Water Rights: A Transformative Perspective On Water Rights And Indigenous Peoples

by

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ABSTRACT

Indian water rights and Indian water settlements have emerged as a means for resolving long-standing disputes and water rights claims. Working with and understanding water rights demands a genuine knowledge of water issues that are specific to each indigenous community as there are cultural aspects and perspectives towards water that are involved. The Gila River Indian Community is an indigenous community in south central Arizona, whose cultural and historic origins span over two millennia. Their foundation as a people was tied to the presence of the Gila and Salt Rivers, from which they freely diverted its waters through hundreds of miles of hand-dug canals, to transform the Sonoran desert into a desert oasis. There is a historical progression of this Community’s water rights from when water was abundant to the time it was scarce, leading to an outright denial of a livelihood where water and farming was central to their way of life. A water rights settlement was an option that was pursued because it offered a chance for the Community to see the return of their water. The 2004 Gila River Indian Community Water Rights Settlement has been recognized as the largest Indian water rights settlement in United States history and serves as a model for future water settlements. The success of Indian water settlements in the United States has the potential, under the right political and legal conditions, to be replicated in other areas of the world where water resources are under dispute and water rights have come into conflict between indigenous and non-indigenous users.
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INTRODUCTION

When people hear the term water rights, they immediately think in terms of ownership of actual water. Indeed, I myself was misled by this term. Water rights and its complexity require a background knowledge and history of its development. To narrow this complexity, I have chosen to look at water rights from a legal and political perspective, as well as a cultural and indigenous perspective. This involves investigating the relationship that an indigenous community in South-Central Arizona has with water, which has been the foundation of their identity as a people since time immemorial. Secondly, explaining the development of water rights as a legal and political construction here in the United States will assist in the overall understanding. This thesis should serve to educate scholars, students and people in general about water rights as it pertains to indigenous communities, identity, social justice and human rights. In the broader perspective and real world application, water rights and water settlements can have a profound influence on the experience of indigenous peoples around the globe.
GILA RIVER INDIAN COMMUNITY HISTORY

This thesis is a result of working for and with the people of the Gila River Indian Community, which is located just south of Phoenix, Arizona. To have a more in-depth understanding of the people and the culture, one must know where they come from and where they are going and one must know their past, which is essential and enlightening. Throughout this thesis, I use the term “Community” which refers to the Gila River Indian Community, which is widely used in daily communication. I also use the term Akimel O’odham, also spelled O’otham, Pima and River People, who are the same indigenous people of the Phoenix valley. In reference to the Pee Posh, or Maricopa people, they are also known as the People Who Live Towards the Water. Collectively, the Akimel O’otham and Pee Posh are the People of the River, the Gila River. This river has been the lifeblood that has made the desert green and has provided the very livelihood of two peoples for centuries. Over 150 years ago, the river stopped flowing, the land began to return to the desert and the People of the River no longer had a river.

The Huhugam

I begin this thesis with an extended history of the Akimel O’otham, starting with their ancestors, the Huhugam. The Huhugam, also spelled Huhukum and Hohokam (among other spellings), is a Pima derived word that is used to describe their ancient ancestors, which is translated to mean “Those Who Have Gone” or “Those Who Have Vanished.” They settled along the Gila River and its tributaries, and later the Salt River in South Central Arizona around 0–300 A.D. and continuing to 1450 A.D. when it is said they simply disappeared (GRIC 1).
There is no single theory among historians and archeologists for the disappearance of the Huhugam, but what is known is that the cultural characteristics and the continued use of the hundreds of miles of hand dug irrigation canals continued with the Akimel O’otham (SRP 1).

Farming was an essential part of the people who inhabited what is now the Phoenix river valley. Life giving waters from the Gila River and Salt River were diverted through hand-dug canals to irrigate hundreds of fields located in an aboriginal territory of over three million acres. The aboriginal lands, based on archeological evidence, extends to modern day Florence Junction in the east, Picacho Peak in the south, trailing along Interstate 8 to Gila Bend, Turtle Mountain in the west and Deer Valley in the north (GRIN 1). This land base was slowly transformed throughout 2,000 years of occupation by the ancestral Huhugam, and then by their successors, Akimel O’otham (Pima) and later, by the Pee Posh (Maricopa) people in the early 1700’s.

The Phoenix river valley was truly an oasis paradise in the Sonoran Desert. This was also a time when the Gila River and Salt River flowed freely across South-Central Arizona, from where the sun rose in the eastern Mountains to where it set over the western horizon. To bring the desert to life, the Huhugam began digging hundreds of miles of canals throughout the Phoenix valley to fields spread out across the landscape. Over the centuries, hundreds of miles of irrigation canals were dug using little more than “bare hands, sharp sticks and stone axes” and women carried away the loose dirt and rock with their baskets (Shaw 27). It is estimated that there were between 500 and 600 miles of canals
that transverse the aboriginal territory (GRIC 1; SRP 1).

Most of these canals were discovered with the aid of aerial photography and through extensive archeological excavations throughout the 19th century. Many of the canals that were dug centuries ago, possibly millennia ago are still in use today by various Indian communities, irrigation districts, municipalities and the Salt River Project water delivery system to irrigate fields and to bring water to the growing urban populations (SRP 1).

Much of what is known about the Huhugam is found at four major archeological sites and also through oral histories as told by the modern Akimel O’otham. One of those sites is “Skoaquik” or Snaketown, which is an intact Huhugam village located almost in the center of the current Gila River Indian Reservation (Haury 1). The other three sites that are significant settlements include the famous Casa Grande, a four-story pueblo style structure near present day Coolidge, Arizona, the Pueblo Grande is a preserved ruins of ancient Huhugam ceremonial center and village located near downtown Phoenix; Pueblo Grande is also an archeological park and museum. Lastly, there is Mesa Grande in modern day Mesa, Arizona, which is the least of the four sites studied.

The River People

Although the ancestral Huhugam pre-history extends before 1 A.D., it’s not clear how far back the pre-history may extend; estimates range from hundreds to thousands of years (Haury 1). But for now we can say they were here and they lived. The archeological history of the Huhugam can be broken down into three historical periods.
The first two periods are the Pioneer-Formative Period, which covers the centuries between 0–750 A.D., the Colonial/Pre-Classic Period was from 750–1050/1150 A.D. and the last period, the Classic Period, represents the height of the Huhugam civilization covers the time period 1050/1150–1450 A.D. After the three periods of Huhugam civilization, for reasons unknown the civilization went into a decline in the late Classic Period. By 1450 A.D. many of the large organized settlements in the middle Gila River valley were abandoned and its residents dispersed. This exemplifies the meaning of the Akimel O’otham word for the Huhugum, as “Those Who Have Gone” or vanished (GRIC 1).

From the 1450 to 1700 A.D. there is a transition from pre-history into history. The events of this transitional time period of time, known as the Proto-Historical, have eluded many experts. What is certain is that there was a continuous occupation and cultural characteristic presence in the Gila River valley from the Classic Period, through the Proto-Historic, to the present Historic Period (Wells 1). From the decline of one civilization, like the proverbial Phoenix, rose another civilization and they call themselves the Akimel O’otham or the River People.

The art of irrigation and agricultural cultural traditions continued with the Akimel O’otham, this traditional name translating to mean the River People and for more than two centuries to this day, they have been called the Pima. This reference was a result of verbal miscommunication between the Akimel O’otham and the first European explorers, who were the Spanish explorers (GRIC 1). When the Spanish explorers greeted and asked questions during their first
contacts in the Spanish language and the Akimel O’otham would respond with
“pimate” or “peet-mash” (variant spelling), which meant “I don’t know” or “I
don’t understand” in the Akimel O’otham language. That response was then used
to name the Akimel O’otham; hence Pima emerged and was widely used as an
alternative name for the Akimel O’otham (Acuff 3). Whatever the case was,
those first explorers to the Gila River valley witnessed a lush green valley and
vibrant river teaming with life and they described this landscape and the people
they encountered in journals and reports.

The first descriptions were made by Spanish explorers, such as
Conquistador and Franciscan Father Vásquez de Coronado y Luján; he is more
popularly and historically known as just “Coronado.” Other Spanish explorers
included Cabeza de Vaca and Marcos de Niza. In the Coronado Expedition of
1540-1542, his expedition may have and most likely (and unknowingly) made
brief contact with the Pima where the San Pedro River joins the Gila River, near
present day Winkelman, Arizona. One of the most influential and well-known
explorer’s journals came from Father Eusebio Kino, a “Jesuit priest and
pioneering missionary” who named the aboriginal territory of the Akimel
O’otham, as Pimeria Alta or Upper Pimaland (Hayden 2). Father Kino’s
historical accounts were made during his trips to Pimeria Alta in 1694 and in
1704, both journeys were recorded in Kino’s Historical Memoir of Pimeria Alta
(1710).

After the Spanish explorers came the Mexican and Americans accounts.
There are literally dozens, if not hundreds of reports by the early American
Calvary and military commanders, even the first pioneers making their way through the southwest to California in the late 1700’s and early 1800’s, that provide some insight into the land and people of the Gila River. A majority of those reports described peaceful Indians, unlike any they had encountered before, who were kind, friendly and industrious, who inhabited a beautiful river valley with planted fields for as far as their eyes could see (Hayden 2-45; Acuff 7). The description of industrious Indians referred to the extensive farming in the Gila River valley by the Akimel O’otham and by another group from the lower Colorado River Valley.

Frequent and turbulent conflicts among the Chemehuevi, Hualapai, Maricopa and Yuma tribes in the lower Colorado River valley are considered the root cause for bands of Maricopa, to move up the Gila River and into the western edges of Pimeria Alta in the early 1700’s. They originally established a colony in the area of the western portion of the current reservation, which is known as the Pee Posh wetlands. In the mid-1700’s, the Akimel O’otham and the Maricopa Chiefs came to terms and formed a confederacy, thus the Pima-Maricopa Confederacy was formed (GRIC 1). Oral history from Maricopa Chief Juan Chevaria recited these stories of the quarrelling in the lower Colorado River valley in 1865, when a peace treaty was executed among the Pima, Maricopa and three Yuman tribes at Fort Yuma (Hayden 2).

