

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

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**AMENDED
JOINT APPENDIX
VOLUME 76, PART 2**

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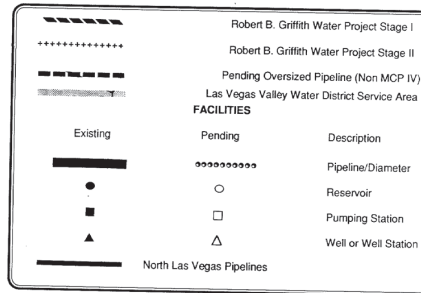
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Water

Las Vegas Valley Water District

LEGEND**Wells**

Number of existing wells	25
Wells under construction	10
Proposed new wells	27
Existing well capacity	71 million gallons per day
Total future well capacity	195 million gallons per day
Annual groundwater allotment	39,695 acre-feet
District groundwater usage, 1989	34,025 acre-feet

Reservoirs

Number of reservoirs	16
Proposed new reservoirs	4
Total reservoirs capacity	393 million gallons
Total future reservoir capacity	503 million gallons

Pumping Stations

Number of pumping stations	13
Proposed new pumping stations	7
Proposed pumping station additions	8
Daily capacity	502 million gallons
Total future daily capacity	943 million gallons

Southern Nevada Water System

Total amount treated and transmitted, 1989	240,747 acre-feet
District usage, 1989	188,692 acre-feet
Annual SNWS allotment (per CRC contract)	299,000 acre-feet

Water Usage

Average daily usage	196 million gallons
High usage day, July 30, 1989	296 million gallons
Total usage - 1989	219,041 acre-feet
Projected total usage - 1990	240,000 acre-feet

Distribution System

Number of pressure zones	16
Elevation of zones	1,845 to 3,090 (feet above sea level)
Water pressure	45 psi at the upper elevation to 95 psi at the lower elevation of each zone

SOURCE: Las Vegas Valley Water District "Water Facts"



Scale: 1" = 4588'

