

WRRC  
2021 Pre-Conference Webinar  
Tribal Water Rights & Settlements

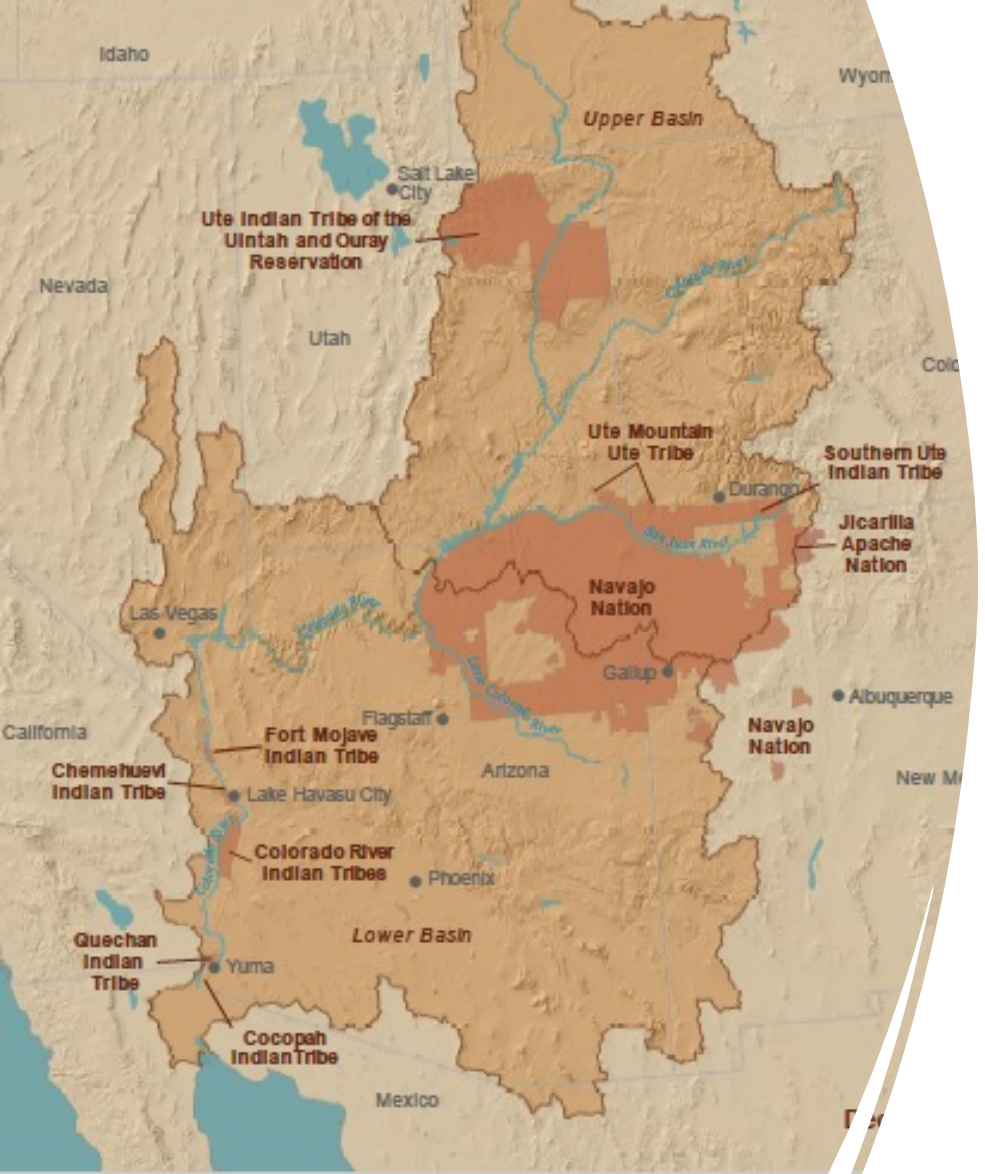
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August 13, 2021

Zoom Meeting

Margaret J. Vick, JSD

# Colorado River Basin Ten Tribes Partnership Tribal Water Study Study Report



# Tribal Water Study: Ten Tribes Partnership & Reclamation, 2018

- TTP was organized in 1972 to include the tribes in the LB with confirmed mainstream water rights and the tribes in the UB with mainstream and tributary water rights
- Study includes background on tribal water rights including a report on the differences in tribal and state-law based rights
- Descriptions of each member tribe, their water rights, water use as of 2018 and future plans

# On-River Tribal Rights


ARIZONA v. CALIFORNIA ET AL.