The Pima-Maricopa Confederacy was based on a political alliance and mutual military protection and their independence was secured through their historical agrarian economy (Lewis 34). Military protection was a necessary part
of the confederacy as there were enemies to the east and to the west. To the east in the mountains were the Apache and to the north and to the west were the Yuman tribes, the Yumas, Quechans, Mohaves and Yavapais. The very independence and autonomy of the Pima-Maricopa Confederacy was sustained through their extensive agricultural production. There was a growing trade and export economy that was created as a result of this new alliance (Dobyns 2.1).

With the introduction of new crops, such as wheat and barley by the Spanish in the mid-1700 and alfalfa by the Americans, agriculture activity made the Gila River valley a primary trade center in the Southwest; also appearing in the trade and export commodities economy of the time were horses and cattle (Dobyns 2.1). In 1859, the Gila River Indian Reservation was created, which represented a tiny fraction of the aboriginal Pima homeland. The start of the American Civil War commenced two years later in 1861 (Norton 387). Although the Civil War didn’t directly impact the Pima and Maricopa people, it was at the end of that war, with the immigration of settlers that set in the motion the course of events that is at the focal point of the Pima and Maricopa water rights claims to the Gila River.

**Gila River Diversions**

Since time immemorial, a span of time that encompasses for as long as anyone can remember, the Akimel O’otham freely diverted the waters of the Gila River and Salt River and its tributaries to irrigate fields in a land base covering over three million acres of the Phoenix river valley. The very lands of the Pima-Maricopa Confederacy made the Phoenix river valley the breadbasket of the
southwest and later on of the newly formed territory of Arizona, which is also a Pima word that derives from “a’al-sho-shon” meaning “many springs” (Akimel Dua’kik 36). Although, the Akimel O’otham freely diverted water from the Gila and Salt Rivers for irrigation of their fields, it is also important to note that the Akimel O’otham never completely diverted or impeded its flow (Dobyns 3.1).

Diversions were made through a complex and extensive canal network and system that was devised over hundreds of years of irrigating the desert landscape. The Akimel O’otham term for the basic irrigation ditch was “waikka” (Saxton 65). They did not only used one type of irrigation ditch, but rather used a combined system of primary, secondary, tertiary canals, and field laterals and secondary laterals. They placed weaved mats of grass in the canals to slow the speed of the water and it also served to improve water quality and clarity. A central part of bringing water from the Gila River was the construction of a “kuupa,” which was a diversion structure that reached across the Gila River. The construction of a kuupa was “highly organized community event” and was made of mesquite trees and branches that were roughly placed together and allowed the river to flow through while also raising the water levels so that water can be diverted into the primary canals. The rough construction of a kuupa assured that when sudden rushes of water occurred, the diversion structure would fall apart thereby protecting their fields from flood damage (Dobyns 3.1).

In 1859, Lieutenant Sylvester Mowry of the U.S. Calvary and Indian Agent R.G. Wells reported “white and Mexican farmers upstream on the Gila River were taking water for their crops” and leaving no water for the Indians on
the Gila River Indian Reservation. They further realized that if these diversions continued, or that more diversion of water was made, then “the river would dry up below and the Pimas would not be able to farm as they once did.” The Department of the Interior later sent a survey team and they reported the same results (Acuff 8). Even with these eyewitness accounts and survey results, leaders in Washington, D.C. did little, if anything to prevent further diversions in the upper reaches of the Gila River. At this time the country was on the brink of a civil war between the Northern and Southern states over the issue of slavery, and many western problems and that of Indian tribes was given little priority.

When the Civil War ended in 1865, there was a surge of emigration of people from the eastern United States to the west. Many of those people settled in the lands of new territories along the way, which were opened for the taking by settlers through Acts of the United States Congress, such as the Homestead Act (1862) and Desert Land Act (1877), as well as numerous similar acts that opened large tracts of land in the west to settlers. The Homestead Act provided 160 acres of Federal land west of the Mississippi to settlers and the Desert Land Act provided 640 acres to married adult couple and 320 acres of land for singles males. Small settlements and bare land on the banks of the upper Gila River seemed to grow overnight. Farming settlements grew to become whole communities, which then further transformed into entire towns (Acuff 9). Those early settlements included Virden in New Mexico, and Thatcher, Safford, Duncan, Florence and Coolidge in Arizona. With the growing populations came a growing need for more and more water.
In the summer of 1868, there was the first reported shortage of water by Indian farmers on the Gila River Indian Reservation and it would be another 135 years before they would get their water back. Although the Indian Agents took note of these instances, they could do little but to send their reports to the Department of the Interior in Washington, D.C., as the aim of the federal government at this time was more aimed at encouraging non-Indian settlement, not only in Arizona, but also throughout the west (Canby 476). Despite the dwindling supplies of water, the only solutions that were posed were part of a twofold plan which included expanding the current reservation and also moving the Pima and Maricopa people to lands near the Salt River where there was still water for farming. They didn’t ask to move away or for more land, they just wanted “the return of their water” (GRIC Publication 12).

Although the Salt River Indian Reservation was not created until 1879, Pima and Maricopa families were allowed to move to the lands above the Salt River to resume farming. But this did nothing to benefit the thousands of people left on the Gila River Indian reservation to the south (GRIC Publication 11). The conditions that were experienced by the people who stayed behind amounted to what we would call famine, in that there was a scarcity of the food supply that resulted in malnutrition, which would eventually lead to starvation on an epidemic level (Merriam-Webster 420).

Not only did the people suffer, but the land also suffered during this time as well. With the significantly reduced flow of water, the Gila River ecosystem was irreparably damaged. The riparian habitat that once supported fish and
beavers was gone. Out of necessity over 100,000 acres of mature mesquite trees were cut down on the reservation to sell to purchase food from non-Indians who still had water to continue farming (GRIC Publication 18). Their homeland was on the verge of ecological collapse. To reiterate from the first explorers who came through the Gila River valley, it was as described a lush green valley of mesquite thickets, cottonwood trees and irrigated fields that covered the landscape for as far as the eye can see. By the time of a prolonged drought in the 1890’s, that description of the landscape was a lost vision.

There is a dark part of history for the Pima and Maricopa people, which encompassed a span of time of roughly ten years from 1895 to 1905. This is known as the Starving Years. An article from the Chicago Tribune in the summer of 1900 reported “Indians Starving To Death: Six Thousand Perishing on the Gila Reservation Because of Failure of Crops” (GRIC Publication 18). They say thousands died, maybe only hundreds did, no one can say for certain, but a large number of Pima and Maricopa people suffered as a result of hunger and malnutrition throughout the Starving Years.

In the year 1900, the Superintendent of Phoenix Indian School, S.W. McCowan, further provides testimony to the U.S. Congress as to the conditions on the Gila River Indian Reservation:

During the last 10 years they have suffered greatly from scarcity of water. As a result, they have gradually fallen from a condition of independence and prosperity until they are practically on the verge of starvation, and are largely dependent upon Government rations for support. (Hayden 55)

Superintendent S.W. McCowan further stated that the reservation, although
expanded four times since its creation in 1859, is perfectly suitable for agriculture; however the irrigation canals, like the Gila River remain dry.

**Diabetes**

S.W. McCowan’s testimony, mentions the issuing of government rations during this time. Rations or government issued food, also known as commodity food, consisted of flour, potatoes, and canned meat, which were high in starch, fat and calories. This forced dependence on government rations represented a major shift in diet and lifestyle that would impact future generations to come.

For hundreds of years, the Akimel O’otham had followed a diet that was high in protein and low in fat. They sustained themselves with traditional foods that they had grown, such as beans, squash and corn, along with the gathering of wild foods from plants and hunting of small game. With the inability to farm due to the absence of water, they were not longer involved in the agricultural intensive labor that kept them healthy. Little did they know at that time, the combined effects of the absence of agricultural production and traditional diets, and the introduction of commodity foods by the government would have a lasting impact.

When the first case of type II diabetes among the Pima was recorded in 1902, it did not receive much attention. However, like the diseases that were introduced by the European explorers that decimated Native American populations since 1492, diabetes continues to plague many Native American communities. By 1954, the overall health status of the Pima had become alarming. In 1957 the Public Health Service Hospital in Sacaton and its Phoenix Indian Medical Center “found 283 diabetics among 6,974” Akimel O’otham and
that number continued to increase (Dobyns 1-16). In the preceding decades, the health impacts of the dramatic transition in diet and government issued rations were evident. The health impacts of malnutrition and the onset of diabetes is now widely accepted as originating with the inadequate water resources needed for agriculture at the turn of the 19th century (Unnatural Causes 1).

The Public Health Service, along with the National Institutes of Diabetes and Kidney Diseases, which is a part of the National Institutes of Health and other non-profit research organizations have all documented the “prevalence of type II diabetes” in Pima Indians since 1965 in numerous studies. They further “recognize that type II diabetes mellitus has a substantial genetic component,” meaning diabetes is also inter-generational (Hanson 1130; Pavkov 1758). It should be noted that the subject of diabetes and further research is a sensitive subject for many Native American communities, especially for the Gila River Indian Community. Native Americans as a whole suffer disproportionately when it comes to diabetes, and:

It is believed that lifestyle changes within these populations—characterized by diminished activity, increased calorie and fat consumption, and increased obesity—have interacted with genetic susceptibility to create an epidemic of diabetes. The highest prevalence of diabetes in the world has been recorded among the Pima Indians of Arizona. (Burrows 1786)

To this day, the Pima Indians continue to struggle with high incidence of diabetes in their community. At the turn of the century in 1900, village chiefs continued to plea and advocate for their people’s return of their water resources in an effort to return to their traditional way of life when they were self-sustaining, healthy and
Independent.

