

HISTORY OF BONITA CREEK WATER COMPANY

Arizona Corporation Commission Documents – ACC #02271665

- July 18, 1956 ACC - Decision No. 29758 – Louis Himmelstein and Milton W. Bochat, d/b/a Rancho Bonita Water Company, was granted Certificate of Public Convenience and Necessity (CCN)
- August 3, 1956 State Land Department/Water Division Application No. A-3568 by Milton Bochat, d/b/a Bonita Creek Water Company files “Notice of Application to Appropriate Water”
- November 13, 1961 State Land Department/Water Division Application No. A-3568 was rejected by Decision and Order
- December 9, 1965 ACC - Decision No. 38200 – Transferred the CCN to United Utilities, Inc. when it acquired the Rancho Bonita Water Company
- March 5, 1970 Salt River Project acknowledges 3.5 acres have water rights perfected by historic use entitled to 8.75 acre-feet/year from Bonita Creek
- June 8, 1972 ACC – Decision No. 42274 - United Utilities, Inc. transferred CCN to Putnam-Graham Properties, a general partnership and changed the name to d/b/a Bonita Water Company
- July 13, 1988 ACC – Decision No. 56048 - Bonita Water Company was an Arizona sole proprietorship. ACC ordered Putnam-Graham Properties to transfer CCN to Bonita Water Company, an Arizona sole proprietorship. [Paragraph 15 states, “As a further problem, [ACC] staff has determined that the security of BWC’s present water source is questionable due to an unresolved dispute with the Salt River Project concerning surface water rights claimed by the Company.”]
- June 1990 Dude Fire devastated the area and water system
- October 3, 1990 Original Articles of Incorporation for Bonita Creek Land and Homeowners’ Association C Corporation formed – Public Utilities Service Corporation ACC #02271665
Franchise to operate a community system a/k/a Bonita Water Company
- December 11, 1990 CCN No. W-02195A issued to Bonita Creek Water Company transferred to Bonita Creek Land and Homeowners’ Association W-02195B and identified as ADEQ Public Water System #04-024

February 11, 1992 Bonita Creek Water Company [Gila County Board of Supervisors] to Bonita Creek Land and Homeowners' Association

November 6, 1992 Bonita Creek Land and Homeowners' Association files with ADWR Application for Permit to Appropriate Public Water of the State of Arizona No. 3396240 [never approved – SRP objected]

December 14, 1992 Salt River Project filed “Statement of Protest” with ADWR documenting claims back to 1893

October 15, 2003 Bonita Creek Land and Homeowners' Association – application to ACC to change from public service corporation to a “non-public utility service corporation” [attempt to avoid ACC jurisdiction]

January 20, 2004 ACC – Decision No. 66734 – Bonita Creek Land and Homeowners' Association is an Arizona nonprofit corporation

September 3, 2005 ACC-0227166-5 Bonita Creek Land and Homeowners' Association amended name to Bonita Creek Property and Preservation Association

October 20, 2010 ACC-0227166-5 Bonita Creek Property & Preservation Association amended name to Bonita Creek Land and Homeowners' Association

October 2015 Water Rights Transfer, Water Exchange and Water Delivery and Use Agreement for the Bonita Creek Land and Homeowners' Association Water Systems Among Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District and Bonita Creek Land and Homeowners' Association

Executed by SRP and Betty H. McRae for the BCLHOA, Inc.

Amount 15 acre-feet/year up to 17.45 acre-feet/year

June 2018 First Supplemental Water Rights Transfer, Water Exchange and Water Delivery and Use Agreement for the Bonita Creek Land and Homeowners' Association Water System Among Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, and Bonita Creek Land and Homeowners' Association

Executed by SRP and Dieter Armbruster for the BCLHOA, Inc.

[Salt River Project CC Cragin Reservoir Stored Water under CWR No. 3696.0001]

March 11, 2020 Bonita Creek Land and Homeowners' Association LLC files application with Arizona Department of Water Resources “Application to Sever and

Transfer” 15 acre-feet/17.45 acre-feet from SRP’s Certificate of Water Right No. 3696.0002

June 26, 2020

Bonita Creek Water Company Amended and Restated Articles of Incorporation, is now a “cooperative” under the Arizona Nonprofit Corporation Act

Worsham, Jerry

From: Sigl Patrick B <Patrick.Sigl@srpnet.com>
Sent: Thursday, May 20, 2021 10:09 PM
To: Worsham, Jerry
Cc: Buchwalter Axel N
Subject: Bonita Creek - SRP Water Rights Summary

** External Sender **

Jerry, let me know if this works:

SRP claims the right to water from Bonita Creek with priority dates as early as 1869 under multiple legal basis including those listed below. Water flowing in Bonita Creek is surface water subject to appropriation under state and federal law. Bonita Creek is tributary to Ellison Creek which is tributary to the East Verde River, which is a tributary of the Verde River, which flows into Horseshoe and Bartlett Reservoirs and is stored for diversion and beneficial use by SRP shareholders.