ON EXCEPTIONS TO SPECIAL MASTER'S REPORT AND RECOMMENDED DECREE.

No. 8, Original. Argued January 8-11, 1962.—Restored to calendar for reargument June 4, 1962.—Reargued November 13-14, 1962.—Decided June 3, 1963.

## *Arizona v. California 1963 Decision*

- 10 years of litigation
  - No tribal parties—US represented all tribal interests
  - Claims presented by US for Hualapai, Havasupai, Navajo in the Lower Colorado River and other tribes
  - All claims to tributaries and to water above Lake Mead dismissed
- Established the standard for quantifying Federal Reserved Indian Water Rights: **enough water to irrigate the practicably irrigable acreage**
  - Water rights for mainstream tribes quantified
    - Ft. Mohave Tribe (Az, Ca, Nv)
    - Chemehuevi Tribe (Ca)
    - Colorado River Indian Tribes (Az, Ca)
    - Quechan Tribe (Az, Ca)
    - Cocopah Tribe (Az)



## 5 Mainstream Tribal Water Rights *Az v Ca 2006 Consolidated Decree, 547 U.S. 150*

*Tribal water rights measured by an amount not to exceed (i) the maximum diversion or (ii) the amount of water to supply the consumptive use required for irrigation of the listed acreage and for satisfaction of related used which ever is less.*

Tribe	Diversions AF/y	Acreage
Ft. Mohave	132,789	20,544
Chemehuevi	11,340	1,900
CRIT	719,248	107,903
Quechan	77,966	11,694
Cocopah	9,707	1,524
<b>TOTAL</b>	<b>951,050 af/y</b>	<b>143,565</b>

# Tribal Water Rights Accounted for in the State in which the Irrigable Acreage is Located

## I ARIZONA

### A. Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (2), (3), (4), and (5) of this decree, such rights having been decreed in Article II:

<u>Defined Area of Land</u>	<u>Annual Diversions (Acre-Feet)</u>	<u>Net Acres<sup>1</sup></u>	<u>Priority Date</u>
1) Cocopah Indian Reservation	7,681	1,206	Sept. 27, 1917
2) Colorado River Indian Reservation	358,400	53,768	Mar. 3, 1865
	252,016	37,808	Nov. 22, 1873
	51,986	7,799	Nov. 16, 1874
3) Fort Mojave Indian Reservation	27,969	4,327	Sept. 18, 1890
	75,566	11,691	Feb. 2, 1911
3a) Fort Yuma Indian Reservation	6,350	952	Jan. 9, 1884

## III NEVADA

### Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (5) and (6) of this decree, such rights having been decreed by Article II:

<u>Defined Area of Land</u>	<u>Annual Diversions (acre-feet)</u>	<u>Net Acres</u>	<u>Priority Date</u>
81) Fort Mojave Indian Reservation	12,534 <sup>8</sup>	1,939 <sup>8</sup>	Sept. 18, 1890

## II CALIFORNIA

### A. Federal Establishments' Present Perfected Rights

The federal establishments named in Article II, subdivision (D), paragraphs (1), (3), (4), and (5) of this decree, such rights having been decreed by Article II:

<u>Defined Area of Land</u>	<u>Annual Diversions (acre-feet)<sup>5</sup></u>	<u>Net Acres<sup>5</sup></u>	<u>Priority Date</u>
22) Chemehuevi Indian Reservation	11,340	1,900	Feb. 2, 1907
23) Fort Yuma Indian Reservation	71,616	10,742	Jan. 9, 1884
24) Colorado River Indian Reservation	10,745	1,612	Nov. 22, 1873
	40,241	6,037	Nov. 16, 1874
	5,860	879	May 15, 1876
25) Fort Mojave Indian Reservation	16,720	2,587	Sept. 18, 1890

# Attributes of Mainstream Decreed Rights

Priority dates  
are earliest in  
the Lower  
Basin

- Not subject to shortage under the 2007 Interim Guidelines or DCP

Quantified by  
irrigable  
acreage

- Requires infrastructure to use

No settlements  
Quantification  
process did not  
include:

- \$\$\$
- Infrastructure
- Authorization to use off-reservation through leasing, exchange or storage

# Tribes with CAP Water Deliveries

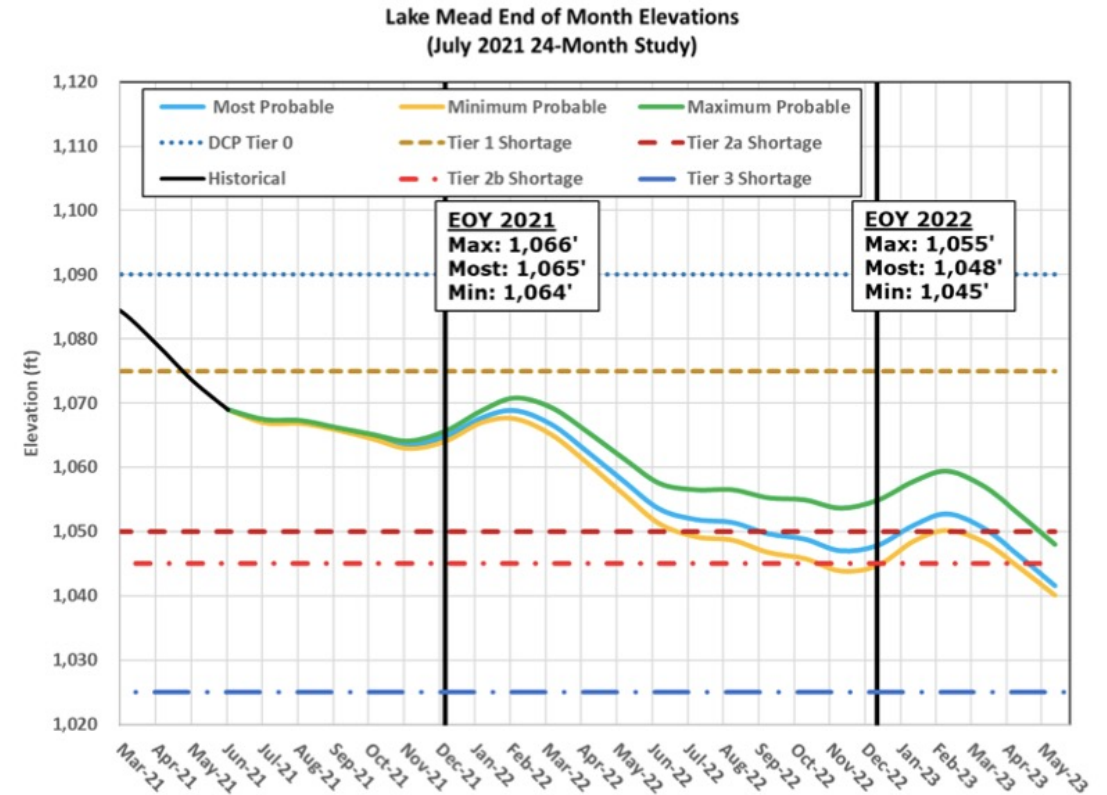
- 10 Tribes served through the CAP (Directly or to Lessees)
  - Ak Chin Indian Community
  - Ft. McDowell Yavapai Nation
  - Gila River Indian Community
  - Pascua Yaqui Tribe
  - Tohono O'odham Nation
  - Tonto Apache Tribe
  - San Carlos Apache Tribe
  - White Mountain Apache Tribe
  - Yavapai Apache Nation
  - Yavapai-Prescott Tribe



Source: cap-az.org



By [Gia Yetikyel](#)  
SMITHSONIANMAG.COM



# Shortages on the Colorado River



# Shortages?

## What are they?

- [I]nsufficient mainstream Colorado River water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada.
- *Basin States Project Act, 43 USC 1521 (B)*

## Effect on mainstream tribes:

- “In the event of a determination of insufficient mainstream water to satisfy present perfected rights...the Secretary shall...first provide for the satisfaction in full of all rights of the [5 LB Tribes].
- *Az v Ca, 547 U.S. 150, 155 - 6 (2006)*

## Effect on CAP tribes:

- [D]iversions from the mainstream for the Central Arizona Project shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use by holders of present perfected rights, by other users in the State of California....
- *Basin States Project Act, 43 USC 1521 (B)*