Water Litigation

In 1924, the United States Congress authorized the construction of Coolidge Dam, near Peridot, Arizona. This federal water project was supposed to be for the overall benefit of the Pima and Maricopa Indians, but the real benefit went to the non-Indian farmers. Construction of the dam began in 1924 and the dam was dedicated in 1930 by President Calvin Coolidge, in the midst of the litigation to determine the water rights to use water from the dam (Unnatural Causes 1). Advocacy to protect their water rights continued through a span of 40 years prior to 1924, but the village chiefs from the Gila River Indian Reservation met mixed success; most times they ended up with empty and broken promises. When they looked to the courts, they were not even able to speak for themselves.

Also in 1924, the United States government, as trustee for most Indian tribes, filed a complaint on behalf of the Pima and Maricopa people, as well as the San Carlos Apache Tribe in the U.S. District Court in Tucson. The complaint was meant to secure water rights for the two Indian reservations. The defendants named in the complaint were the non-Indian farmers above and below Coolidge Dam. The attorney appointed by the government to represent the Pima and Maricopa people did not adequately present or protect their water right interests (GRIC Publication 23). After 10 years of litigating the water rights for the Pima and Maricopa people, the government-appointed attorney starting negotiating their water rights with the non-Indian farmers. This negotiation resulted in the issuance of the 1935 Globe Equity Decree, also known as the GE #59 Decree.
In a distressing event that is well known among the tribal water attorneys and historians for the Gila River Indian Community, a grave injustice occurred on the morning of June 29, 1935. Village chiefs rode all night on horseback to the Federal courthouse in Tucson to “stop the giveaway” of their water and water rights, only to be barred from even entering the courtroom. “Judge Albert M. Sames refused to allow our leaders to testify in court and made them wait in the hallway as he issued the Globe Equity #59 decision and ignored our pleas” (GRIC Publication 24). The decree has been subject to litigation ever since and continues to this day (Hestand 1).

When the State of Arizona sought to determine who had water rights and in what order (seniority), a petition was filed in 1976 to begin the General Adjudication of All Rights to Use Water in the Gila River System and Source in the Maricopa County Superior Court in Phoenix, Arizona. The purpose of general stream adjudications serves to “quantify all rights to use water from a specific source… as a result, stream adjudications provide an overall inventory of how much water is used and the relative seniority of those rights” (Ottem 10).

Starting in 1982, the Gila River Indian Community “adopted a two-prong approach to its water right claims.” The first step was by actively participating in the court hearings of the General Adjudication proceedings and at “the same time… by beginning aggressive negotiations, aimed at achieving a fair and timely settlement of its water rights claims” with thousands of water users with water rights to the Gila River (GRIC Publication 24).

Negotiation of water resources began through the Gila River Indian
Community Council resolution GR-127-90, when the Community Council consolidated the efforts of the Central Arizona Project Task Force, and an ad hoc water negotiating committee into a single body. Their purpose was to secure adequate water supplies through the newly built Central Arizona Project system. This five member appointed body became known as the Water Negotiating Team.

On April 2, 1997, Community Council resolution GR-44-97 was passed, which established a new office of legal and technical nature, and thus the Office of Water Rights (OWR) was created. The goal and mission of the Office of Water Rights was to:

Identify, determine, and secure sufficient, affordable water of proper quality, and the financial resources to meet present and future water uses on the Gila River Indian Reservation. OWR pro-actively litigates and negotiates to ensure water for future generations of the Akimel O’odham and Pee-Posh tribes. (OWR 1)

All of these actions and direction of the litigation and negotiations would not have been possible without the strong will, determination and patience by the past and present leaders of the Akimel O’otham and Pee Posh people.
LITERATURE REVIEW

Water in the west and its limited water resources has been a focal point for much discussion and conflict. There is currently an agreement among seven North American states and Mexico that distribute the waters of the Colorado River (which is the most regulated river in the world), called the Colorado River Compact (BOR 1). Ever since the compact was signed in 1922, dozens of authors and writers have published works that allude to an impending water crisis, where growing populations and reduced water resources are amounting to a crisis in the West (McCool 22). Author Mark Twain is attributed to once saying that “whiskey is for drinking, water is for fighting” referring to, of course over the scarcity of water that often humbled the ambitions of early settlers as they made their way into the western territories.

Historical Development

In his book, Cadillac Desert: The American West and It’s Disappearing Water, Marc Reisner, explains that the story of the American West is about the “relentless quest for a precious resource: water.” The promised paradise of land for the taking was what waited early settlers to the west. The settlement of the American West depended on the illusionary infinite water resources that were thought to exist. In actuality, the west was not a paradise and water that was needed to make the land productive was scarce.

The most recent leading authority on Indian water rights and settlements is Daniel McCool. In his book Native Waters: Contemporary Indian Water Settlements and the Second Treaty Era, he writes that we have entered a new era
of treaty making when it comes to Indian water rights. During the first era of treaty making, land was the driving force for these treaties. Indian tribes and communities were recognized as distinct political entities in these treaties. However, in this new treaty era, water is the driving force for negotiated settlements with Indian tribes. There are similarities in both eras; there is a quantification of resources, its uses are stipulated and monetary awards for consideration are made as an incentive to settle water rights claims.

In his dissertation, *The Sword of Damocles: Pima Agriculture, Water Use and Water Rights, 1848-1921*, David H. DeJong relates unquantified water rights to a Damoclean sword being held by Indian tribes. According to the Greek story, *The Sword of Damocles*, by Cicero, during a gathering in the court of the tyrant King Dionysius, a flatterer named Damocles remarks about the King’s prestige and wealth. Upon hearing of these remarks, the King makes a proposal to Damocles. The King asks if Damocles wishes to have a taste of his position of fortune. As Damocles is clothed in the finest robes and food, surrounded by servants, the King orders that a sword be placed near his neck, so that he may not enjoy the newfound fortune. Later, Damocles begs to be free and wishes no longer to be fortunate.

What this story conveys is a sense of fragile happiness and a sense of impending doom that was being felt by the non-Indian water users. Armed with Winter’s and aboriginal water rights, as well as an array of legal resources, the Gila River Indian Community, like many Indian tribes in the United States without a water rights settlement, holds a symbolic Damoclean sword. This might
be the case for tribes in the United States, but when water rights and indigenous peoples in the global perspective are added to the equation, the sword is truly held by non-indigenous water users. Indigenous peoples feel a sense of impending doom by not having a secure source of water for their very livelihood. As with many indigenous people here and throughout the world, irrigated agricultural activities require assured sources of water for dependable production and sustained livelihoods.

Daniel Killoren writes in his dissertation, *American Indian Water Rights in Arizona: From Conflict to Settlement, 1950-2004*, there existed a perception and liability of water supply uncertainty during the period between 1950 and 2004. The year 2004 was chosen as the closing period of this uncertainty because of the approval of the largest Indian water rights settlement, the Gila River Indian Community Water Rights Settlement. Recognizing that there are common interests among Indian and non-Indian water users, a cooperative effort was made to limit each users liability to uncertainty when it came to unquantified Indian water rights claims. In assessing negotiated water settlements, it was concluded that “the desire to negotiate was not only about having greater control over the process and outcomes, it was fundamentally a decision to allocate water in ways that would not be possible if existing legal rights were the only criteria” (Killoren 329).

**Political Autonomy and Nation Building**

In *The Origins of Compromise: Contextualizing the Gila River Indian Community Water Settlement Act*, Jeffery Vance Martin, looks onto the Gila River
Indian Community Water Rights Settlement as a foundation for nation building and greater tribal sovereignty. Martin further explains this development through the “Nation Building Approach,” which emphasizes “economic and social self-determination.” In this approach, decision making power in the hands of Indian tribes or those affected by water policy and management decisions has had a far greater impact than any actions thus far.

The Nation Building Approach stresses “practical sovereignty, effective governing institutions, cultural match, a strategic orientation and nation-building leadership” (100). These nation building objectives were illustrated in the 2004 Gila River Water Rights Settlement and those objectives continue to be played out through the Gila River Indian Community’s recent and future economic and social developments. Those developments have included an ever increasing agricultural production throughout the reservation, economic diversification of tribal and non-tribal enterprises within the reservation that has led to an increase in the overall quality of life for the Akimel O’otham and Pee Posh people.
WATER RIGHTS

Water rights in the United States are primarily governed by two dominant systems of use and distribution. The first system developed in the east coast and is governed by the Riparian Doctrine, which has its roots in English Common Law (Hutchins 2). Secondly, in the arid west, the Prior Appropriation Doctrine is the law of the land (Canby 473). Both systems developed out of geographic location and the availability or scarcity of water resources. Although the following is a brief summary of the two models of water governance systems, it is necessary to have a basic understanding of both systems as they represent the very foundation of water rights in the United States.

Water Rights

In the east, where there is abundant water sources water is tied to the land and cannot be separated from it. Water sources such as a spring, stream, lake or river that borders or transverses land owned by a person and the owner is entitled to reasonable use of that water source, so long as that use does not impact or injure other riparian owners along that source of water. When there are water shortages, all people or riparian owners share that shortage “equitably” (Cohen 1169). Water in the west is regulated through another water use system called prior appropriation. The eight western states that have explicitly refused to recognize riparian water rights are Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah and Wyoming (Hutchins 1).

When the United States laid claim to the vast region that is the Southwest, a new water use system emerged, and this system was to become known as the
prior appropriation system. It operates on the premises that water did not need to be adjacent to that land in order to establish a right to use, or a usufructary right. A usufructary right in relation to water rights looks on water as public property and one does not actually own the water itself, rather they own the right to use water. Prior appropriation also recognizes legitimate users in terms of who first began appropriating or diverting water and putting it to beneficial use (Canby 426). Under this system, a water source did not need to border or transverse the land where the water was to be used.

