

ARIZONA WATER LAW 101 In Less Than An Hour!?!?

- Colorado River
- Groundwater Law
- Surface Water Law
- Federal Reserved Rights
- Comments/Questions



Some TLA's and Other Acronyms:

AF – Acre Feet – 326,000 gallons (approx.)

KAF - Thousands of Acre Feet

MAF – Millions of Acre Feet

ADWR – Arizona Department of Water Resources

AMA – Active Management Area

INA – Irrigation Non-Expansion Area

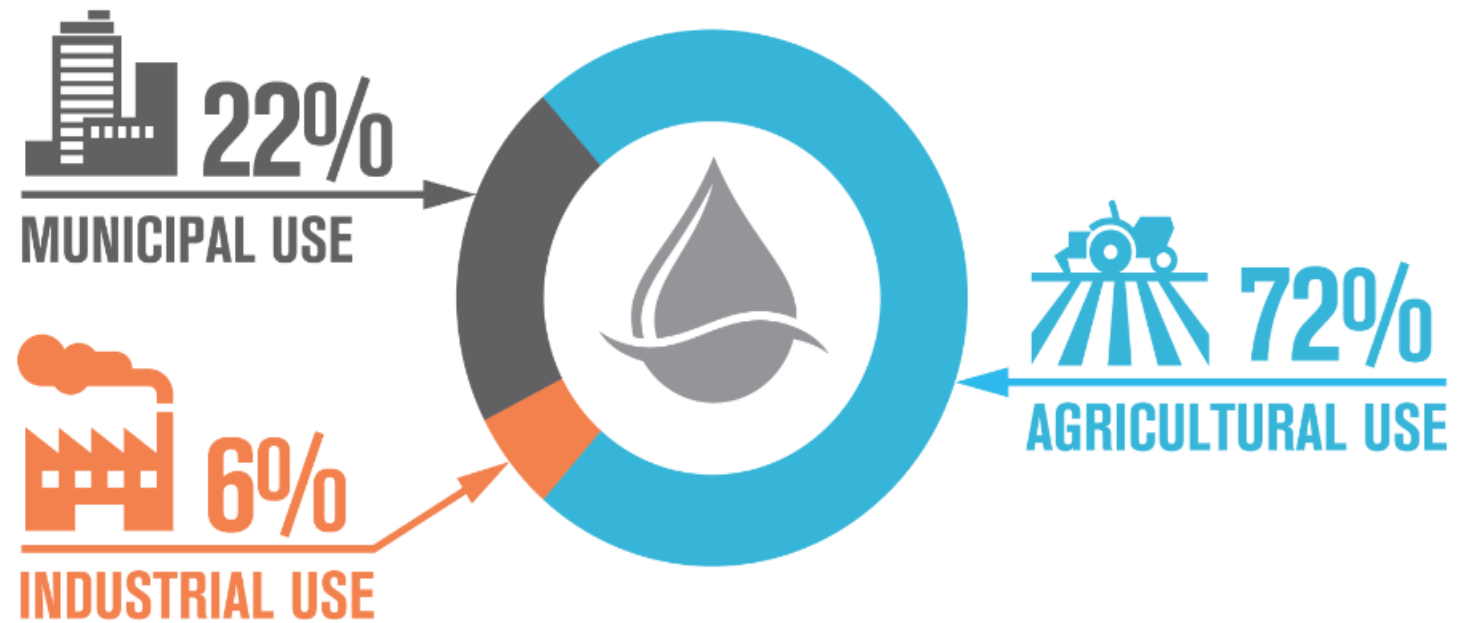
AWS – Assured Water Supply

ARIZONA'S WATER SUPPLY



SOURCE: ADWR, 2020

ARIZONA'S WATER USE BY SECTOR (2019)



SOURCE: ADWR, 2020



COLORADO RIVER

- The “Law of the River” – many sources.
- 1922 Compact 15 MAF total
- 1944 Mexico – 1.5 MAF added
- Water use – 70% Agriculture, Municipal, Other
- Allocation of the River: Upper Basin/Lower Basin States 7.5 and 7.5 MAF/Mexico 1.5 MAF =
- 16.5 MAF Total



COLORADO RIVER

- Lower Basin Allocations:
 - Arizona – 2.8 MAF
 - Nevada – 300 KAF
 - California – 4.4 MAF
 - Mexico – 1.5 MAF
- Total=9.0 MAF

MATH:

- Oh No! The river really only produces about 12-14 MAF per year.
- 16.5 shared Upper Basin/Lower Basin/Mexico $16.5 > 14$
- “Overallocated”

- Lakes Powell and Mead Save the Day - Until Now
- “Dead Pool”??