Normal Flow Rights: Lands within the Salt River Reservoir District hold decreed rights to the normal flow of the Salt and Verde Rivers and their tributaries with priority dates ranging from 1869-1910 under multiple judicial decrees including:

1. Pursuant to the Decision and Decree, and all decrees supplemental thereto, entered by the District Court of the Third Judicial District of the Territory of Arizona, In and For the County of Maricopa, in Hurley v. Abbott, No. 4564, March 1, 1910 (Kent Decree), the priority dates set forth in the Kent Decree.
2. Pursuant to the Decision and Decree, and all Decrees supplemental thereto, entered by the District Court of the Third Judicial District of the Territory of Arizona, In and For the County of Maricopa, in United States v. Haggard, No. 19, June 11, 1903 (Haggard Decree), the priority dates set forth in the Haggard Decree.
3. Pursuant to the Decision and Decree, and all Decrees supplemental thereto, entered in Benson v. Allison, In the Superior Court of Maricopa County, State of Arizona, No. 7589, November 14, 1917 (Benson-Allison Decree), the priority dates set forth in the Benson-Allison Decree.

Water Rights under the 1919 Water Code: Once the State of Arizona passed the surface water code in 1919, a surface water user could only appropriate water by applying for a permit to the state regulatory agency. Under the 1919 water code, SRP applied for permits and received certificates of water rights with priority dates of August 30, 1920, October 2, 1920, and December 12, 1921 (Certificate Nos. 33-97004.000 for Horseshoe Dam/Reservoir, 33-97005.000 for Bartlett Dam/Reservoir, 33-11.0000 for the Salt and Verde River Reservoirs) to store surplus waters from the Verde River and its tributaries in the Verde River Reservoirs.

Water Rights based on beneficial use prior to 1919: SRP also claims water rights under state law that existed prior to the enactment of the 1919 water code. Prior to the 1919 water code, a water user could appropriate water by posting a notice at the point of diversion, recording the notice with the county recorder, and putting the water to beneficial use. SRP claims water rights under notices of appropriation posted on February 6, 1906 and recorded by Frank H. Parker, Secretary of the Association, with the Maricopa County, Arizona, Recorder's Office relating to the unappropriated waters of the Salt and Verde rivers and their tributaries and notices of appropriation posted on March 4, 1914, and recorded by John P. Orme, President of the Association with the Maricopa County, Arizona, Recorder's Office to waters of the Verde River and its tributaries.

Water Rights based on federal law: In addition, SRP also claims water rights under federal law related to its construction as a federal reclamation project authorized in 1903 under the Reclamation Act of 1902 and acts amendatory and supplementary thereto as well as lands withdrawn by the U.S. for the purpose of constructing the federal reclamation project.

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SRP & BONITA CREEK WATER COMPANY AGREEMENT

General Background

- SRP and the Bonita Creek Water Company (formally “Bonita Creek Land & Homeowners’ Association”) entered into an agreement to (1) obtain a water right for water stored in C.C. Cragin Reservoir, (2) exchange water stored in C.C. Cragin with water withdrawn from Bonita Creek, and (3) provide a mechanism for Bonita Creek residents to legally withdraw water from Bonita Creek.
- The agreement provides certainty to residents of Bonita Creek that the Bonita Creek Water Company can continue to make diversions of water from Bonita Creek.

What does this agreement provide for the community?

This agreement provides an average of 15.00 acre-feet (up to a maximum of 17.45 acre-feet) of water each year. Bonita Creek Water Company and SRP calculated a projected water demand of 15.56 acre-feet at full buildout for the Bonita Creek Estates. This demand was calculated using 148 service connections, a population of 2.4 people per connection, an occupancy rate of 75%, and a per capita water usage rate of 52 gallons per person per day (“GPCD”).¹

What does this agreement mean for customers of the Bonita Creek Water Company?

The agreement does not require any action from individual customers of the Bonita Creek Water Company. Customers of the water company gain certainty knowing that their water provider has a legal basis for continuing to deliver water to its customers. Bonita Creek Water Company is responsible for a portion of the semi-annual costs tied to operate C.C. Cragin Reservoir. The semi-annual cost for 2021 was \$476.66.

What does this agreement mean for homeowners with their own wells or diversions?

Homeowners with private wells or diversions that withdraw or divert water from Bonita Creek without a water right can choose to enter into an agreement with the Bonita Creek Water Company to cover their water use. This is entirely optional - homeowners are not required to enter into an agreement with the Bonita Creek Water Company, but risk being told to stop withdrawing or diverting water from Bonita Creek by the Arizona Department of Water Resources (“ADWR”) or the General Stream Adjudication.

Do I have to install a flow meter?

This agreement does not require customers of the Bonita Creek Water Company to install a flow meter. While the Bonita Creek Water Company does need to account for the amount of water it uses, this does not require any action from individual homeowners. Homeowners with private wells or diversion that enter into an agreement with the Bonita Creek Water Company to cover their water use, are also not required to install a flow meter. Alternative options are available for estimating water use.

¹ The number of water connections at full buildout equals the number of buildable lots; the population per connection was based on census data for Northern Gila County; the occupancy rate was estimated by the Bonita Creek Water Company, and the GPCD was calculated using the water usage reported by the Bonita Creek Water Company from 1992-2019.