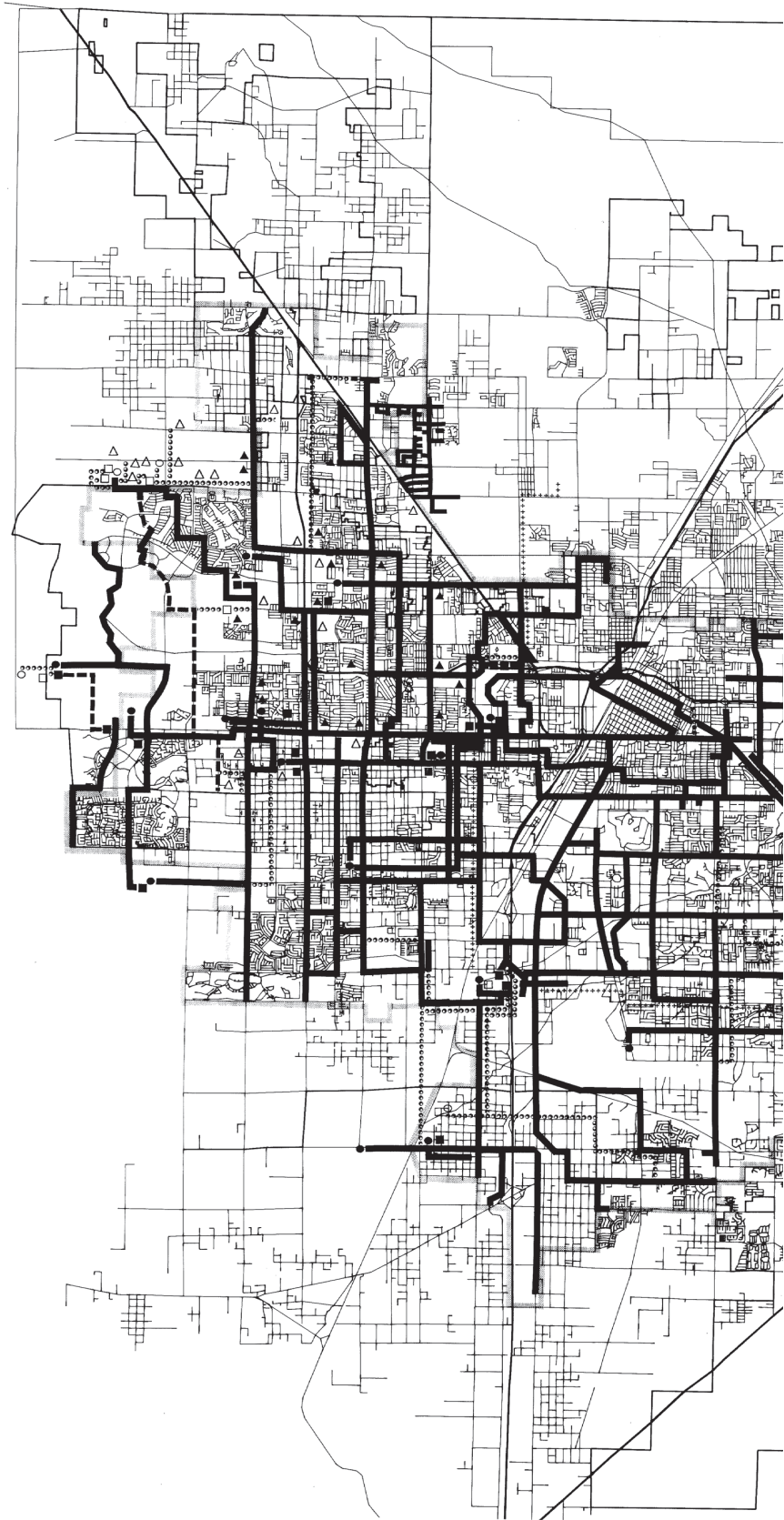


Produced by: City of Las Vegas, Nevada
 Geographic Information System

CLV053119

2937

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IV-16b Infrastructure














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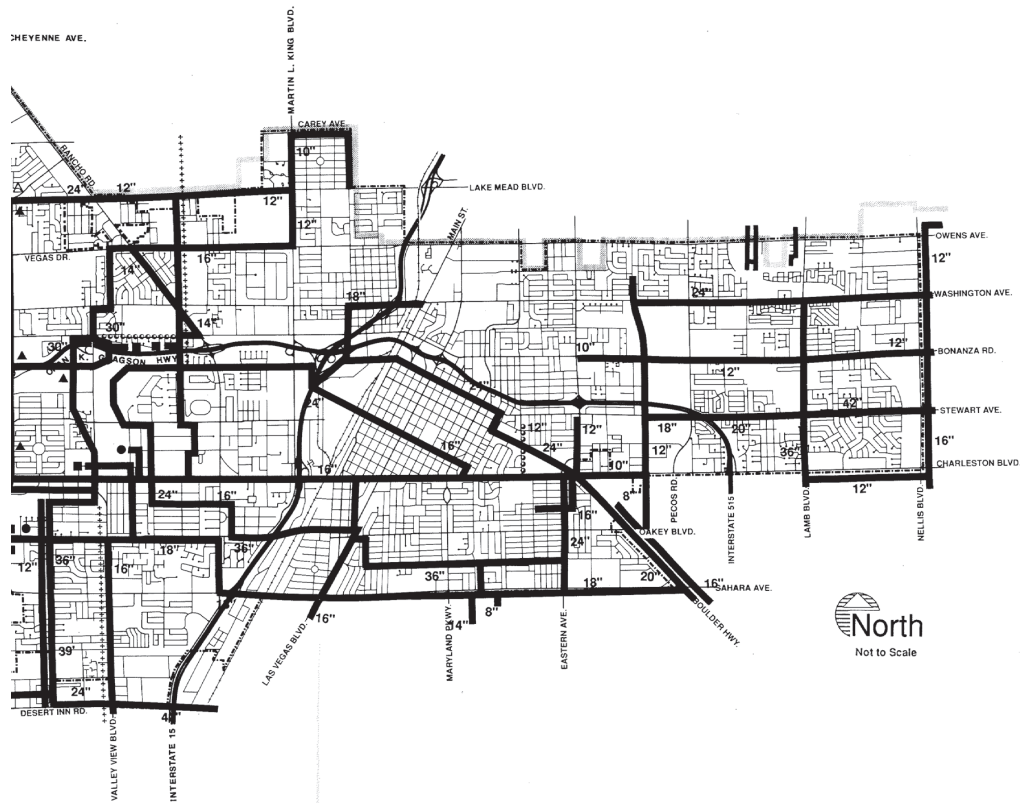
City of Las Vegas Water