Regulation of water in the west first began with miners and the early settlers. In the west, land is abundant but water isn’t. As a result of this situation, miners and farmers would divert water through various means to the place of use, which would sometimes be miles from the stream, river or lake (Kanazawa 2). During times of drought and low precipitation, users would place one another in order of seniority and thus, the Prior Appropriation system began to take shape as a distinct water use system (Canby 474).

According to Arizona law, “first in time, first in right,” is the rule of the game (Lewis 34). Arizona courts have interpreted this to mean that the person or water user who first started putting water to beneficial use shall have seniority over all other users (Cohen 1169). Of course, in this instance the question is what is beneficial use? To answer this question, one can turn to the Arizona Revised Statutes §45-151(A), which states that beneficial use of water rights, aside from agriculture, includes domestic, municipal, irrigation, stock watering, water power, recreation, wildlife, non-recoverable water storage, and mining.
Senior water right claims under the Prior Appropriation doctrine, which Arizona water rights are bound, classifies water rights in terms of seniority. This means that water rights are established when users first began diverting water for beneficial use (Canby 475; Staudenmaier 1). In regards to Indian water rights, the courts have applied prior appropriation claims to the date of when Indian reservations were created (Cohen 1179). This interpretation and application, elevates most Indian water rights claims to a senior status.

Preeminent Indian legal scholars William Canby, Jr. and Felix Cohen have also coined those senior water rights as it pertains to Indian communities as aboriginal water rights. In Canby’s book, American Indian Law, he explains the origins of and types of water rights that Indians hold by virtue of their aboriginal status. The first type of water right, as mentioned above, is called aboriginal water rights and based on the premise that Indian communities, bands, groups have used water for their various uses since immemorial, or as long as anyone can remember. The second type is called prior appropriation water rights, and ranks Indians as users according to when they began diverting water, although this type of water right was officially recognized when Arizona was formed as a state in 1912.

A third type of water right, as explained in Cohen’s Handbook on Federal Indian Law, is what called “Winter’s” rights. This type of water rights has its origins in the 1908 United States Supreme Court case Winters v. United States. This case involved water from the Milk River in Montana and concerns Indian water users on an Indian reservation and non-Indian settlers. When this case
reached the United States Supreme Court, the court held that when the federal
government creates reservations, water rights are also reserved in sufficient
amounts to fulfill the purpose of that reservation. Further, according to Cohen’s
Handbook, when Indian reservations are created either through treaties, acts of
Congress or Executive Orders, sufficient water was also reserved for the purpose
of serving as permanent homelands for Indians.

Federal reservations include government properties, Indian reservations,
military bases and national parks (Anderson 1139; Staudenmaier 1). Although in
most cases the amount of water needed for Indian reservations to serve as
permanent homelands was an unquantified and undetermined amount. In the Gila
River adjudication proceedings, they had three legitimate types of water rights
claims. The biggest and most important is their Winter’s water rights claims, also
known as federal reserved water rights.

A new standard that was recognized in the quantification of water rights
claims evolved out of the California v. Arizona, 460 U.S. 605 (1963) case that
based water rights claims of Indian tribes on the Colorado River and in the state
of Arizona on a formula called Practicable Irrigable Acreage. This standard
entitled Indian tribes to sufficient water supplies to practicably irrigate reservation
lands suitable for agriculture. For the Gila River Indian Community, this meant
water right claims were needed to sufficiently irrigate over 146,000 acres of
reservation lands (Hestand 1).

Aboriginal rights claims and are based on historical water usage (Cohen
1179). For the Pima and Maricopa people, they freely diverted and used water
from the Gila and Salt River since time immemorial, or for as long as anyone can remember (Wilmer xi, GRIC Publication 18). Aboriginal water rights claims are evidenced by the archeological excavation of ancient canals, agricultural fields and settlements throughout the Phoenix valley by the Akimel O’otham and their ancestors, the Huhugam.

Long before the first European explorers arrived in the region in the 1600’s, the Akimel O’otham people were using canals to diverting water, like their Huhugum ancestors did to irrigate fields in the Gila River valley over the past 2,000 years. This historical usage makes water right claims based on aboriginal use and prior appropriation hard to dispute. These two types of water rights allows the Gila River Indian Community to lay claim to large quantities of water, and in the case of aboriginal rights, they laid claim to the entire Gila River watershed, which contains about 1.5 million acre feet of water (Hestand 1).

Indian Water Settlements

During the late 1970’s the Carter administration and in the early 1980’s, the Reagan administration envisioned a resolution to long standing Indian water rights claims that didn’t involve court intervention or involvement. The solution was bold and a uniquely American mechanism that involved negotiation between Indian and non-Indian water users. This was the beginning of a new era in Federal Indian Policy. The idea was that water settlements would speed up the process for settling Indian water claims that were pending in many jurisdictions in the west, which were often characterized as moving at a “glacial pace” (McCool 47). The Department of the Interior was directed to conduct a technical study to
identify candidate Indian tribes that were ripe for negotiating. Although over 55 Indian tribes and reservations were identified, the Gila River Indian Community was already in the mix of actively negotiating their water right claims as well as continuing their legal efforts in the various court proceedings.

This dual path was later followed by a third course of action, which would result in the passage of the largest Indian water rights settlement in United States history. The journey to that end involved countless hours of meetings and conversations with outside parties, as well as numerous trips to the nation’s capitol. Litigation has been an on-going process for over the past 100 years, whereas a negotiated settlement represents a fourth of that time and has produced real results, with “wet water” actually flowing into the Community, rather than “paper water” that is contained in court decrees that has failed to be honored or delivered (Hestand 1).

In addition to the dual path of litigation and negotiation, another element was also employed that would also ensure results and action. This third approach was legislative advocacy or political lobbying, which would ensure that the United States Congress would approve those Indian water settlements. In the west, water has made adversaries of friends, and allies among adversaries. With the threat of impending litigation, which the Gila River Indian Community was willing to continue, negotiations provided another less-costly option to follow. A political strategy was needed to bring everyone together (Hestand 1). Although this leads into an analysis of another kind, future planning of water resources by cities, towns and states required a resolution to the undetermined and unquantified
Indian water rights claims (Killoren 326). The lobbying of political leaders on the local, state and federal levels only brought an increased awareness to larger regional water concerns. This awareness made Indian water settlements more attractive. Metaphorically, litigation, negotiation and advocacy represent an iron triangle with each of the three approaches reinforcing the other (McCool 57).

In our current time, preeminent Indian water rights and settlements author Daniel McCool concludes in his book, *Native Waters: Contemporary Indian Water Settlements and the Second Treaty Era*, that we have entered a new era of treaty making when it comes to Indian water rights. During the first era of treaty making, the Indian tribal nations were recognized as distinct political entities, which was why treaties were used in relating to Indian leaders and communities.

The first treaty era sought several objectives, “land ownership was quantified and uses were stipulated” and “often accompanied by monetary settlement,” for tracks of land that were given up. In the second treaty era, water is the driving force of negotiating and settling Indian water rights claims. Again there is a correlation in the processes of achieving the terms in these water settlements. Water is quantified, its uses are stipulated and monetary awards are made for water rights that are given up. Overall, current water settlements are highly desired now more than ever (McCool 8). Indian water settlements are basically formal agreements among parties, Indian and non-Indian alike, in a particular watershed or basin that affirms and recognizes rights to use water.

Litigation is expensive and civil court proceedings has dragged on for decades, and it could take even longer for the courts to decide difficult issues or
even rulings in favor of Indian tribes. This is true in the General Adjudication of All Rights to Use Water in the Gila River System and Source, which began 1974 after the State of Arizona filed a petition to quantify the water rights of over 20,000 claimants in the Gila River watershed. In 2003, federal Judge Coughenhour even went as far as resigning from the proceedings “rather than rule on the Community’s behalf” (GRIC Publication 17). The Pima and Maricopa people have been fighting to regain their water resources for over a hundred years and a negotiated water rights settlement offered a chance for the people to actually see the return of their water.

Even if court decisions are made and a new decree issued, the tribe would still have to pay to have it delivered, but under the terms of the water settlement, payment of a delivery system and infrastructure rehabilitation to existing canals in the Pima-Maricopa Irrigation Project, the on-reservation irrigation delivery system was included. This irrigation system was a huge benefit that the Gila River Indian Community would have never been attained through a court judgment. On average, Indian water settlements as a whole will encompass 10 years of negotiation versus “decades and dollars” of court proceedings (McCool 47). Although the Gila River Indian Community Water Rights Settlement took nearly 20 years to complete, it involved thousands of claimants and parties in the Gila River watershed, which makes it the largest Indian water rights settlement in United States history and further serves as a model in future Indian water rights settlements.

The water rights settlement resolved a big question in regards to the actual
quantity of the Pima and Maricopa water right claims. Water rights are quantified in the expression “acre-feet,” which is the amount of water that covers one acre of land one foot deep; “one acre foot of water equals 325,851 gallons, the amount used by a family of four in one year” (CAP 1). Further, under a water settlement, resolution of Indian water rights brings a level of certainty and finality for the various parties involved. Finality, according to the language of the Gila River Indian Community Water Rights Settlement Act states that the tribe releases and waives “past, present, and future claims for water rights arising from time immemorial and, thereafter, forever.” PL 108-451, Title II, Sec. 207 (1)(i)(I).

