

COMMUNITY

YAN water rights

BY VINCENT RANDALL,
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(Part II of Part I
already published in
Gahnahvah-Yati News)

Sometime around 1969, unbeknownst to us, the BIA Area Director, Wade Head, and the B.I.A. area solicitor entered into a water rights agreement with Salt River Project for meager 525 acre feet of water per year. In those days the acre feet of water we were entitled to was dependent on how much agricultural land was being farmed on the Reservation. So in 1969 under pressure by YAN tribal member who worked for the BIA and was under the thumb of Mr. Head, our tribal council foolishly signed the compact. In the meantime, courts were deciding water issues for Indian people around the west in numerous Winter's Doctrine proceedings. One of these rulings affected reservations that were terminated at one time and re-established at a later date. Like our situation, the Rio Verde Reserve was terminated by an Executive order signed by President Grant in 1875 after our people were removed to San Carlos and then rees-

tablished in 1911 when Congress appropriated funds for the re-purchased parcel of our ancestral lands in the Verde Valley reasserting our rightful (although now much smaller) reservation as well as establishing a legal path to obtaining our Reserved Federal Water Right.

An important concept in federal water law is a Federal Reserve Water Rights Priority Date: This establishes the Nation's place in the pecking order of water rights on the Verde River, the earlier the date the better the water right. The earlier the priority date, the more water, we are guaranteed by the feds. It means YAN actually gets wet water, not paper water. This is a distinction we make in water negotiations; wet water vs. paper water. Real water comes out of the tap; you can make coffee with it, take showers and water your garden. Paper water is like many promises made by the feds, it only exists on paper and you have to sue in court to get it or fight with others over whose it really is and in the end it never comes out of the tap. It stays on the paper. YAN wants real wet water with an early priority date; we do not want or need the

paper kind of water.

Court opinion in Winter's Doctrine: if a reservation is re-established from the public domain at a later date (meaning federal land) the Federal Reserve Water Rights date reverts to when the Rio Verde Reservation was initially established by Executive Order, which would be 1911 or 1922 when our lands were reacquired by Congressional funding, in which some of these lands were never taken out of the public domain. However withdrawal of lands from the public domain is not the only way of creating Federal Reserved Water Rights.

Around 1974: Joe Sparks is hired as our water rights attorney. Soon after West Anderson (WMAT), Bob Key (SCAT), and Vincent E. Randall (YAN) and Vera Brown Starr (YAN) meet with Bill Veeder, Director of the Department of Interior Indian Water Rights Division, who had thankfully kept the highly inadequate and questionable Salt River Project Water Agreement with YAN under his hat. Because of his help, the agreement was never signed into law and was in fact nullified. That began the long process of round

two to get a better deal.

CAP=the Central Arizona Project. Soon after this Joe Sparks working on YAN's behalf got a 1500 acre feet per year allotment of CAP water, which has never been deliverable from the canal that was constructed. He also advised us not sell it as it could be used in a trade down the road. Some tribes sold their shares to cities like Scottsdale. Our CAP water is an example of paper water. It belongs to the Nation, but we cannot use it because there is no way it can be delivered to us. However it is still an asset as a bargaining chip.

Our YAN water rights settlement lingered on, barely alive, with no action through the 1980s and 1990s, simply because the major stakeholder in Arizona water rights, Salt River Project (SRP), would not come to the table and talk with us. Also, Congress made more rules and a new government component had to be at the table with us, which was called a Federal Water Rights Team. In the meantime, Joe Sparks was constantly putting out brush fires on our behalf in Arizona state court that were constantly attempting to diminish our rights to wet water. As the year



2000 rolled in, a number of issues developed.

a. In 2002 A court case determined water rights and acre feet numbers were not simply dependent on agricultural production in Indian Country, but now would consider domestic, cultural, commercial and industrial use of water as legitimate.