Distributed Through the
Las Vegas Valley Water District

LEGEND

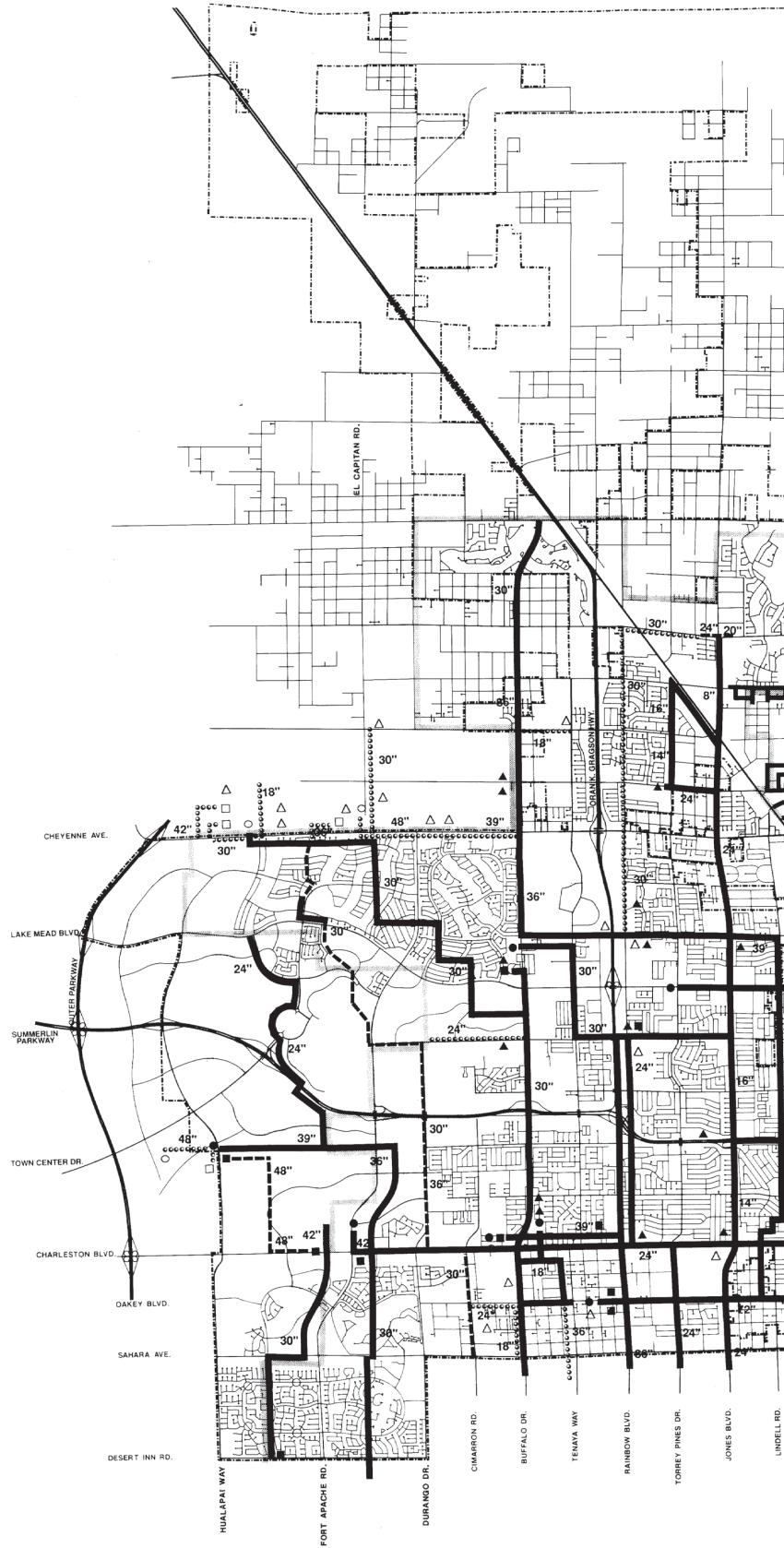
	Robert B. Griffith Water Project Stage I	
	Robert B. Griffith Water Project Stage II	
	Pending Oversized Pipeline (Non MCP IV)	
	Las Vegas Valley Water District Service Area	
FACILITIES		
Existing	Pending	Description
 36"	 48"	Pipeline/Diameter
		Reservoir
		Pumping Station
		Well or Well Station
	North Las Vegas Pipelines	

SOURCE: Las Vegas Valley Water District "Water Facts"