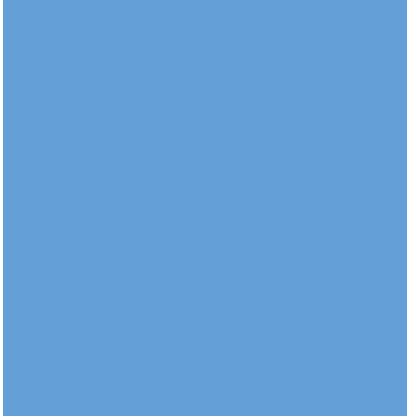
# 2007 Interim Guidelines 2019 DCP

- 2007 Interim Guidelines set the shortage criteria approved to respond to hydrologic conditions 2000 to 2004
- Guidelines define the conditions under which the Secretary would reduce water deliveries below 7.5 maf (shortage)
- Guidelines set the criteria for the Secretary to establish the Annual Operating Plan (AOP) for water deliveries below Lake Mead
  - Normal conditions: August 24-month study predicts Lake Mead elevation above elevation 1075 at the end of the year
  - Shortage conditions: Same projections but Lake Mead is at or below elevation 1075 at the end of the year
- By 2016 the hydrologic conditions had worsened leading to development of the 2019 Drought Contingency Plans

# 2007 Interim Guidelines Shortage Reductions and Incremental DCP Contributions

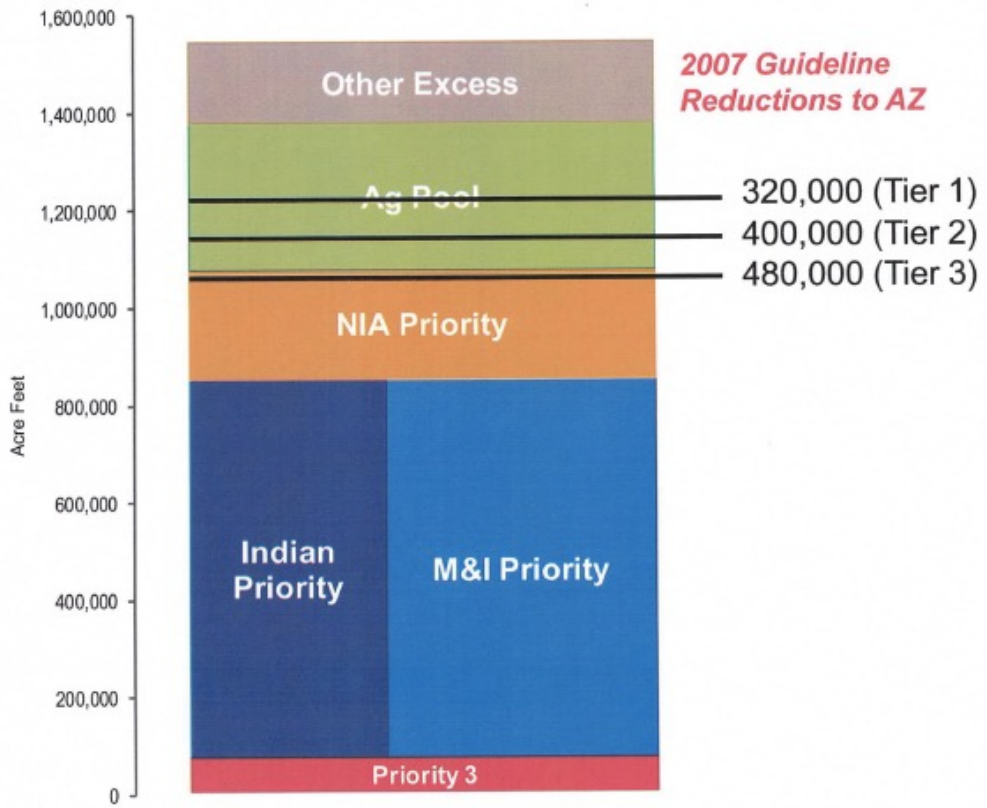


Lake Mead Elevation	AZ 2007	AZ DCP	AZ TOTAL	NV 2007	NV DCP	NV TOTAL	CA 2007	CA DCP	CA TOTAL	BOR DCP	MX Min 323	MX BWSCP	MX Total	TOTAL
≤1090 >1075	0	192K	192K	0	8K	8K	0	0	0	100k	0	41k	41k	341k
≤1075 >1050	320K	192K	512K	13K	8K	21K	0	0	0	100k	50k	30k	80k	713k
≤1050 >1045	400K	192K	592K	17K	8K	25K	0	0	0	100k	70k	34k	104k	821k
≤1045 >1040	400K	240K	640K	17K	10K	27K	0	200K	200K	100k	70k	76k	146k	1,113k
≤1040 >1035	400K	240K	640K	17K	10K	27K	0	250K	250K	100k	70k	84k	154k	1,171k
≤1035 >1030	400K	240K	640K	17K	10K	27K	0	300K	300K	100k	70k	92k	162k	1,229k
≤1030 >1025	400K	240K	640K	17K	10K	27K	0	350K	350K	100k	70k	101k	171k	1,288k
≤1025	480K	240K	720K	20K	10K	30K	0	350K	350K	100k	125k	150k	275k	1,475k

