ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON
NATURAL RESOURCES AND TRANSPORTATION

DATE: April 8, 2003 **TIME:** 1:30 p.m. **ROOM:** SHR 1

CHAIRMAN: Senator Binder **VICE CHAIRMAN:** Senator Jarrett

ANALYST: Kerri Morey, Sean Laux **COMMITTEE SECRETARY:** Tracey Moulton

INTERN: Summer Woodson **ASSISTANT ANALYST:** Tracey Landers

ATTENDANCE **BILLS**

Committee Members	Pr	Ab	Ex	Bill Number	Disposition
Senator Allen	X				
Senator Arzberger	X				
Senator Blendu	X				
Senator Brown	X				
Senator Cannell	X				
Senator Jarrett, Vice Chairman	X				
Senator Binder, Chairman	X				

PRESENTATION

Tom Carr	**Arizona Department of Water Resources**	**Law of the River**

Chairman Binder called the meeting to order at 1:35 p.m., and roll call was taken.

PRESENTATION BY THE ARIZONA DEPARTMENT OF WATER RESOURCES REGARDING THE LAW OF THE RIVER

Tom Carr, Arizona Department of Water Resources (ADWR), distributed a handout entitled Colorado River Compact Allocations (Attachment A). He explained the Colorado River extends from Wyoming to Mexico with seven bordering states. Four of the states are called upper basin states; Wyoming, Colorado, Utah and New Mexico and the other three states are called the lower basin states; California, Nevada and Arizona.

Mr. Carr stated that in the early 1920s the adoption of the Colorado River Compact was completed, which splits the basin into the upper and lower basins and the Lee Ferry. He commented that the upper basin states were allotted 7.5 million acre-feet (MAF) and the lower basin states were allotted 7.5 MAF to split what was thought to be the available water supply. Later in 1944, the United States and Mexico reached a treaty agreement whereby Mexico received 1.5 MAF, so the entire apportionment of the River is 16.5 MAF.

Mr. Carr remarked that most of the water use in the upper basin is for agriculture. There are several different agricultural projects that have been developed over time in Colorado and New Mexico. He noted water has been diverted and shipped over the Rocky Mountains to Denver, Colorado through a canal system and water is also shipped to Salt Lake City, Utah. He noted that a large portion of water is used for agriculture, but significant water resources are delivered for the growing metropolitan areas. The total water use that is occurring today in the upper basin is approximately 4 MAF of the 7.5 MAF apportionment. He remarked that a large amount of the water is tied up for environmental purposes. The upper basin states project that they will not use more than 6 million of their 7.5 MAF over the next 50-60 years. By reviewing their actual water uses for future water projects, it has been predicted that they will use 4.5 –5.5 MAF instead of 6 MAF.

Mr. Carr, referring to the lower basin states, remarked that in 1929 the Boulder Canyon Project Act was signed into law, which built the Hoover Dam and impounded Lake Mead. The Act also split up the lower basin water supply whereby California was given 4.4 MAF, Arizona was given 2.8 MAF and Nevada was given 0.3 MAF during a normal water supply year. California, Arizona and Nevada share any surplus water supply, with 46% surplus water going to Arizona, 50% to California and 4% to Nevada only if the water supply can be used. He noted that it has only been recently that Arizona has been able to use its 2.8 MAF. He explained that the main reason for that is because the State is bringing large amounts of water in and recharging it, up to 300,000 acre feet (AF) per year in past years. Now that Arizona is in a drought, there is a larger Central Arizona Project (CAP) water demand because of lack of water supply from the Salt River. He stated that recharging water is what the State needs to do to insure a future water supply and place water in the ground now to offset future shortages.

Mr. Carr explained one of the more significant events that has occurred in the last forty-fifty years includes the authorization and building of the CAP. This could not be done until the water rights had been settled between California, Arizona and Nevada. He stated that the State had to go to the Supreme Court to fight for its water rights and the State received a decree in 1964. The decree set out the allocations to California, Arizona and Nevada that were apportioned under the Boulder Canyon Project Act. Priorities were also set for who could use the water first during shortage. The

first priority was for people who had irrigation projects in place before 1929 and before the Hoover Dam were constructed. The next priority was everything after 1929. The third and last priority on the river system became the CAP. When the State went to get funding and authorization for the CAP in 1968, Arizona had to compromise with California to get enough votes in Congress.