CLV053122

2940



CLV053123

2941

13185

Table 2



State Water Permits Issued On the Las Vegas Wash as of May 1, 1990

Permit No.	Holder	Amount (afy)	Associated Secondary Permit	Holder	Amount (afy)
17199 <u>1/</u>	LV	10,000	S-1,2,3	LDS	3,118
21014 <u>1/</u>	LV	33,600	S-7 S-1	NPCo NPCo	987 32,260
	Subtotal	43,600			36,365
21587 <u>1/</u>	CC	11,900	S-4	CCPR	2,000
21728 <u>1/</u>	CCSD	12,000	S-1	NPCo	6,118 <u>3/</u>
			S-2	NPCo	11,504 <u>3/</u>
			S-4	CC	496
	Subtotal	23,900			14,000
24684 <u>2/</u>	SB	120		(SB Use)	120
	Total	67,620			
29814 <u>2/</u>	CRC	461,890			
30423 <u>2/</u>	USBR	14,480			
47734 <u>2/</u>	Hend.	9,120			
45746 <u>1/</u>	CC	110,900	S-1	WC	34
51838 <u>1/</u>	CCSD	65,498			
					50,519

Legend:

CC = Clark County
CCPR = Clark County Parks & Recreation

CCSD = Clark County Sanitation District
CRC = Colorado River Commission
Hend. = Henderson

LV = City of Las Vegas
LDS = Church of Jesus Christ of
Latter Day Saints
NPCo = Nevada Power Company
SB = Stewart Brothers
USBR = U.S. Bureau of Reclamation
WC = Washington Construction Co.

1/ Primary Permits

2/ General Permits

3/ Permit 21728-S-2 is restricted so the combined total annual diversion under permits 21728-S-1 and 21728-S-2 cannot exceed 11,504 afy. The intended use will be for cooling Clark, Sunrise and the proposed Harry Allen power generating stations. Use under Permit 21014-S-1 is intended for cooling at Harry Allen. The total amount projected for use at Harry Allen is 24,000 afy.

Source: State of Nevada, Colorado River Commission, 1989/90 Colorado River Water Budget, p. 11

The Authority was approved by all participants by July, 1991. Once organized, the Countywide Authority is empowered to:

- Contract with the Secretary of Interior and the Colorado River Commission for the remaining unallocated Colorado River water, deliver that water to the purveyor

members.

- Acquire the rights to and develop and implement the Cooperative Water Project initiated by the Water District for surface and groundwater in northern Clark, Lincoln, Nye and White Pine Counties.
- Contract for or construct the neces-

sary capital facilities to deliver the Authority's water to the purveyor members.

- The Authority cannot acquire any existing water rights or property of a member without that member's approval.
- Establish a method for allocating the first 108,000 acre-feet of water acquired by the Authority. Allocations of water acquired above 108,000 acre-feet will be made by the Board of the Authority with approval of the governing boards of each of the purveyor members. The Authority will also allocate temporary water available to southern Nevada by use of a method identified in the Agreement.
- Establish the amount of sewer reuse permitted by a member.

Also, two other important items emerged from the agreement to establish the Authority.

- The City of Henderson agrees that it will begin returning effluent to the wash to generate additional return flow credits.
- All members are required to implement a minimum of Level 1 water conservation, which is defined in the Agreement.

This General Plan update springs from several requirements. Among them are the requirement for timely data, the requirement to keep up with changing issues and their focus, and the requirement to develop strategic planning for resources. This last requirement was addressed in the 1990 "Las Vegas 2000 and Beyond strategic plan" which is described in its Introduction section. The '2000' document contained "Actions" specified to be accomplished. These Actions are incorporated into the Plan update so that the process of citizen involvement and institutional response will continue.

The Actions relating to water are:

- Increase the use of homeowner, business and golf course water management.
- Develop public information and incentive programs to encourage conservation through xeriscape and funding mechanisms for water conservation programs.
- Review engineering codes to reduce runoff from yard irrigation.
- Develop program for artificial recharge for unused surface water allocation.
- Develop a long range water plan and a comprehensive water management program for Southern Nevada.
- Position Southern Nevada to receive a fair share of water allocation in the Colorado River System in the event of renegotiation of the Colorado River Compact.
- Explore possible opportunities for gray water projects.
- Pursue programs to transfer ground water from basins in other counties within the state to Southern Nevada.