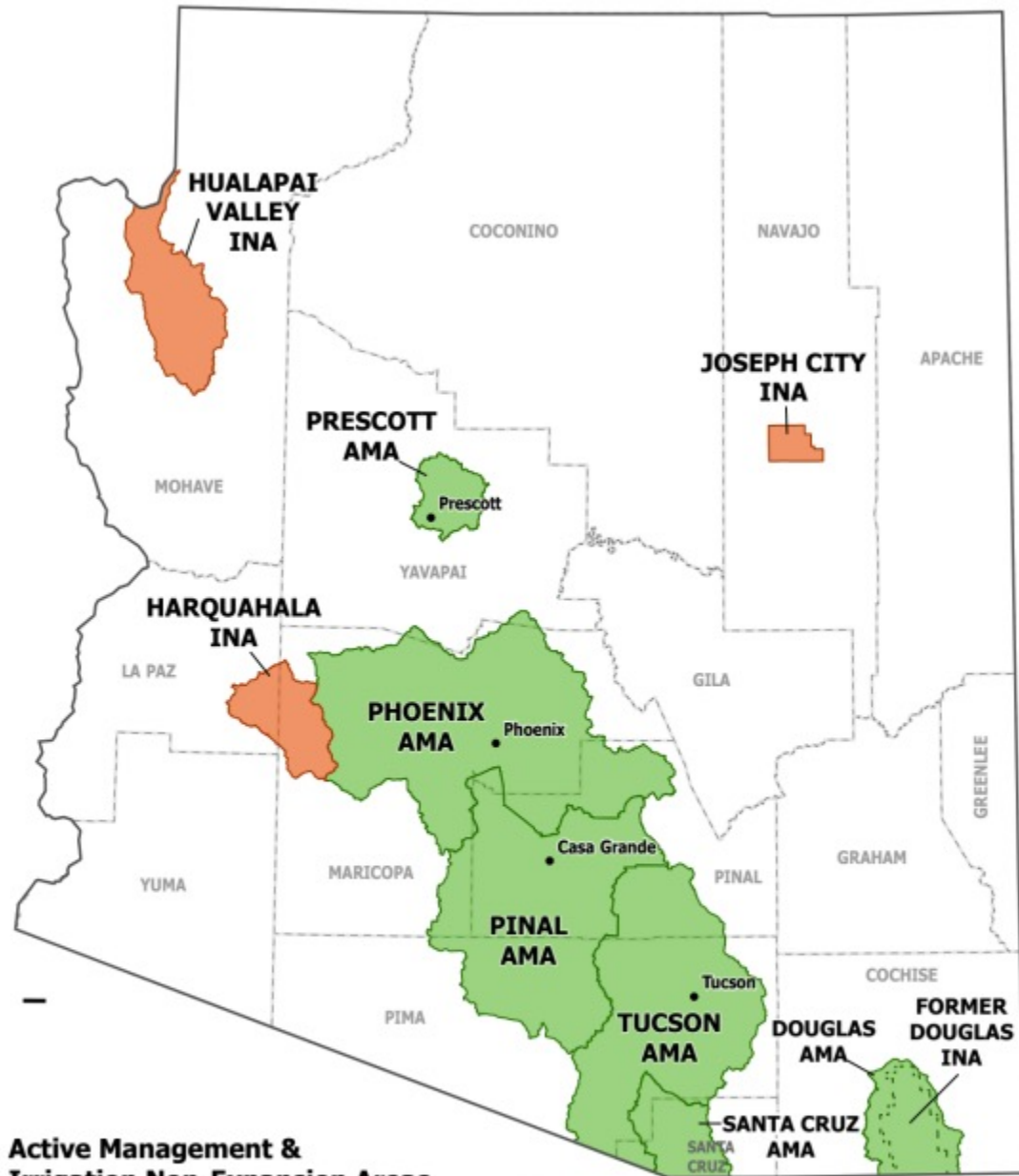
Central Arizona Project

- Priority and Cuts – Arizona Loses. California Wins.
- Tier System – Who loses water?
- Bureau of Reclamation

Arizona Groundwater Law

1980 Groundwater Management Act

LOCATION IS KEY!



