31, 2023
      - Bureau of Reclamation Seven State Deadline sEIS Alternative
        - Six State Proposal
        - California Proposal
  - Six State Proposal
    - Consensus-Based Modeling Alternative
    - Infrastructure Protection Volume
      - - 1.543 MAF
        - 1145' trigger
        - Five River Reach Assessments
    - Historic Baseline Consumptive Use
      - - 3-year Average for 2019-2021
    - Drought Tier 3 Shortage is moved from 1025' to 1050'
    - Additional Reductions to protect 1000'
      - 1030' would trigger a 250,000 af reduction {93,000 AZ}
      - 1020' would trigger a 200,000 af reduction {168,000 AZ}
- Not Enough Water
  - Over 16 MAF allocated on a
    - River thought to have 15 MAF, but only has about 13 MAF
  - Lake Powell and Lake Mead full and spilling in 2000 and 2001, now approaching Dead Pool
  - Power considerations
  - Historic drought probably closer to 9 MAF and it is being recognized

**Presentation – Water Resource Trust Fund**

Presentation given by Rodney Short, Deputy City Attorney

- A copy of the Resolution No. 2558 was included as a handout to Board Members.
  - A resolution of the City Council of the City of Yuma Amending the "City of Yuma Utility Regulations", as adopted by resolution No. 2482, governing the use of the water and sewer system and prescribing utility rates and fees.
    - Looking at re-starting the Water Trust Fund
      - Went over a current court case
      - We currently have no funds to fight lawsuits
      - Suggestion is to have \$1 residential, \$2 commercial and \$10 Industrial users to put into the fund.
    - Commission discussed the fees for apartment complexes and other multi-dwellings.
      - They feel it would not be fair for 1 person living in a home to pay \$1 and 500 people living in one complex \$1. They would like figure out a way to pay per dwelling.

**Recommendation of Water Resource Trust Fund**

Mike Wicks made a motion to recommend with additional language that was suggested based on multi-dwelling units for Yuma City Council to amend the City of Yuma Utility Regulations, governing the use of the Water and Sewer System and Prescribing Utility Rates and Fees, to reinstitute the Water Resource Trust Fund for the protection and enhancement of the City of Yuma's water rights and supply in a manner consistent with the 1988 City of Yuma Resolution R2558. Cecil Boelts seconded the motion.

Ayes: Commission Members Scott, Boelts, Wicks

Nays: Commission Members

**Status of Current Events**

- o Budget
  - Administration has approved
    - Has approved preliminary budget and should be going to council in the next couple of weeks.
  - DD Expansion
    - Moving forward, the 90% drawings have been completed on that.
    - Permits and construction should start after July.
  - Water Orders are comparable to last year
  - Public meetings near future
    - Utility Rates
    - Compliance (Pretreatment) Program
      - o Emergency Response Plan

**Call to the Public**

- o None Present

**Future Agenda Items**

- o N/A

**Adjournment**

The meeting adjourned at 6:07 p.m.



Kervina Landry, Administrative Specialist

APPROVED:



Chairman & Date

02/05/22