b. 2005-SRP begins sending our feelers to YAN due to threat of Prescott over pumping the Chino Valley aquifer, known as Big Chino. Prescott pumping the aquifer would significantly reduce the flow of the Verde River in short term and eventually turn the River into a seasonal creek within the next twenty years.

c. 2006-YAN and SRP meet in Scottsdale to begin water settlement negotiations, talks on a "fair and equitable" amount of acre feet in wet water for the Nation.

d. In 2009, the

Nation ended its contact with Joe Sparks and retained the firm of Montgomery and Interpreter who continue to serve as outside legal counsel (OLC).

e. We walked away from official talks with SRP in October of 2011 as they were attempting to, for a second time, cram a bad deal with lot of paper water down our throats. Our negotiating team including our OLC decided it was better to have no deal than a bad deal. We are through with getting bad deals. Since then we have been working the scenes with our local communities, the federal water team, the Governor's office and members of Congress to move our settlement forward until we can get an agreement and federal legislation pass that is fair and adequate to present and future needs of the Nation.



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PUBLIC NOTICE

Community Development Notice (required by 24 CFR 1003.604)

In order to permit residents of the Yavapai-Apache Nation ("Nation") to examine and appraise our 2019 application for grant funds from the U.S. Housing Urban Development (HUD) Indian Community Development Block Grant (ICDBG), the Nation invites you to comment and provide input into the grant application. HUD has combined funding years 2019 and 2020; thus, doubling the competitive award amount from \$605,000 to \$1,210,000. The Nation has the opportunity to apply for approximately \$1,210,000 under the combined HUD ICDBG grant program for community facilities, economic development, housing activities, and a range of other activities in the 2019 and 2020 funding cycle. The Notice of Funding Availability (NOFA) was recently published in the Federal Register and the Nation invites your input and participation in our planning and prioritization of projects and decision-making.

A public meeting is scheduled for Saturday, January 11 at 9:00 am at the Yavapai-Apache Nation Administration Office Building. This will be the Tribal Council's Community Meeting previously scheduled for this day. We request your attendance and participation in the planning of this important project. We want to know your views about the project to be applied for under this grant program. You are also invited to submit written comments to the Nation's Attorney General to be considered in our 2019-2020 ICDBG grant application. All of our audits are current and without significant issues, disallowed costs, or findings. All of our HUD grants have been successfully performed and completed in previous years and in full conformance with HUD and other applicable regulations. You are invited to review and comment on the Nation's performance under any prior community development block grants. Information is available for review at the Yavapai Apache Nation Tribal Administration offices located at 2400 West Datsi Street, Camp Verde, Arizona 86322.

Summary of Proposed Grant Project:

It is proposed that the 2019-2020 ICDBG grant be used to fund one Public Facilities and Infrastructure project to utilize solar energy to reduce the Nation's demand for nonrenewable energy and benefit our low-to-moderate income community members and patrons to our public facilities. The Project will also be used to provide emergency generators to provide back-up power for selected public facilities and critical infrastructure of the Nation. This project has been identified through participation of the Yavapai-Apache Nation as meeting the highest-priority needs for improving public facilities in our community. Please provide your views to us on this important activity.



Birthday Wishes !!!

I want to wish my Son Royalton Cornelius III a huge Birthday shout out! His birthday date is January 26th. I won't mention his birthday year. Aye.

From Mom. Laura Cornelius.

Birthday Greetings to my son Dave Kinsey Jr. on January 17th.

I thank God for the son you are. You are always ready with a helping hand and words of wisdom. Thank you son. I love you." Mom/Reba Franco

To my Grand-daughter Reyna Pita on January 14th,

Happy Birthday to a wonderful grand-daughter. You have been a joy and blessing to me and I love you very much. Thank you for the beautiful great-grandchildren."

With love, Grandma/Reba Franco



Gordon Lewis-Yavapai-Apache artist of Ft. McDowell. Mr. Lewis visits the Nation often to show his artwork.