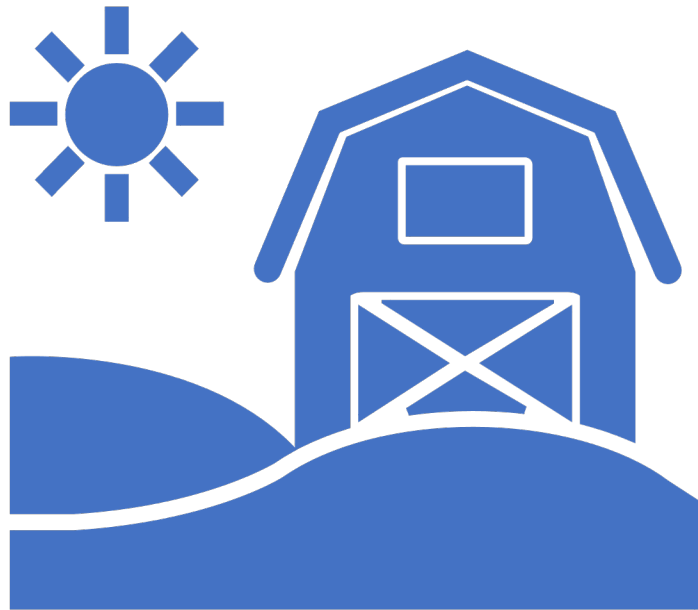
Active Management & Irrigation Non-Expansion Areas



ADWR January 2023

- Active Management Areas
- Irrigation Non-Expansion Areas
- Former Non-Expansion Areas





INA's and AMA's (Groundwater Law)

- Irrigation Non-expansion Area
- Active Management Area
- Water Transfers
- “Safe Yield”
- Other Parts of the State
- Municipal Water Providers
- Assured Water Supply (AWS)
- Long Term Storage Credits (LTSC's)
- “Exempt Wells”

Arizona Surface Water Law:

- Prior Appropriation v. Riparian Rights –
 - West v. East
 - no water v. there is water
- Riparian Rights – Near the Water
- Prior Appropriation - First in Time, First in Right = ARIZONA

Arizona Surface Water Law – The Rules:

- What Water - “The waters of all sources, flowing in streams, canyons, ravines or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste or surplus water, and of lakes, ponds and springs on the surface, belong to the public and are subject to appropriation and beneficial use....”, (Arizona Revised Statutes § 45-141)
- For What Use - Beneficial Use: “...domestic, municipal, irrigation, stock watering, water power, recreation, wildlife, including fish, . . . or mining uses...”
- Where - Appurtenant to the Land
- How Much - Quantification of the Right – How Much You Beneficially Use
- How to Keep the Right – Use it or Lose It
- Process to Guarantee the Right . . .

“Surface” Water Complicated Part:

- “Saturated Floodplain Holocene Alluvium” (Huh?)
- “Subflow Zone”
- Wells are surface water?!?!

The General Stream Adjudication

- A REALLY BIG LAWSUIT: “The Adjudication is the largest and longest judicial proceeding in the history of Arizona, and is among the most complex judicial proceedings in the history of the United States. . . . The Gila and its tributaries—including the Salt, Verde, Agua Fria, Santa Cruz, and San Pedro Rivers—drain most of central and southern Arizona, including the Phoenix and Tucson metropolitan areas. The Gila watershed includes most of the state’s population, agriculture, and industry, and the Gila and its tributaries provide the majority of the surface water supply for the region.” Joseph M. Feller, *The Adjudication That Ate Arizona Water Law*, 49 Ariz. L. Rev. 405, 406-07 (2007).
- Started in the 1970s!
- Where is it Now?
 - Little Colorado River
 - San Pedro River

