

October 3, 2024

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Nathan Williams, City Attorney

FROM: Victoria Yarbrough, Assistant City Manager

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT
Resolution 2024-071, Appointment of Daniel D. Haws II
as Counsel for Water Representation

RECOMMENDATIONS:

The City Manager recommends approval.
The City Attorney recommends approval.
The Assistant City Manager recommends approval.

BACKGROUND:

The City has retained the services of an attorney for general water rights advice related to various federal, state, and water issues for over 30 years, including representation as counsel of record specifically for these contested matters:

In re Subflow Technical Report, San Pedro River Watershed ("Subflow Matter")
Maricopa County Superior Court Case No. W1-103

In re General Adjudication ... Gila River System and Source ("Gila River Adjudication")
Maricopa County Superior Court Case No. W-1, W-2, W-3, and W-4 (Consolidated)

In re San Pedro Riparian National Conservation Area ("SPRNCA Matter")
Maricopa County Superior Court Case No. W-1-11-232

Chapter 31.07 of the City Code states Counsel of the City is appointed by the Mayor and City Council. Mr. Haws has been an attorney in Arizona for 35 years, specializing in water law, and most recently retired from Fort Huachuca as its Water and Environmental Law attorney after 32 years. He is exceptionally well qualified to advise the City on all water-related matters and conveniently lives locally.

BUDGET APPROPRIATIONS:

The City budgets \$20,000 per year for water representation. Mr. Haws's rate is \$300/hr.

RESOLUTION 2024-071

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; APPOINTING DANIEL D. HAWS II AS COUNSEL FOR WATER REPRESENTATION SAID TERM TO EXPIRE OCTOBER 9, 2029; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION AND DECLARING AN EMERGENCY

WHEREAS, Chapter 31.07 of the Code of the City of Sierra Vista requires the appointment of all Counsel; and

WHEREAS, the City requires representation by an attorney specializing in water-related matters in multiple water-related cases and for general water rights advice; and

WHEREAS, Daniel D. Haws II responded to a publicly-posted Request for Qualifications and is exceptionally qualified based on his 32 years of experience and knowledge specifically related to federal, state, and local water law issues; and

WHEREAS, the term of the agreement shall be for one (1) year from the date of execution with an annual extension option up to four (4) additional years, not to exceed five (5) total years;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the City Council appoints Daniel D. Haws II as Counsel for water representation and general water rights advice, said term to expire October 9, 2029.

SECTION 2

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF
THE CITY OF SIERRA VISTA, ARIZONA, ON THIS 10TH DAY OF OCTOBER 2024.

CLEA MCCAA II
Mayor

Approval as to Form:

Attest:

NATHAN J. WILLIAMS
City Attorney

JILL ADAMS
City Clerk

DANIEL D. HAWS II
[REDACTED]
Sierra Vista, Arizona 85650
Phone: (520) [REDACTED]
E-mail: [REDACTED]

EDUCATION

Command and General Staff College, June 2003
Judge Advocate General Officer Advanced Course, January 1999
Judge Advocate General Officer Basic Course, September 1990
University of Arizona College of Law, December 1989, J.D.,
Class rank in top 25% (GPA 3.27)
Arizona State University, August 1985, B.A., Spanish, Cum Laude (3.42 GPA)

JOB OBJECTIVE

Serve as Sierra Vista Water Law Attorney handling diverse federal, state and water law issues regarding the In Re Gila Water Rights Adjudication (SV Sub-watershed), Active Management Areas, Certificates of Water Availability, conservation easements, etc. Actions taken could include research, advice, appeals, re-trials, or new trials.

EXPERIENCE

Fort Huachuca Water and Environmental Law Attorney – 32 years experience and knowledge specifically related to federal, state and local water law issues.

- Extensive involvement in Fort's In Re Gila water rights claim since 1992. Worked with Department of Justice and Environmental Law Division as the agency counsel for the Fort. Engaged in extensive discovery, research and motions practice, and multiple months trial with numerous witnesses. Great knowledge and perspective on recent 2024 decision regarding Fort Huachuca's water rights from the Maricopa County Superior Court.
- Working knowledge and in depth understanding of SPRNCA Water Rights decision and decree.
- Direct involvement in 7 lawsuits and over 30 years of litigation experience regarding the Endangered Species Act and water related practical and legal matters in the local area.

- Unique understanding of local partnership and initiatives to include Upper San Pedro Partnership, Cochise Conservation and Recharge Network, Sentinel Landscapes, and SPRNCA MOU.
- Extensive experience with local water conservation easements.
- Connections with Federal, State, and local personnel/regulators regarding local water and environmental law matters.
- Directly involved in previous Active Management Area (AMA) review by ADWR and very familiar with AMA requirements and issues in current lawsuit filed by Center for Biological Diversity.
- Background and understanding of issues related to 100-year certificate of availability requirements for subdivisions and current legal issues posed by recent SPRNCA water decision and decree.
- Extensive background in 203 acre action to expand the Sierra Vista Municipal Airport and environmental and water issues related thereto.

Active Duty and Reserve Judge Advocate General LTC (R). 23 years of Army legal experience provides great local value and context in discussing and resolving local water related issues.

REFERENCES

Mr. Kris Carlson, Office of the Staff Judge Advocate, Fort Huachuca, AZ
[REDACTED]

Mr. Mark Holycross, Environmental Litigation Division, HQDA, OTJAG
[REDACTED]

LTC Josiah Griffin, Office of the Staff Judge Advocate, Fort Huachuca, AZ
[REDACTED]