

## AGENDA



**WORK SESSION  
MAYOR and  
COMMON COUNCIL  
of the  
TOWN OF CAMP VERDE  
COUNCIL CHAMBERS  
473 S. Main Street, Room #106**

**WEDNESDAY, FEBRUARY 9, 2005  
6:30 P.M.**

1. **Call to Order**
2. **Roll Call**

*Councilor Gioia requested the following item:*

3. **Presentation and discussion about data that has been assembled on Camp Verde's water rights.**
4. **Adjournment**

Posted by: *V Jones*

Date/Time: *2-4-05 10:45 a.m.*

*Note: Pursuant to A.R.S. §38-431.03.A.3, the Council may vote to go into Executive Session for purposes of consultation for legal advice with the Town Attorney on any matter listed on the Agenda, or discussion of records exempt by law from public inspection associated with an agenda item.*

The Town of Camp Verde Council Chambers is accessible to the handicapped. Those with special accessibility or accommodation needs, such as large typeface print, may request these at the Office of the Town Clerk.

## **Carol Brown**

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**From:** "John Munderloh" <John.Munderloh@co.yavapai.az.us>  
**To:** "Carol Brown (E-mail)" <cjbrown@cvaz.org>  
**Cc:** "Tony Gioia (E-mail)" <tgif@commspeed.net>  
**Sent:** Tuesday, February 01, 2005 4:22 PM  
**Attach:** Water Rights and Claims.doc  
**Subject:** Handout for 2/9 Council Work Session

Hi Carol,

Councilman Gioia asked that I mail the attachment to you for inclusion in the Council Packet for the 2-9-05 work session. This is associated with the topic regarding Camp Verde water rights.

Thanks,

John

<<Water Rights and Claims.doc>>

2/4/2005

## **Types of Water Rights and Claims**

Water rights in Arizona have been claimed under five broad legal categories throughout its history: 1) territorial and state surface water code, 2) state groundwater code, 3) court decrees, 4) federal law, and 5) adjudication statements of claimant. In most cases, the first four categories are independent of one another not only in the way in which the rights are initially acquire or claimed, but also by the manner in which they are administered or regulated. The adjudication statements of claimant are intended to bring these various claims together into one broad decree of water rights through the Adjudication Court.

### **Surface Water Code:**

In 1864, the first territorial legislature of Arizona adopted a prior appropriation system for surface water rights, the primary water source of the time. Under prior appropriation, those who are first in time to use water are also first, or most senior, in right. No method for filing or receiving specific grants of water rights was developed at this time, although many appropriators did post a notice with County Recorder's offices. In 1893, the territorial legislature developed a requirement that new water appropriations be posted at the point of diversion and recorded at the county recorder's office. But these notices of appropriation did not constitute a grant by the legislature for a water right.

After statehood in 1912, the legislature enacted the state water code, or Public Water Code, effective on June 12, 1919, which remains substantially the same today. It requires that an application be filed with a state administrative agency (currently the Arizona Department of Water Resources, established in 1980). If all application requirements are met, the applicant will receive a permit and finally a certificate of water right. DWR records these water right applications, permits and certificates with the prefix of "33", "4A" or "3R", in that order.

Two registration acts were passed in the 1970s, one to claim rights for stockpond use and another for claimed water rights that were initiated prior to the surface water code of 1919.

Numerous stockponds were constructed after the 1919 surface water code without complying with that code's filing requirements. Because of this, the Legislature passed the 1977 Stockponds Registration Act to provide a method of registering those stockponds constructed between 1919 and 1977 and that did not have an application, permit or certificate. This Act applies only to ponds that are used solely for stock or wildlife watering and that have a storage capacity of less than 15 acre-feet. DWR affixes a prefix of "38" to these filings.

Many appropriations of water that occurred prior to the 1919 surface water code were not recorded or remained recorded only in various vehicles used by various County Recorders. The 1974 Water Rights Registration Act provided a means for those pre-1919

water right appropriators to file a statement of claim with the State. There were various due dates for these claimants, but the last cut-off date for filing under this act was in 1990. This act did not provide a process to determine the validity of the claims, such as in the 1919 code, apparently leaving that determination for the adjudication process. DWR affixes a "36" prefix to claims filed under this act.

### **Adjudication Claims**

All persons who claim to have water rights within two of Arizona's major river systems (the Gila and the Little Colorado) are required to file a statement of claimant or risk the loss of their rights. DWR has assigned a "39" prefix to all statements of claimant filed under the Adjudication Court. These "39's" should, in theory, be able to be matched to any of the previous filings for claims unless the water appropriation occurred after the close of the filing deadline for the other water right records. Although originally intended to be a surface water rights adjudication, the scope of the proceedings has grown to include groundwater users. As a result, most well owners have filed a corresponding "39" for their well water uses.

### **Well Registrations:**

ADWR requires that all wells drilled after the passage of the 1980 Groundwater Code be registered. Many well owners have also decided to register wells drilled prior to this act. ADWR affixes a "55" to these well registrations but there is no presumption of water right associated with registering a well. The Adjudication Claims, or "39s", is the only filing program for well water users located outside of an AMA to claim a water right. Outside of the 5 Active Management Areas, there are no restrictions on withdrawing groundwater as long as it is used for beneficial purposes.

Another well record dataset was created prior to 1980, called the "35" well database. The information in this GIS database contains only the location information and the "35" number. Other well information has to be manually located within a stack of scanned documents recorded on a number of compact disks. This database has limited applications, however, the scanned data is available from DWR for \$300.00.

### **Water Rights and Registration Datasets:**

The ADWR GIS datasets that record the location and basic filing information for each of the above listed water rights and well registration programs are point files in GIS. The location of the filing points is based on placing a point in the center of the claimed location, based on a cadastral, or section quarter system. For example, a claimant file may locate the water right in the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 8, Township 13 N, Range 5 E. This describes a portion of land that is approximately 10 acres in extent. If there are other water users within the same 10 acre area of land, they may also claim the same location. Consequently, the GIS database will have several points located at the same location, i.e. at the center of that 10 acre subsection. Another issue that compounds the problem of determining who the water right filing belongs to is that most land owners do not update their water right filings when a piece of property changes ownership or if the property is split.

For the purpose of Adjudication Investigations, ADWR personnel develop Watershed File Reports (WFRs) for each land owner in a watershed that have claims to a water right. As part of this process, ADWR determines which landowner the water right filing(s) belong to, and makes a recommendation of the extent and location of the water right and determines the point of diversion and means of conveyance of the water source. DWR initiated this process in the Verde Valley in the late 1990's, but did not complete a report since the adjudication process was stalled in Court and personnel resources were needed for other projects in the agency. These are not publicly available until DWR releases a report to the Court since they are in effect Court documents prepared for purposes of litigation.

**Groundwater Site Inventory Database:**

The GWSI database is a compilation of hydrologic data gathered on various wells in the State. The well locations and elevations are now recorded with survey-grade GPS devices, prior to the advent of this technology, the well location information was plotted on a USGS 7.5' Topographic map and the grid location and elevation was derived from this source. ADWR or USGS personnel complete annual evaluations of water level elevations on certain wells, or index wells, in each groundwater basin. Additionally, about every 5 years they attempt to complete a "well sweep" in each groundwater basin in which a significant portion of wells in that basin are measured for depth to groundwater. The wells in this database are a subset of the wells in the well registration database, but it is often difficult to correlate the two; the location information is different because of the difference in the level of accuracy. Occasionally, the GWSI database will record the well registration number.