It's Better to be Upstream With a Shovel, Than Downstream With a Lawyer

Federal Reserved Water Rights



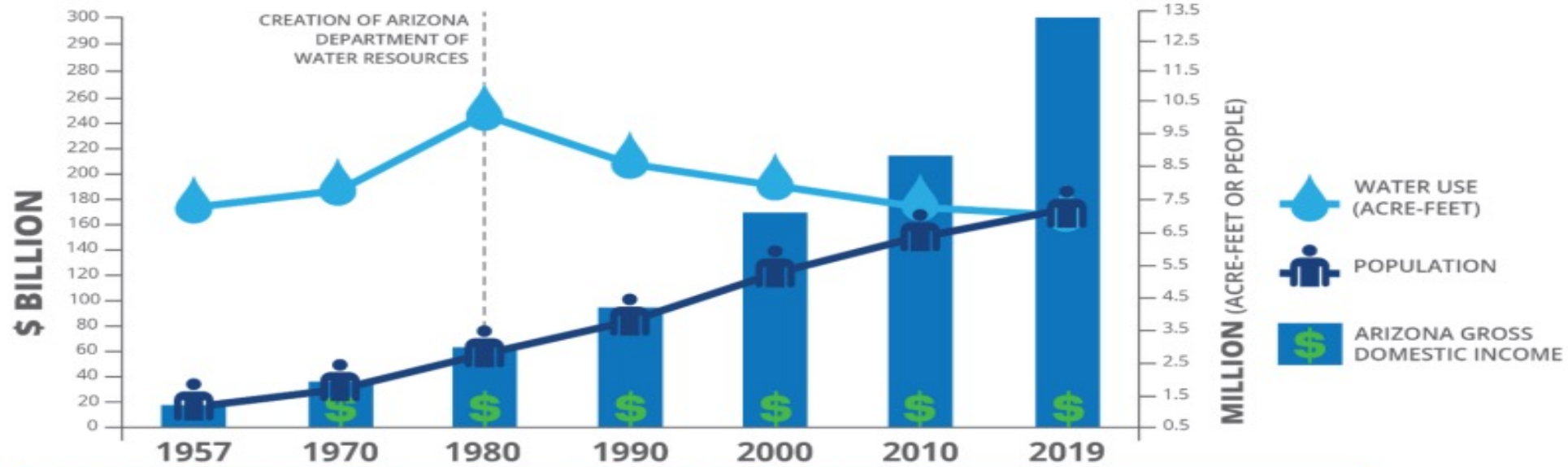
- Apply to tribal reservations and other federal enclaves (national parks, military bases, etc.).
- Can be implied based upon reservation of land for a purpose that requires water.
 - Some reservations also include an express reservation
- Priority date is based upon date of reservation, not date of first use (exception to beneficial use requirement)
- Quantity is based upon amount necessary to fulfill the purposes of the reservation.
- Likely cannot be lost by non-use

Final Thoughts

- Overlap issues – Groundwater v. Surface Water
- ADWR – The big player in Arizona
- Exporting Water and the “Saudi Arabia Scandal”
- AG is not the bad guy
- On a positive note: The Tucson AMA!

ARIZONA'S WATER MANAGEMENT SUCCESS

ARIZONA WATER USE, POPULATION AND ECONOMIC GROWTH (1957 - 2019)



TOTAL WATER USE (IN MILLIONS ACRE/FEET)

1957 7.1 MAF
 2019 6.9 MAF

-3% CHANGE FROM 1957-2019

POPULATION (IN MILLIONS)

1957 1.1
 2019 7.2

555% CHANGE FROM 1957-2019

GROSS DOMESTIC INCOME (IN BILLIONS)

1957 \$ 13.4
 2019 \$ 299.8

2,137% CHANGE FROM 1957-2019



Wilderness
INNOVATIONS

01:45 PM 10/14/2021

Questions?

- Legal Disclaimer: No guarantee I can answer your question; if I don't know the answer, I might make it up.
- Great Websites: U of A Water Resources Research Center (WRRC), ASU's Kyl Center on Water Policy, ADWR's website, GSA Court – Maricopa County Superior Court.
- Whiskey is For Drinking, Water is For Fighting