The '2000' document contained "Actions" specified to be accomplished ("the process is not over ... We must put these plans into action.") These actions are incorporated into the Plan

update so that the process of citizen involvement and institutional response will continue.

The Actions relating to the Water Distribution System are:

- Increase the use of homeowner, business and golf course water management.
- Develop public information and incentive programs to encourage conservation through xeriscape and funding mechanism for water conservation programs.
- Review engineering codes to reduce run-off from yard irrigation.
- Develop a long range water plan and a comprehensive water management program for Southern Nevada.
- Position Southern Nevada to receive a fair share of water allocation in the Colorado River System in the event of renegotiation of the Colorado River Compact.
- Pursue programs to transfer groundwater from basins in other counties within the state to Southern Nevada.

4B.2 Issues

With this background, there are several issues that the City must address in order to answer the question: If the City does not directly control its water supply and distribution, why is potable water management important?

While the City is not in direct control of its water source, it is an entity that operates in the interest of the public health, safety and welfare. City policies in those areas regulate the use of land through planning, zoning, code enforcement and capital budgeting. There are many ways the City can manage water consumption and provide for its long-term growth. Most

means are simple and require little direct cost. Using the General Plan as a basis, the issues that follow are an opportunity to explore and accomplish appropriate means of water management. These include the City seeking new ways to communicate its needs to the District and implementing methods to conserve water. The basic components are: resource conservation, levels of service, intergovernmental coordination and cooperative water allocation. See Map 3 which represents the distribution of water in the City.

Issue 1: Resource Conservation

Water shortages are projected to occur based on population projections and the present rate of consumption of water. Conservation of water can occur through:

- Administrative means, service areas, master annexation plans.
- Technological means (reuse, water saving devices such as flow restrictors, drip irrigation, or a brick in a toilet tank).
- Institutional means (full-cost billing rates, building and landscaping code changes, consumer education, water audits).

Each of these above options can be established based on adoption of a General Plan. According to NRS 167 (as amended), Section 19.1., "The District shall comply with planning and zoning ordinances..." Whether or not a master annexation plan or a service area boundary is adopted, the land use designations and other policies and programs of the Plan direct the growth of the City. In this fashion, the City can attempt to control its future consumption and distribution of water. That allocation can turn on efforts by the City to conserve water and direct growth in a contiguous manner. The City and the District must develop joint policies covering infill and expansion

of existing uses.

Technological means of conservation include those products on the market such as low flush toilets, drip irrigation systems, and others developed through experimentation. These might include dual piping systems in developments or pretreatment plants in outlying developed areas. Such plants can treat water to a level safe enough for surface irrigation, thereby offsetting the use of river water for landscape watering. Any reuse of water, however, reduces return flow credits. Presently, these allocations exceed the 300,000 AFY of water apportioned to the state by 112,000 AFY. Therefore, a decision to reuse must be analyzed in terms of the effect on the Perfected Rights and Allocations in Table 3.


Institutional solutions follow approaches ranging from level of difficulty to amount of time to implement. Code changes will be relatively easy to begin and continue as technology and attitudes toward water use change. Consumer education has begun primarily through the efforts of the District and the State Cooperative Extension Service. Full-cost billing rates will be more difficult to implement because of the difficulty in determining what water is worth to consumers. Higher rates will cause some conservation to take place as individuals, government and industries attempt to lower the cost of water in their budgets.

Water conservation means reducing wasted water. Wasted water is not just water

that runs down the street from a broken sprinkler. It is also excessive watering of lawn and landscaped areas. This can be caused by faulty equipment, poor irrigation layout and watering more than necessary to maintain a grassy area.

Last, water waste can be eliminated by changing landscaping ordinance requirements for new development. Audits which assess existing watering practices can save water and money.

Table 3

 Allocations of Colorado River Water As of May 1, 1990		
<i>Present Perfected Rights 2/</i>	<i>Priority</i>	<i>Diversion 1/ Quantity (afy)</i>
*Fort Mohave Indian Reservation	1	12,534
Lake Mead National Recreation Area	1	500 4/
<i>Perfected Rights 3/</i>		
Lake Mead National Recreation Area	2	1,500 5/
<i>Statutory & Contractual Allocation</i>		
Boulder City	3	5,890 6/
<i>Contractual Allocations</i>		
Lakeview Company	4	0
Pacific Coast Building Products Inc.	4	928 7/
*Southern Cal Edison Co.	4	23,000 8/
Basic Management Inc.	4	23,158 9/
City of Henderson	4	15,878 10/
Las Vegas Valley Water District	5	15,407 11/
Southern Nevada Water System	6	303,000 12/
Nevada Department of Wildlife	7	25
*Boy Scouts	7	10
*Big Bend Water District	7	10,000
*Clark County Parks & Recreation (Sportsman Park)	7	20
TOTAL		411,850

*Delivery Below Hoover Dam.