It was a cold winter afternoon when President George W. Bush was presented with a proposed law that was 266 pages long. This law would bring to a resolution to over 100 years of litigation and 20 years of negotiations of water rights between Indian and non-Indian water users, spanning generations of people and 18 Governors of the Gila River Indian Community. The Akimel O’otham and Pee Posh people would finally get their water back. This was the Arizona Water Settlements Act of 2004, Public Law 108-451, signed on December 10, 2004. This act also resolved disputes on the repayment of the Central Arizona Project; a massive twenty-year 336 mile long water canal project that cost $4 billion dollars, which was also designed to settle Indian water right claims and to bring 1.5 million acre-feet of Colorado water from the a year to southern Arizona (CAP 1). The act also approved the Gila River Indian Community Water Rights Settlement, as well as amendments to the Southern Arizona and San Carlos Apache Tribe Water Rights Settlement.
The largest of the water settlements in the Act was Title II—Gila River Indian Community Water Rights Settlement. Under the 320-page water rights settlement agreement (not counting the hundreds of pages of exhibits and attachments) the Gila River Indian Community’s water rights were affirmed and recognized a total amount of 653,500 acre-feet of water a year from the Gila River and from other various sources. This amount represents a little over one third of the 1.5 million acre-feet of water that is contained within the Gila River watershed. The biggest source of water is from the Central Arizona Project water system, from which they have water rights to 173,100 acre-feet per year, with an additional 102,000 acre-feet of new rights to this source under the settlement. The second biggest source is from underground water, which amounts to 156,000 acre-feet per year and can be pumped out from within the Phoenix Active Management Area, which encompasses most of the Phoenix Valley (AWDR 1).

Other sources of water that were recognized and affirmed for the Gila River Indian Community include 125,000 acre-feet of Globe Equity Decree water, which is the very water from the Gila River that was to come from Coolidge Dam when it was completed in 1929. Salt River Project stored water equal to 20,000 acre-feet, Roosevelt Water Conservation District (Gilbert, Arizona) CAP water equal to 18,600 acre-feet, Harquahala Valley Irrigation District (Tonopah, Arizona) CAP water equal to 18,100 acre-feet, ASARCO (American Smelting And Refining Company (mining)) CAP water equal to 17,000 acre-feet, Haggard Decree Water (Salt River water) equal to 5,900 acre-feet, as well as exchange premiums of treated or mixed effluent water with the cities of Mesa (5,870 acre-
feet), Chandler (4,500 acre-feet), and the Roosevelt Water Conservation District (2,230 acre-feet). In addition the Gila River Indian Community also received substantial financial benefits that were negotiated and included as an incentive for a water settlement (OWR 1).

Among the financial benefits is federal funding, $385 million to be exact, to complete the Pima-Maricopa Irrigation Project, which is the on-reservation water delivery system that will distribute water throughout the Seven Districts. A Community Trust Fund, also known as the Lower Colorado River Basin Development Fund, was also established in the amount of $200 million dollars, to buy down the cost of CAP water by the Gila River Indian Community for subsequent years until funds in the trust are depleted. Settlement funds were also provided for water quality monitoring ($3.4 million), Phelps-Dodge agreement for past damages to the tribe ($18 million settlement), subsidence remediation ($4 million) and the Salt River Project drain maintenance ($500,000.00).

Lastly, the Gila River Indian Community will also be able to lease water. Under the water settlement the Gila River Indian Community, like all tribes of Arizona, cannot sell their water rights or lease water to out-of-state entities. However, they may lease water in-state, if it is permitted to do so in the negotiated settlement terms. The cities of Goodyear, Peoria, Phoenix and Scottsdale advocated and negotiated portions of the settlement terms and will benefit from leased water supplies from the tribe (OWR 1).

For the Gila River Indian Community, under the water rights settlement, they have political and legal assurances that they will see the water flow onto their
fields and through their community once again. There will be enough water to irrigate over 142,000 acres of land throughout the reservation, which will one day again become the breadbasket of the southwest.
CULTURAL PERSPECTIVE

Water is a central theme of daily life of the indigenous peoples of the southwest, and overall native cultures reflect that relationship. Many of their most important traditions, beliefs, ceremonies, rituals and stories have manifested because of the very environmental adaptations and cultural interpretations of the landscape that have been made through the centuries through interactions with the varied lands that they inhabit (McCormick 1).

A cultural story is one that is developed through our very own interactions with the natural world around us. This common story is what connects us to the land and what connects everyone in a specific culture. Further, stories that have been passed on within a culture about the landscape also build on the people’s connection to the land they inhabit (McCormick 1). For the Akimel O’otham and Pee Posh people of the Gila River Indian Community, water has been an intertwined and integral part of their history and origins in a desert environment.

The most important story that is known among indigenous peoples, are their origin or creation stories. The following is a portion of the origin story of the Akimel O’otham:

But at first the whole slope of the world was westward, and though there were peaks rising from this slope there were no true valleys, and all the water that fell ran away and there was no water for the people to drink. So Jewed Maakai, Earth Doctor, send Ñui, Buzzard, to fly around among the mountains, and over the earth, to cut valleys with his wings, so that the water would be caught and distributed and there might be enough for the people to drink. – Pima Creation Story. (Rea 47)

These stories are the foundation of many cultures, all emphasizing the
importance of the landscape and illustrating its value by incorporating them in the larger context of human existence (Lavenda 71). From the Akimel O’otham creation story, the landscape and water as an extension of the landscape were inseparable.

Research Purpose and Design

As was mentioned before, water rights and all its complexity require an extensive background knowledge and history of water rights. However, unlike other researchers, I use a cultural perspective to understand the meaning of these legal and political practices have for an indigenous people and their culture. This process would also involve highlighting the importance of water in the culture’s daily and historical life.

The Gila River Indian Community was selected as an indigenous community because of its long historical relationship with water and documented sequence of water conflict throughout the past 150 years. The process of conducting field research to gain the cultural perspectives of tribal members began with the required Arizona State University Institutional Review Board application for human subject research. I obtained approval for my interviews with tribal members on January 24, 2011.

Although social research by graduate and post-graduate students, under the direction of a Principal Researcher or professor, is a common practice, recently there was a heightened interest and thorough review of research topics involving Indian tribes. This required a shift in attitude and called for a detailed research design and process. As tribes have begun to exercise greater control and
regulation through establishing official procedures for research and information gathering, researchers can no longer arrive unannounced and without informed consent to conduct research in tribal communities and with tribal members.

The current trend and process for “gaining access” in tribal communities has included the submission of a research proposal of the research project to be initiated, very similar to the human subject research application, which states the purpose and scope of the research to be conducted. Although, each Indian community may have varying requirements, formal applications and specific proposal formats should be anticipated by researchers. The establishment of “culturally appropriate mechanisms for the review, approval, and supervision of researchers” has also included the appointment of tribal supervisory committees or research and review boards and uniform research protocols, such as “reporting and feedback requirements” are common themes in approaching tribal communities with research requests (Smith-Morris 77).

For the Gila River Indian Community, their historical experience with research began with the prevalence of diabetes with tribal members since 1965 (Hanson 1130). Over the past 46 years since the first diabetic studies began, has resulted in a belief in the community that the tribe and its members have been over-researched in health and medical research. This has led to the creation and enactment of the Health and Medical Research Ordinance on April 15, 2009 through the Gila River Indian Community Council Resolution GR-171-09. This tribal ordinance established an ad hoc research review committee of tribal members, who review all health and medical care research proposals that are to be
carried out within the reservation and with tribal members. As my research did not fall into the medical and health care research categories, I turned to the standing committees and Gila River Indian Community Council for review and support of my research entitled “Gila River Indian Community Water Rights.”

Support for Research

In presenting the research proposal to the Community Council for review and approval, a formal resolution in support of my research and process was also prepared and presented. The standing committees that were the first to review the research proposal included the Legislative Standing Committee, Natural Resources Standing Committee and the Government & Management Standing Committee. The Community Council review of my research was placed on the January 19, 2011 meeting agenda. Council members reiterated many of the same concerns mentioned above during the research presentation, including a feedback requirement and presentation of the final product with interview transcripts to inform the tribal leadership of the information that was gathered and how that information was used.

After a lengthily presentation of questions and answers, permission and support was attained through the passage of Resolution GR-08-11, “A Resolution In Support Of Research Involving Gila River Indian Community Members For The Purpose Of Conducting Interviews To Gather Opinions And Perspectives On Water Rights And Water Issues Within The Gila River Indian Reservation.”

Interview Sessions

In interviews with Gila River Indian Community members, I was able to
gain selected Community member’s perspectives and opinions water rights and issues. The traditional beliefs about water have created a water philosophy and cultural identity that is grounded in creation stories, songs, ceremonies and prayers. Through semi-structured interviews with those selected tribal members, I was able to discover this concept further.

In seeking out potential voluntary interview participants, an informational letter was transmitted through electronic or hardcopy form and once interview interest was entertained, an interview session was scheduled. A series of contingency questions was included in the interview guide designed to establish the interview participant’s tribal membership and residency within the Gila River Indian Community and to also demonstrate knowledge of the water rights settlement and water issues within the Gila River Indian Reservation. For the purposes of the research process and interview guide development, each interview transcript was assigned a letter and district number where the interview participant was from.