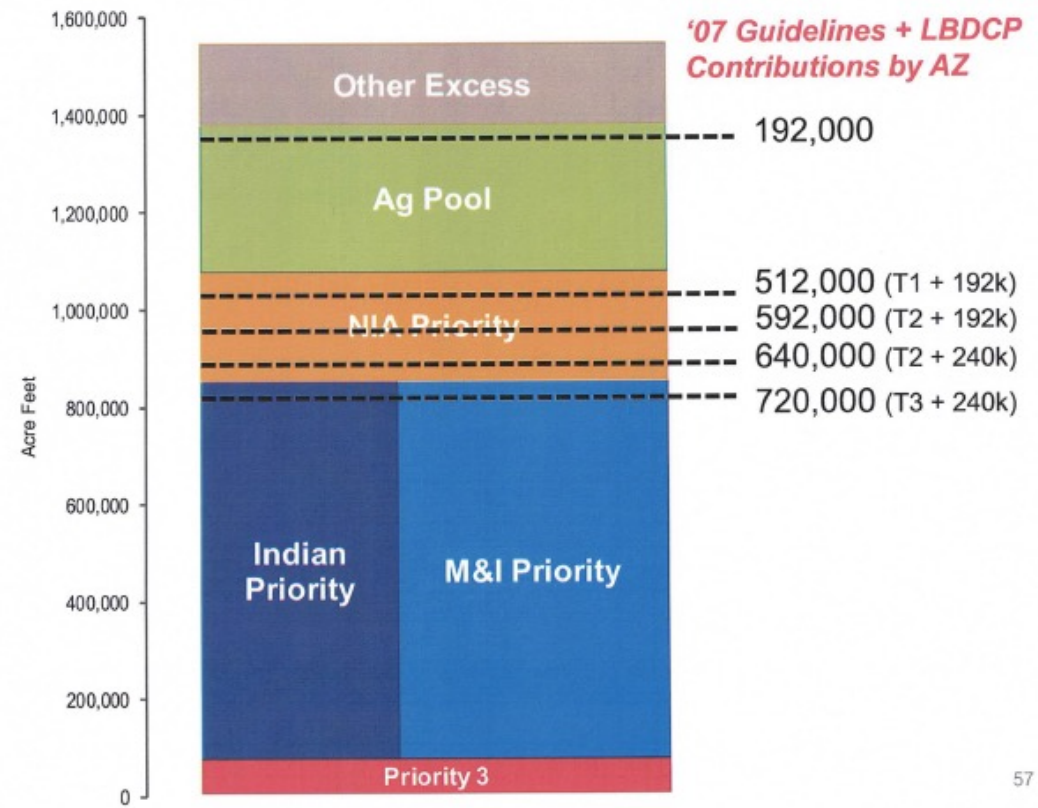


# CAP Cuts at 2007 Interim and DCP Trigger Points

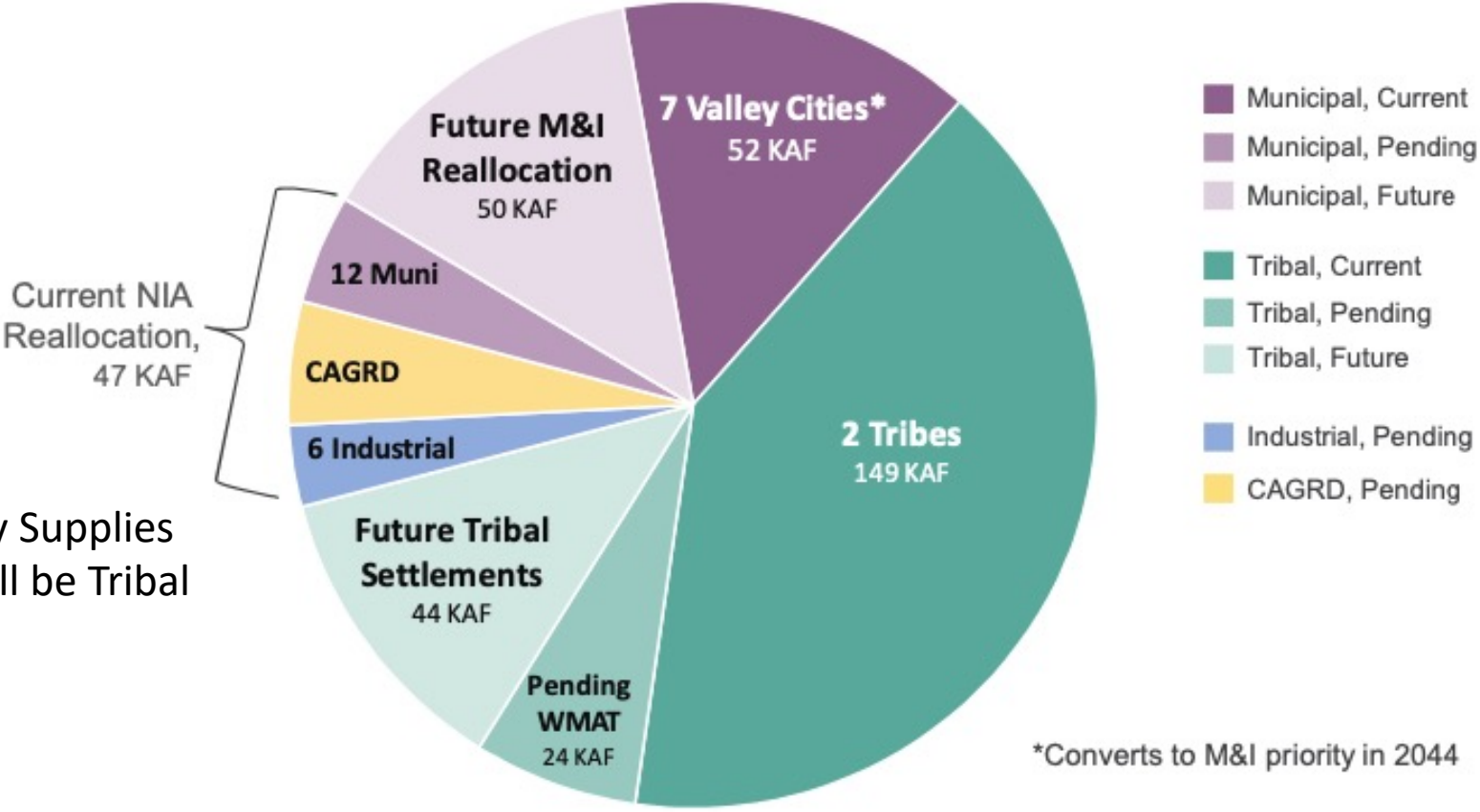
2007 Interim Guidelines



DCP Cuts



# NIA Priority Supplies

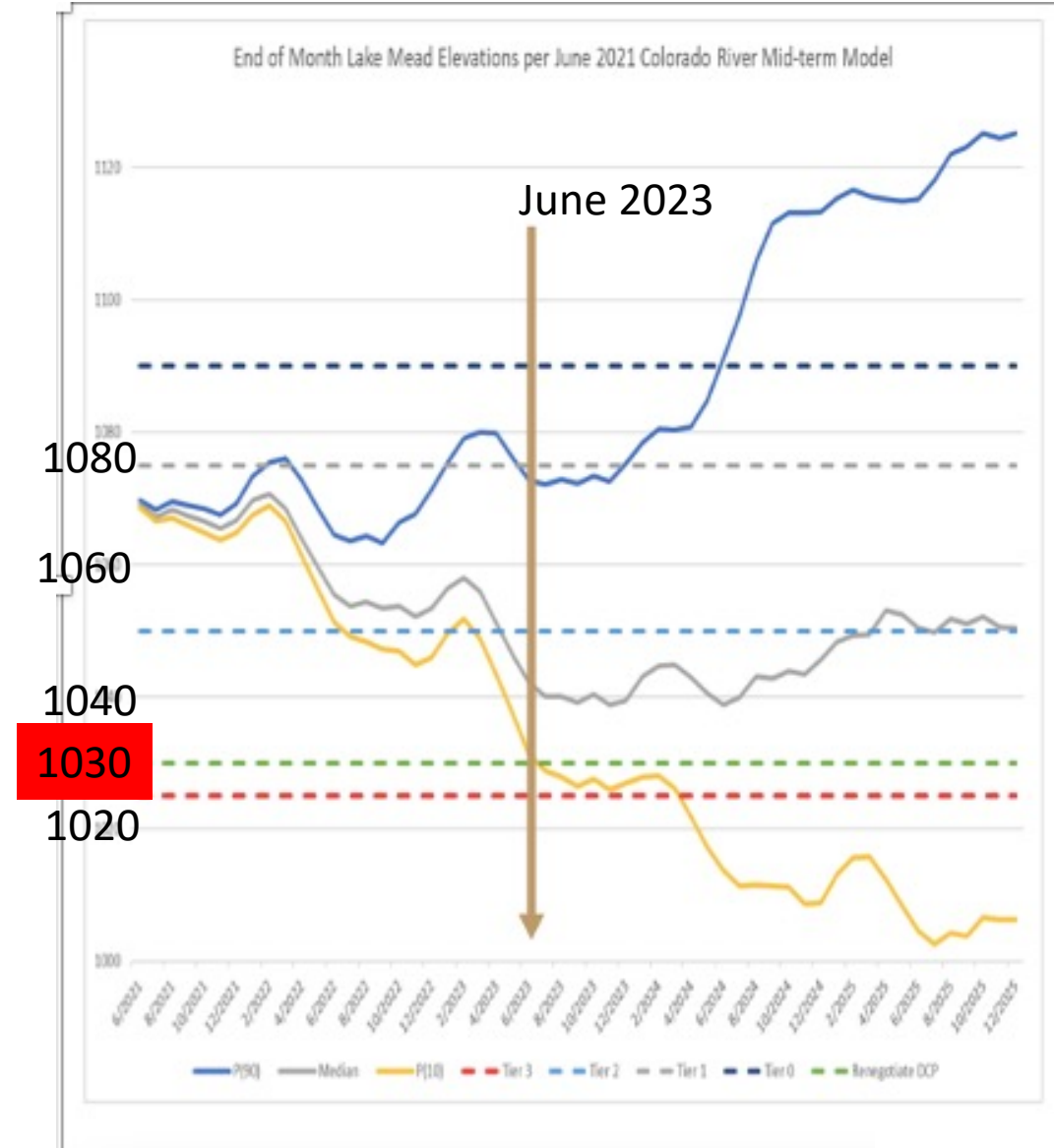


59% of NIA Priority Supplies are currently or will be Tribal

\*Converts to M&I priority in 2044

# DCP Further Consultations

- If any Reclamation 24-month Study indicates that the minimum probability for Lake Mead will be at or below elevation 1030 the Secretary shall call **additional consultations** to prevent the elevation from dropping to critical levels below elevation 1020



2007 Interim Guidelines  2019 DCP

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DCP  Further Consultations @ 1030

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2007 IG + DCP + Further Consultations  
+ Reconsultation 

2026 NEW OPERATIONAL GUIDELINES

# Keeping up to date....

- **Monday, August 16:** Reclamation release of August 24-month study to determine operational conditions for 2022
  - 99% chance to declare a Tier 1 Shortage
  - Az CAP & 4<sup>th</sup> Priority Rights: Cut 512,000 af/y
- Modeling and 24-month Studies available at:
  - <https://www.usbr.gov/lc/region/g4000/riverops/crss-alt-hydrology.html>
- CAP Monthly Board Meetings include hydrologic reports:
  - <https://www.cap-az.com/board>
- Arizona Department of Water Resources
  - <https://new.azwater.gov/news>