1/All quantities are for diversion with the exception of the contract with the Nevada Department of Wildlife which is based on consumptive use.

2/Present perfected rights are defined in Arizona v. California as perfected rights existing as of June 25, 1929.

3/Present perfected rights are defined in Arizona v. California as water rights acquired in accordance with state law, which right has been exercised by the actual diversion of a specific quantity of water that has been applied to a defined area of land or to definite municipal or industrial works, and in addition includes water rights created by the reservation of mainstream water for use of federal establishments under federal law whether or not the water has been applied to beneficial uses.

4/Recreation Area created as a "federal establishment" pursuant to Executive Order 5105. Under Arizona v. California, reservation is for "annual quantities reasonably necessary to fulfill the purposes of the Recreation Area"; used in the Overton Arm area of Lake Mead. (Estimated by CRC to be 500 afy.)

5/Recreation Area created as a "federal establishment" pursuant to Executive Order 5339. Under Arizona v. California, reservation is for "annual quantities reasonably necessary to fulfill the purposes of the Recreation Area." (Estimated by CRC to be 1,500 afy.)

6/Statutory allocation of 3,850 gpm made in the Boulder City Act of 1958. Also, contractual allocation of that amount.

7/Originally with Johns Manville Co., contract renewed with Pacific Coast Building Products, Inc., on June 19, 1985, but retains original Johns Manville priority date.

8/Expires July 1, 2006. Return flows are prohibited by the contract because of the quality of the used water.

9/Reflects allocation reduction effective May 31, 1990.

10/Assigned from BMI on May 31, 1990. Contract between USBR-CRC and City of Henderson, effective May 31, 1990.

11/Delivery right of 15,407 afy is assumed in the budget to continue.

12/Delivery obligation is 299,000 afy. (Assumes 4,000 afy of losses.)

Source: State of Nevada, Colorado River Commission. 1989/90 Colorado River Water Budget. P. 22, 23
GP:IN W Table 2 Co water:RB:pm'8-31-91

To date, the City has taken steps to conserve water. The efforts are similar to those of the County, thereby laying the groundwork for future concerted efforts. The ordinances are listed below:

- Landscape Guidelines
- Prohibition of man-made lakes
- Restructuring of water rates
- Water wasting - fugitive water
- Water saving devices in building code
- Prohibition against landscape irrigation between the hours of 12:00 - 7:00 p.m., May through September.

As part of its efforts, one of the consultants to the Water District, Planning and Management Consultants, Ltd. (PMCL), has proposed a draft strategy of conservation measures. The strategy is divided into two levels as shown below.

LEVEL 1	LEVEL 2
1. Plumbing code for new development	1. Plumbing code for new development
2. Volunteer commercial/ industrial water audit	2. Aggressive commercial/ industrial water audit
3. Water waste ordinance	3. Watering restrictions
4. Pricing policy I (incentive)	4. Pricing policy II (aggressive)
5. Volunteer plumbing retrofit	5. Aggressive plumbing retrofit
6. Conservation education	6. Conservation education
	7. Limit residential & commercial lawn size
	8. Landscape audit for major irrigation

Source: Las Vegas Valley Water District, May, 1990

Presently, the City has committed to implement Level I. Further research and development of added measures, at least along the lines of the draft strategy is underway.

In June, 1991, the District began to formally develop a response to its

moratorium on "will serve" letters (commitments to provide water to a project). It did so by establishing a Citizen Task Force, comprised of a Commitment Subcommittee and a Conservation Subcommittee. The latter has the following objective:

- To reach an understanding of water supply, water use, and the role of conservation in meeting future demands.

The City participates on the Conservation Subcommittee to develop policy recommendations for reducing water consumption by the City and the District. The subcommittee consists of an elected official and citizen and industry group representatives. This subcommittee is scheduled to deliver its final recommendations in December, 1991. The conservation and Commitments Subcommittees apprise each other of their respective progress. On a different plane is the understanding of who gets the remaining water. This

issue is addressed by the Commitments Subcommittee.