After conducting interview sessions with a total of 10 participants, interview transcripts were produced. Examination of the interview transcripts revealed insight into the historical and cultural relationship between the people of the Gila River Indian Community and water from the Gila River. Further, interview data was categorized into five subject topics; Interview Transcript and District, Cultural Stories, the Ancestral Landscape, Cultural Perspectives and Settlement Satisfaction and the Future. The classification of interview data is summarized in the figure below. It should be noted that these interviews
represent individual tribal members’ views and perspectives and are not the official stance or position of the Gila River Indian Community, the Community Council or its leadership.
<table>
<thead>
<tr>
<th>Interview Transcript and District</th>
<th>Cultural Stories</th>
<th>The Ancestral Landscape</th>
<th>Cultural Perspectives</th>
<th>Settlement Satisfaction and the Future</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Member A; District 1.</td>
<td>Story of Blackwater Lake.</td>
<td>Farms that covered the land. Descriptions of trees, plants and animals.</td>
<td>Return of water means revitalization, acknowledgement of a lost heritage. Recital of poem: “I am Akimel O’otham.”</td>
<td>Not happy, but pleased there was a water settlement. Indifferent to positive outlook.</td>
</tr>
<tr>
<td>Community Member B; District 6.</td>
<td>--</td>
<td>Land was covered with mesquite trees. Area was a breadbasket.</td>
<td>Farming and the Feast (Community).</td>
<td>It’s here, now what are we going to do? Positive outlook.</td>
</tr>
<tr>
<td>Community Member D; District 4.</td>
<td>Flood story; Superstition Mountain.</td>
<td>The river was the important part of the landscape.</td>
<td>With the absence of water, like something is missing from the culture and history of the people.</td>
<td>With the settlement, we can look to the future with certainty. Positive outlook.</td>
</tr>
<tr>
<td>Community Member E; District 3.</td>
<td>Creation story; the Gila River.</td>
<td>River was always there to provide for the people and land.</td>
<td>We are the River People, but we have no river.</td>
<td>Settlement was a good thing. Positive outlook.</td>
</tr>
<tr>
<td>Community Member F; District 7.</td>
<td>Traditional names reflected the importance of the water and the river.</td>
<td>The river made the land beautiful.</td>
<td>Return of water means the people have to relearn the teachings, stories and songs.</td>
<td>What if there was no settlement? Positive to indifferent outlook.</td>
</tr>
<tr>
<td>Community Member G; District 2</td>
<td>--</td>
<td>The ancestral landscape had a flowing river and it now a missing part of the landscape.</td>
<td>Ceremonial and spiritual use of water from the river.</td>
<td>Mixed feelings. Indifferent outlook.</td>
</tr>
<tr>
<td>Community Member H; District 5</td>
<td>--</td>
<td>Irrigated fields were a part of the ancestral landscape.</td>
<td>Water is what brings the land to life. Songs and stories that derived from the river.</td>
<td>Return of water is part of the healing process. Indifferent to positive outlook.</td>
</tr>
<tr>
<td>Community Member I; District 5</td>
<td>--</td>
<td>Traditionally, farming was done through family groups and whole villages. Provided social cohesion.</td>
<td>The O’otham Spirit is made up of the land, language, traditions, and the water.</td>
<td>Settlement means the return of a lost part of our spirit. Positive outlook.</td>
</tr>
<tr>
<td>Community Member J; District 3.</td>
<td>Creation story; the Gila River.</td>
<td>Water was not only needed for farming, but also for the wild plants that we used to gather food from like mesquite and cactus.</td>
<td>River was a source of pride and security for the people, is as true now as it was in the past.</td>
<td>Real benefits are yet to be seen. Indifferent to positive outlook.</td>
</tr>
</tbody>
</table>
Cultural Stories

There are many areas and locations throughout the Gila River Indian Reservation that have special cultural and spiritual significance for the Akimel O’otham and Pee Posh people. Most notably these areas were and are located near the Gila River. On the eastern most district of the reservation is District 1 or Blackwater and it was there that the elders would tell of the historical events and encounters in an area where the water appeared black. It was thought that creatures from the ocean in the south and other amphibious beings would have brief contact with people at the water’s edge.

In another place, near the village of modern day Gila Crossing, there was a pool that a central cultural figure would go to rejuvenate himself. This cultural figure is a teacher, among other roles, and he is known as Elder Brother. This pool was a special place, where he would also go to seek sanctuary from those who would harm him. In the Akimel O’otham language, the word for sanctuary was “aji.” The river and the riparian habitat that it created was exactly what this word was meant to signify.

The very river that provided life-giving waters had a creation. Two separate stories, including one from 1983 by researcher Amadeo M. Rea, tell that the land was flat and slanted, the people were starving and no water to drink. There were no natural geographical features to capture or hold water. The people prayed and Buzzard was sent to bring water to the land and the people by cutting a small ravine with its wings for as far as the eye could see from eastern mountains to the western horizon. That ravine eventually grew to become a
mighty river, the Gila River.

The story that I know is how the Gila River was created for the people, of how the water and river was given to the Akimel O’otham. Before there was a river, the people tried to grow food in the desert and they couldn’t. So, they pray to the Creator, the Great Spirit or Earth Doctor, as we know it, for help. Then the Buzzard was sent and created the Mountains and a small river with his wings. That small river grew over time to become the Gila River. And this was how the Gila River and its waters were given to the Akimel O’otham people. (CMJ 3)

There was even a time with the Gila River flowed with so much water that there was a flood. The flood story begins with one day it rained for many days and the river overflowed its banks. The people headed towards Slanting Mountain in the east, this mountain is also known as Superstition Mountain. Atop Slanting Mountain they watched the water flood their entire world. They prayed for the flood to stop, they prayed for help and their prayers were answered with the mountain rising four times, which is why it looks like steps and is slanted. Other people prayed to be turned to stone, which is also why there are stone columns that look like people still praying on the south side of the Superstition Mountain today.

The Ancestral Landscape

Every interview participant provided accounts on the ancestral landscape. The landscape, which is also their homeland, has been described throughout the centuries, first being passed down through oral history by the Huhugam, their cultural predecessors, the Akimel O’otham, by the Spanish explorers, and then by the Mexicans and Americans. For the Akimel O’otham, the landscape as their ancestors saw it was full of life, there was green everywhere and the Phoenix
valley was an oasis in the Sonoran desert. An important aspect of that landscape was a flowing river that, from the stories provided, was given to the Akimel O’otham people. This river and the ecosystem it created brought animals and the land to life. It was water from the Gila River that irrigated thousands of acres of land in the past and supported thriving fish and beaver populations.

Cultural Perspective

The cultural perspectives of the Akimel O’otham and Pee Posh people have developed throughout the centuries. Through this interaction, a philosophy and identity was developed. Those philosophies are made up of songs, stories and rituals that all involve water from the Gila River. There is also a poem from a young woman from Casa Blanca on the Gila River Indian Reservation called “I am Akimel O’otham” and it was told to me through another Community member through one interview:

I am Akimel O’otham, but I have never seen the water flow in the river… So, they call me Akimel O’otham—I am Akimel O’otham… And I tell people that there will never ever be any natural flowing waters in the river… But we still call ourselves River People. (CMA 4)

This was a poem recorded before the water settlement was enacted in 2004, but remains to be an insight into the impact that the loss of the Gila River has had on the land and people.

The river was also a source of pride and security, its waters assured that the thousands of acres of irrigated farmland would flourish and provide food. It was through agricultural production that the Huhugam were able to survive in a desert environment. It was through agricultural production that the Akimel
O’otham and Pee Posh, who confederated themselves into the Pima-Maricopa Confederacy, ensured their autonomy and independence.

Settlement Satisfaction and the Future

When asked what the Gila River Indian Community Water Rights Settlement means to Community members, one member saw the return of their water as a return of a way of life that was taken away when the river was taken away. Another saw it as the start of the healing process, a healing of the culture and people whose way of life was forever altered when the Gila River and its water was taken away over 100 years ago, as the following portion from a tribal member indicates:

I’m not sure if there is anyone alive today that was able to see to the Gila River, to see the fully flowing river as our ancestors once saw it… but I’m sure it was beautiful. (CMC 2)

and further,

Water has always played a role in our way of life… even the Gila River has a creation story in our culture. It’s very important to see the river flow again, in respects to culture. When there was no water, the culture was being destroyed slowly, and that goes for all the living things that depended on the water from the river, even the land. Water makes the land alive. Now that we have water back, the return of the water, I see it as a part of the healing process and the healing of the culture. (CMH 2)

A majority of those interviewed has positive to indifferent outlooks on water settlement, but given the historical development of water rights and failures of government and institutions, there is reason for a cautious, yet optimistic feeling in looking towards the future. Overall, there was the sense that the return of the water through a water settlement meant more than a legal or political
victory. It is more of the anticipation and the knowledge that water has been secured and was coming, which translated to a sort of happiness among the Community members:

I think it would be a good thing and it would be a great day to see water flowing through our Community once again, like it was a century ago. Right now I can only imagine what it was like when the river still flowed. The only time we see it flow, is when there is heavy rains in the fall and early spring, but it doesn’t flow for long… only for a day or so—even then it makes me happy. (CME 2)

The wish of the people in the Community from abstract observations throughout the study period was that they yearn to once again look upon the Gila River flowing freely once again. This sight is something that is only now witnessed during wet years when the floodwaters fill the Gila River’s dry waterbed. But the flowing water, culturally speaking, is what makes their stories come alive and what makes their stories real. Stories were told over and over again as people would gather near the river for whatever reason, even if there was no reason. The sounds that the water would make, was like a calling and it drew people to the river for the soothing sounds and habitat of birds and animals it created. This is what is missing. The very presence of the Gila River was a symbolic component of the people and the culture.