Senator Cannell asked how much of the 2.8 MAF goes into CAP and how much is for users down river. Mr. Carr stated that of the 2.8 MAF Arizona allotment, users with higher priorities along the Colorado River use approximately 1.1-1.3 MAF. This varies depending on the water use by irrigated agriculture in the Yuma area and on the Colorado River Indian tribal lands and to a small degree, the Mohave County irrigated acres. He stated that ADWR predicts that there will be a firm water supply of 1.5 MAF available to CAP. He remarked that of the 1.5 MAF of the CAP, it was apportioned between the municipal customers, the Indian tribes and non-Indian agriculture. Approximately 640 thousand AF was allocated to the cities in the valley and in central Arizona, approximately the same amount was allocated to Indian tribes and the remainder went to non-Indian agriculture. He stated that through the State's Indian water rights settlements, the Gila River Indian tribe, previous Indian water rights settlements with the Ak-Chin Indian tribe, the Fort McDowell Indian tribe and the Salt River Pima Maricopa Indian tribe agreed to firm allocations of water out of the non-Indian agriculture water. The result is that once the Gila River Indian tribe settlement is approved by Congress, adopted and implemented, all of the water will be allocated to each one of the entities from the 1.5 MAF.

Senator Binder asked if the State would need to buy water from the Indian tribes. Mr. Carr stated that there are provisions for leasing water from Indian tribes. He noted that some of the cities of the Maricopa County area have arranged to make leases in order to bolster their long-term water supply. He remarked that there would be an additional 97 thousand AF available for municipal and industrial purposes by 2010. He stated that this amount of water would be held in trust.

Mr. Carr noted that currently, the State uses the entire 2.8 MAF of apportionment on the River. Prior to this, the State was using 2.0 – 2.2 MAF and California was then able to divert water from the River, and use our unused portion. This allowed California to build a water demand for municipal customers. When ADWR realized that Arizona's water use was growing, it realized that at some point California would have to be asked to cut back on its water use. He stated that conversations with California about this issue began in the early 1990s, knowing that CAP was coming online. He stated that two things happened in the ensuing years. The first was the Arizona Water Banking Authority Act was passed by the Legislature, which allowed Arizona to bring in its water and use it where needed. The second was that because there was surplus water in the River, California did not cut back on its water use. By 2000, negotiations took place between Arizona, California and the other five basin states to create a plan for California to reduce its total water use over the next few years. In an agreement with the Federal Government, the Interim Surplus Guidelines (ISG) allow a surplus to be declared so that the Southern California Metropolitan Water District (MWD) has a full supply or "ditch." In return for the guidelines, a quantification settlement agreement was needed in California that provided for a progressive and verifiable reduction of its water use from 5.2 MAF to 4.4 MAF over a 15-year period. ADWR was successful in negotiating interim surplus guidelines, which were adopted in 2000 by the Federal government. Within the guidelines, California has to meet certain benchmark reductions in agriculture use so that MWD's water supply is protected. California negotiated an agreement to share their water supply and transfer water from Imperial Irrigation District to MWD. Unfortunately, at the last minute, the agreement fell apart because Imperial Irrigation District was afraid that they were going to be asked to contribute too much for the mitigation

of the Salton Sea in December 2001. As a result of the settlement not coming forth, according to the ISG, the surplus for MWD was suspended until such time that an agreement is made. He stated that an agreement has been made, but it cannot be finalized until the California Legislature appropriates a couple hundred million dollars for the restoration of the Salton Sea, which is working its way through the process. This situation should be settled sometime between May and October of this year. He stated that prior to the failure of the quantification settlement agreement, Arizona negotiated with California that Arizona would waive its right to its 46% of the declared surplus during this 15 year time period and that MWD would guarantee that Arizona would not suffer a shortage of water by providing up to 1 MAF to Arizona during the 15 year time period. This is what is referred to as a forbearance and reparation agreement, which is embodied in SJR 1002.

Mr. Carr commented that another issue that is of concern with the water users is the need to have the federal government move toward operation of the Yuma Desalting Plant. He stated that the desalter is there to reclaim some water that is now going to Mexico with no credit to the United States or Arizona. Consequently, the State is losing approximately 100,000 AF out of storage. He said this amount of water is equivalent to a little less than what the City of Phoenix used last year in CAP water.

In response to Senator Binder, Mr. Carr stated that the Yuma Desalting Plant was built and completed in the early 1990s at a cost of $260 million. He noted that it is expensive to operate and commented that ADWR views its operation as part of a treaty obligation.

In response to Senator Arzberger, Mr. Carr explained SJR 1002 authorizes the ADWR to enter into an agreement with the MWD to waive Arizona's right to surplus water from the Colorado River. In exchange, MWD agrees to gradually reduce California’s use of Colorado River water and to protect Arizona from future shortages on the river.

Without objection, the meeting adjourned at 2:20 p.m.

Respectfully submitted,

Tracey Moulton
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room, 115.)