Issue 2: Coordination of Water Service

On February 14, 1991, the Las Vegas

Valley Water District ceased issuing "will serve" letters. In March, 1991, the District issued its approved Commitment Regulations. These were criteria by which the District would issue a commitment for water during the moratorium on the "will serve" letters. The criteria were directed at residential development and excluded opportunities for infill (unless specific zoning or water use quantity guidelines were met) and commercial development. In June, amendments were made to these original "Commitments" to better address nonresidential, infill and public facilities needs.

The objective of the Commitment Subcommittee is:

- To further refine an approach for making water commitment in the future.

A second objective was added in July:

- To develop an understanding of future water supplies and discuss possible scenarios for committing the remaining Colorado River water.

The newly formed Southern Nevada Water Authority and its requirements for water budgeting and cooperation among purveyors set the stage for the development of the subcommittee discussions.

In July, a scenario was selected by the Subcommittee. Based on that, a development timeline scenario was developed by District and entity staffs. It was designed to eliminate land speculation based on availability of water and provide a logical process and timeframe for a development to acquire financing and proceed to occupancy based on a secure commitment for water. The draft process requires timely construction performance and fee payments. If the developer fails to perform, the commitment will be revoked by the District. Within this process was a "Water Commitment

Agreement". It provided for a three party agreement among the District, the entity and the developer. The contents would generally include project milestones, performance requirements and penalties and a timeframe for completing of water construction, based on the type of development.

There has been no resolution of this timeline scenario at this point in the General Plan process. However, the issues requiring resolution appear to be:

- Allocation of water should be as much by the free market as possible.
- A need has been expressed for a separate allocation for "master planned" communities.
- A maximum land area be committed per development for water allocation.
- Whether the distribution (allocation) of water should be by the City and County, based on the amount available to the District annually, or by the District itself.
- Any water conserved by a development will be replaced into the community pool of water to be made available for future commitments.
- Whether there should be a development "mix" of types of land uses to compete for water. Once a land use type, e.g., single family, hotel, etc., has consumed its allocation, no further development on that portion of the mix is allowed until additional water is found for allocation. A related issue is whether the District or each entity should control allocations to the mix.

Underlying all of these issues is the need to best develop the City of Las Vegas and the Las Vegas valley. Because of the requirement of government to provide for the public health, safety and welfare, the City must have a clear vision of its needs and ways to achieve

its objectives. The General Plan is the basis for that vision and those objectives.

Issue 3: Levels of Service

There is an expected, quantifiable consumption of water which can be established by type of development. The capacity of the water system to serve each development can be sized to serve that expected growth. This is called a level of service (LOS). The LOS is usually expressed as a quantity per unit of demand.

The District does have service level standards. They are quantitative and are expressed as consumption based on gallons per minute per acre. A single family detached unit is rated by the District as consuming .52 gallons per minute per acre for average day flow. This consumption per unit per day is 749 gallons of water (based on a household of 2.5 persons), or 273,385 gallons per year, or .84 AFY per single family detached unit (See Table 4).


Establishing water consumption rates is critical in the design of pipes, pump stations, reservoirs and user fees. From the point of view of the City, levels of service are important in designating

land uses, allocating population growth and analyzing the effects of proposed developments on the capacities of the collection and distribution system to provide water. The measurements provide an indicator of demands on water as well as fire, police, sewer, recreational, road and solid waste services.

Clearly, the importance of a standardized service level (gallons per day/unit) and an agreed upon level of service cannot be underestimated. Such a level notifies citizens, developers, the District and the City of the potential effects of a land use development proposal. It allows each to calculate the intended effects of growth on finances and the timing of expenditures to support that growth.

A level of service standard may be changed as technology, attitudes and pricing changes consumption. As such, it is a way to monitor growth which reflects real consumption patterns and household populations. Linked with conservation efforts, a level of service can help measure the amount of consumptive use and consequently the amount of water available for return flow credits to the Colorado River.

Table 4

 Las Valley Water District Water Consumption of Various Types of Development		
R1 Zoning	.52	2.3
RE Zoning	.26	1.2
Residential, Duplex & Triplex	.52	2.3
Apt.'s, Condo's & Town Houses	0.21	5.89
Mobile Home Parks	0.19	1.37
Hotels	0.29	N/A

Source: Las Vegas Valley Water District, April, 1991

GP:IN W Table 3 LVVW consump;RB:pm/5-31-91