Selected Responses

Among the many questions that were asked in each interview session, was a general question on what perspectives on water and culture that interview participants wanted to share:

It’s sad what happened to our people, you know… and if we are to
become closer to our traditions and to our culture, bringing the water back is part of that process. I haven’t seen the Gila River flow as our ancestors have, but it would be nice to see it every morning and every evening. (CMG 3)

The importance of the river and the water that comes with it cannot be over stated. As for whether the river actually flows through the Akimel O’otham homeland again, is a water policy decision that is vested in the Community Council. In trying to grasp what the return of water through the water settlement means, one tribal member put it:

I think it’s too early to tell, it’s like we got our water back—after going without it for so long. And we need to re-learn our ways and revive our ways to appreciate the water and what teachings come from it. But I do hope that a lot of good comes from the settlement, not just for us, but for our youth who will make the decisions one day on how to use the water, just as my generation saw the need to go with a settlement. (CMF 3)

and,

It has felt like something was missing from the people, something that was missing from our history and culture. But we can look to the future with certainty that there will be water for generations to come. (CMD 2)

For the Gila River Indian Community, the important thing is that they have the political and legal assurances that they will see water flow onto their fields and through their community. They are no longer a people without water. They are no longer being told to wait in the hallways as decisions are being made.
THEORETICAL PERSPECTIVES

When the first European settlers came to new lands, it was looked on in terms of ownership. This is most evident in the infamous landing of Christopher Columbus in 1492 on the island of San Salvador. Upon his landing on the beach of San Salvador, he proclaimed the “newly-discovered” lands as the property of King Ferdinand and Queen Isabella of Spain. In a theatrical performance, Spanish Conquistadors and European explorers wearing their best cloaks covered by their polished armor, helmet and sword, and often portrayed carrying a staff and cross with their nation’s flag and reading a proclamation in laying claim to the lands they intended to colonize. Similar acts were performed by various European powers throughout the Americas and Pacific islands.

Postcolonial Theory

Postcolonial theory looks on water rights as a product and legacy of colonial imperatives. The Spanish Requirement of 1513 (“El Requerimiento”), for example, was a declaration by the “Spanish monarchy of its divinely ordained right to take possession of the territories of the New World and to subjugate, exploit and, when necessary, to fight the native inhabitants.” This proclamation was certainly read by future Conquistadors in Spanish to the indigenous peoples they encountered to inform them of Spain’s rights to conquest (McKay 2). Columbus’s landing in the New World was the beginning of we would call colonialism and its resulting legacy, imperialism. Imperialism is sovereignty’s policy of exerting its power and influence over another nation and other countries. It is also about imposing ones culture through active or passive means, directly or
indirectly, on others, land, and resources (Hughes 29).

The process of colonialism is done through direct presence in foreign lands, especially by establishing settler colonies that exist to spread the culture and policies of the homeland that seeks to destroy and disrupt existing traditional culture and economies in the new lands of acquisition (Hughes 29; McKay 2). This mindset of imposing colonial imperatives had many impacts on the land, culture and perspectives of indigenous people and it has continued on to our present time as evidenced in the history of one indigenous group, the Akimel O’otham. This is also most evident in the economic and political systems that emerged that were meant to regulate and recognized ownership of land and natural resources.

The goal of colonialism was also about the extraction of resources, which was then traded, sold and sent back to their home countries in Europe. This process further involved turning the landscape of the colonized lands or some aspect of it into items and objects, or resources to be quantified and sold and traded as commodities (Hughes 46). This was not a perspective that was shared by indigenous peoples, who viewed the land and water as living and something that cannot be owned, bought or sold.

Indigenous studies author David Groenfeldt further explains this duality in perspectives in Water Development and Spiritual Values in Western and Indigenous Studies, where the “system of determining how water is utilized in Western culture is basically an economic one” and whereas most indigenous perspectives towards water are geared towards a “spiritual connection” in a sense
that it’s source of culture and identity.

From these two perspectives, which can be looked on as the western versus indigenous perspectives, conflicts have emerged about water use and development. In the western perspective, water is a resource:

It is not alive; it is inert; it can be fully defined in terms of its physical properties. It has no consciousness, and it is not alive. It is neither a plant nor animal; it is a type of mineral, a liquid one (usually) but very much a mineral. Water is a resource much like coal or oil or phosphate or gold. (Groenfeldt 2)

The use of water inevitably turns into an economic decision with its value being determined by its economic application and benefit to people. Western cultural theory prefers to make use of this resource, and by choosing not to “utilize the potential benefits of the resource is considered to be wasteful” (Groenfeldt 2).

**Indigenous Peoples**

The cultural perspectives of indigenous peoples, which vary but are very much similar view water as something more, something supernatural. This supernatural and spiritual connection has been the basis of life, of culture and identity for many indigenous people since the beginning of their existence. The Indigenous Peoples’ Water Declaration (2003) further places emphasis on this connection: “we recognize, honor and respect water as sacred and sustains all life… Our relationship with our lands, territories and water is fundamental physical cultural and spiritual basis for our existence.” Therefore, water in the indigenous worldview takes on a “spiritual phenomena” in a sense that it is a source of culture, identity and existence of indigenous peoples (Groenfeldt 2).
In the face of ever increasing development and expansion of non-indigenous populations on indigenous lands, how can these dual perspectives coexist? Where access to water resources is secured and management of water resources adheres to indigenous thought and consciousness? The answer to these questions involves a postcolonial view, a perspective where we are in an era after colonialism has run its course (Seth 7). The “now” is concerned with how indigenous and non-indigenous peoples can move forward in mutual existence.

Current discussions on water rights and indigenous peoples, as distinct groups and communities have centered on political recognition and protection, as well as access to natural resources, especially water. It is a fact that the world’s estimated 370 million indigenous peoples continue to face discriminatory policies and laws that disregard traditional customs and their very political existence (UN Factsheet 1). Without having a voice in the decision making of the nation-state in regards to natural resources and development has continued to leave indigenous peoples at a social, economic and political disadvantage (Young 44).

The very definition of what is deemed to be “indigenous” is up for further definition. Generally, terms and phrases have been widely accepted, but no definitive definition has been accepted (Bodley 1). Several definitions as a whole include cultural groups, aboriginal and original inhabitants whom have remained intact despite colonization, “practicing unique traditions… retain social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live” and having a “deep connection to their lands and natural environments” (Anaya 3; Hughes 11; Wilmer xi). Nonetheless,
indigenous peoples continue to exist in about 70 countries around the world, with a majority living within the Asian subcontinent (UN Factsheet 1).

Human Rights

When the United Nations was formed after World War II, the focus of this international body was to prevent wars, settle conflicts and promote peace, among a list of goals, in the world. As an international body they drafted a charter that recognized the need for “the maintenance of peace and international security and respect for human rights” (Smith 24). The world powers that were integral its formation also recognized the responsibility of their nation’s role in colonizing the world and the resulting legacy of colonialism that was the causes to many of the world’s conflicts.

Specifically, the United Nations has recognized indigenous peoples as needing protections as vulnerable groups. Historically, indigenous peoples were striped of land and resources and have been marginalized to the fringes of dominant societies (Bodley 1). It is within the language of the United Nation’s Charter brings indigenous peoples social and political protections by the promotion of the “dignity and worth of the human person” and further, “there is a clear emphasis on the notion of equality and on the inherent dignity and worth of each and every person” (Smith 24).

It is within the framework of international human rights that indigenous peoples are recognized as peoples in search of recognition of their very existence and their right to exist in their traditional ways of life. Without a voice and without political recognition by the Nation-States they are geographically located

Two of several clauses in the Declaration on the Rights of Indigenous Peoples state that:

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests;

and,

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs.

What the two clauses of the declaration resonates is the concept of self-determination, or the right of peoples to determine their own destiny in accordance with their own traditions and values. “Self-determination and legal recognition of the rights to own, manage and control their lands are key demands” of indigenous peoples today (Hughes 20). These demands, along with an
increasingly unanimous perspective that access to, management and indigenous involvement in the decisions regarding water resources plays a key role in self-determination of indigenous peoples (Morales 22; World Water Council 1).
TRANSFORMATIVE PERSPECTIVE

What is being talked through my train of thoughts is that through the process of colonization, land and resources were looked on as commodities. There was a transformation in perspectives on land and resources, which were not looked on as something to be bought and sold by indigenous peoples. However, the colonial mindset also looked on land and resources in terms of ownership and systems of use, distribution and regulation emerged to recognize ownership (Kanazawa 2). Systems of use included the development of the concept of water rights, which further carried a legal definition.

Water in the indigenous perspective, using perspectives gathered from interviews with Gila River Indian Community members, water was this feature of the landscape. While not fully defined, it was very much a part of the land and of the people. It was the source of life, song, story and ritual. Through the process of colonialization and the influence of non-indigenous customs, water took on a new form, it transformed into something else. Water was quantified in a measureable unit, there is a valuable attached to it and it is defined legally and politically. Systems of use and recognition, like prior appropriation, emerged as a result of this transformation of water perspectives. Water rights settlements here in the United States developed out of political will on the part of Indian and non-Indian water users out of the need to plan for and secure a future that involved a resolution of unquantified Indian water right claims, that didn’t involve court intervention.

The state of indigenous people today and discussions are about indigenous
peoples and rights to access water and political recognition of these distinct
groups. Water rights, as they emerged here in the United States, as a right to the
use of water and not the actual ownership of water, as well as the as use of water
rights settlements as an official policy of the Federal government can be used
beyond and outside the United States as a means to relate to other indigenous
peoples throughout the world. Water settlements can fulfill two needs and
priorities in terms of the current discussions on water rights and Indigenous
peoples, one is providing for and assuring basic access to water and also relating
to indigenous groups as distinct groups, like Indian tribes here in the United States
were recognized and related to as distinct political entities, hereby political
recognition is achieved in this process.

From the very beginning the indigenous peoples of the Phoenix valley
were transforming the landscape into a desert oasis. The life giving waters of the
Gila River was the very reason for their existence and survival in the middle of
the Sonoran desert. The 2004 Gila River Indian Community water rights
settlement that was negotiated and executed between the Indian and non-Indian
water users was the largest Indian water rights settlement in the history of the
United States. The success of this achievement serves as a model of future Indian
water rights settlements in the United States and abroad. What has been achieved
here is that a water settlement is a formal agreement on the rights to use water
from a particular water source and within a specific regional watershed.

Indian water settlements or water use agreements have the potential to be
replicated in other parts of the world where there are indigenous communities that
are seeking and are in need of political recognition and basic access to water. The basic elements of a water settlement would be employed, a source or sources of water would be identified. Water use would be quantified, using some form of quantification method; water use would be stipulated for specific uses, and monetary awards, if any, as an incentive would be provided through good-faith negotiation between indigenous and non-indigenous peoples (McCool 8).

Conflicts between indigenous and non-indigenous peoples, like the conflict between Indian and non-Indian tribes here in the United States, is “one of history’s longest wars” (McCool 7). If there were some instrument or process that would provide some resolution to some portion of this conflict, it would be water rights settlements or a similar product that would recognize indigenous peoples as distinct groups with the ability to effectively control and manage the resources essential to their livelihoods. Under the right political and legal conditions, water rights settlements have the potential to work out in other countries of the world, where water conflicts exist between indigenous and non-Indigenous users. Further research into candidate indigenous communities and candidate countries would also be needed to be carried out, of which I shall leave to future researchers and scholars.
WORKS CITED


APPENDIX A

GILA RIVER INDIAN COMMUNITY COUNCIL RESOLUTION
GR-08-11
RESOLUTION GR-08-11

A RESOLUTION IN SUPPORT OF RESEARCH INVOLVING GILA RIVER INDIAN COMMUNITY MEMBERS FOR THE PURPOSE OF CONDUCTING INTERVIEWS TO GATHER OPINIONS AND PERSPECTIVES ON WATER RIGHTS AND WATER ISSUES WITHIN THE GILA RIVER INDIAN RESERVATION

WHEREAS, the Gila River Indian Community Council (the “Community Council”) is the governing body of the Gila River Indian Community (the “Community”), a federally recognized and sovereign Indian tribe; and

WHEREAS, the Community Council is empowered by Article XV, Section 1 (a)(9), of the Constitution and Bylaws of the Gila River Indian Community (approved March 17, 1960), to promote and protect the health and general welfare of the Community and its members; and

WHEREAS, Isaac A. Navajo is a long time Community employee and a Master of Arts-Social Justice and Human Rights graduate degree candidate ("Co-Investigator") and is enrolled in the New College of Interdisciplinary Arts and Sciences at Arizona State University and is under the direction of the Dr. William Paul Simmons ("Principal-Investigator"), Associate Professor and Director of the Master of Arts-Social Justice and Human Rights program at Arizona State University; and

WHEREAS, the Co-Investigator has a Social Behavioral Application (application for nonexempt research examining topics such as normal behavior, opinions, personal and social history, and educational practice) pending with the Arizona State University Institutional Review Board and with this Resolution of support from the Community Council, would assist in its approval; and

WHEREAS, Co-Investigator will be researching the Gila River Indian Community and its Water Rights Settlement as a part of his research for his Thesis examining American Indian water rights and how it plays a critical role in shaping Federal Indian law and tribal development and policy; and

WHEREAS, the Co-Investigator is aware and will be respectful of the culture, history and traditions of the Akimel O’odham (Pima) and Pee Posh (Maricopa) people, who comprise the Gila River Indian Community; and

WHEREAS, the Co-Investigator will interview Gila River Indian Community members ("Community members") for their opinions and perspectives on water rights and water issues within the Reservation through structured interviews as outlined in the attached “Interview Guide”; and
WHEREAS, all information gathered from interviews with Community members along with public information will be integrated into the Co-Investigator’s Thesis on water and human rights; and

WHEREAS, the Co-Investigator’s interviews with Community members will carry no risk or harm; all participation of Community members will be completely voluntary; all information gathered, as well as the identities of Community members participating in interviews shall be kept confidential by removing any personal identifying information to protect and respect individual privacy; and

WHEREAS, any information gathered through these interviews represent individual Community members’ opinions and perspectives and shall not be the official views or stance of the Gila River Indian Community, the Community Council or its leadership and interview transcripts shall be made available, upon request to the Community Council and Community leadership by the Co-Investigator; and

WHEREAS, all information gathered through these interviews shall not financially benefit the Co-Investigator or Principal-Investigator; all information will be solely for a Thesis in partial fulfillment of a Master of Arts degree; and

WHEREAS, information gathered through these interviews will be integrated into a thesis and published in the ASU library system and will be a public document, however, any future publication of information gathered through these interviews shall require the expressed consent of the Community Council by the Co-Investigator.

NOW, THEREFORE, BE IT RESOLVED, that the Community Council hereby approves this Resolution in support of research involving members of the Gila River Indian Community for the purpose of conducting interviews to gather opinions and perspectives on water rights and water issues within the reservation by the above Co-Investigator.

BE IT FINALLY RESOLVED, that the Co-Investigator shall submit and present the final copy of the Thesis on water and human rights to the Community Council and place an electronic and hardcopy on file with the Community Council Secretary’s Office for archival purposes.

BE IT FINALLY RESOLVED, that the Governor, or in the absence of the Governor, the Lieutenant Governor, is authorized to execute and sign all documents necessary to carry out the intent of this resolution.
CERTIFICATION

Pursuant to authority contained in Article XV, Section 1, (a) (7), (9), (18), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the tribe January 22, 1960, and approved by the Secretary of the Interior on March 17, 1960, the foregoing resolution was adopted on the 19th of January 2011, at a regular Community Council meeting held in District 3, Sacaton, Arizona at which a quorum of 14 Members were present by a vote of: 9 FOR; 5 OPPOSE; 0 ABSTAIN; 2 ABSENT; 1 VACANCIES.

GILA RIVER INDIAN COMMUNITY

GOVERNOR 1-21-11

ATTEST:

COMMUNITY COUNCIL SECRETARY 1-24-11
APPENDIX B

ARIZONA STATE UNIVERSITY INSTITUTIONAL REVIEW BOARD
APPROVAL FOR HUMAN SUBJECT RESEARCH
To: William Simmons  
FAB

From: Mark Roosa, Chair  
Soc Beh IRB

Date: 01/24/2011

Committee Action: Exemption Granted

IRB Action Date: 01/24/2011

IRB Protocol #: 1012005854

Study Title: Gila River Indian Community Water Rights

The above-referenced protocol is considered exempt after review by the Institutional Review Board pursuant to Federal regulations, 45 CFR Part 46.101(b)(2).

This part of the federal regulations requires that the information be recorded by researchers in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects. It is necessary that the information obtained not be such that if disclosed outside the research, it could reasonably place the subjects at risk of social or civil liability, or be damaging to the subjects' financial standing, employability, or reputation.

You should retain a copy of this letter for your records.
APPENDIX C

INFORMATIONAL LETTER TO INTERVIEW PARTICIPANTS
INFORMATIONAL LETTER
INFORMATIONAL LETTER

STUDY TITLE: Gila River Indian Community Water Rights

Dear Participant:

I am a graduate student conducting research under the direction of Dr. William Simmons, in the Division of Social and Behavioral Sciences in the New College of Interdisciplinary Arts and Sciences at Arizona State University West. The purpose of this study is to examine the Gila River Indian Community Water Rights Settlement and the impact of this water settlement on the daily life of native peoples and their families as well as the cultural significance of water in the Community’s historical life.

I am inviting your participation, which will involve answering questions related to Indian water rights and the Gila River Indian Community Water Rights Settlement, more specifically the cultural and spiritual connection that water plays in the community. I shall ask a maximum of ten questions during a scheduled interview session. The interview session will not be any longer than two hours.

Your participation in this study is completely voluntary. If you choose not to participate or to withdraw from the interview at any time, there will be no penalty to do so. However, to participate in this study you must be 18 years old or older, an enrolled member of the Gila River Indian Community, knowledgeable about the water rights settlement and water issues within the Gila River Indian Reservation.

The benefit of these interviews is to have Community Member’s perspectives told and known. Those perspectives will be integrated into a thesis connecting water rights to human and cultural rights. Further research may also give Community members an opportunity to express their perspectives on future water usage on the reservation. There are no foreseeable risks or discomforts to your participation.

Your responses will remain confidential. During the interview I will ask you periodically not to use any names, nicknames or alias of yourself or in reference to others. Interviews will be recorded using an audio recorder and shall be transcribed within five days after the interview. Any identifying information of yourself or others will be replaced with pseudonyms in the transcriptions and the audiotapes will be destroyed at that time.

If you have any questions concerning the research study, please contact the research team at: Isaac Navajo, Co-Investigator Isaac.Navajo@asu.edu, 1600 N. Arizona Ave., #3013, Chandler, AZ 85225, (505) 860-4677 (cell) or Dr. William Simmons, Principal-Investigator William.Simmons@asu.edu, FAB
301H, 4701 W. Thunderbird Rd., Glendale, AZ 85306, (602) 543-6089 (office). If you have any questions about your rights as a subject/participant in this research, or if you feel you have been placed at risk, you can contact the Chair of the Human Subjects Institutional Review Board, through the ASU Office of Research Integrity and Assurance, at (480) 965-6788.

Please let me know if you wish to be part of this research project.
INTERVIEW GUIDE

Topic: Gila River Indian Community Water Rights
Co-Investigator: Isaac A. Navajo

Introduction

Hello and Good Afternoon. First I would like to thank you for your time to sit down with me to talk a little bit about my research on Indian Water Rights and Settlements. I am a graduate student in the ASU New College of Interdisciplinary Arts and Sciences and enrolled in the Master of Arts degree in Social Justice and Human Rights. As part of my research, I am gathering information from Community Members (of the Gila River Indian Community) about the recent settlement and their thoughts about how this settlement is currently affecting them. This is a completely voluntary informal discussion, so feel free to talk and stop whenever you would like. If there is something that you feel should not be communicated or shared, please let me know. When we are finished with our discussion, I will go over my notes with you to make sure that I am communicating your thoughts correctly.

The topic which we will discuss this afternoon has to deal with Indian water rights and settlements. I was happy to learn about the Gila River Indian Community Water Rights Settlement Act (2004) during my studies as an undergrad. Now as a graduate student I would like to contextualize this historic water settlement through a social justice and human rights framework by examining the Gila River Indian Community Water Rights Settlement and the impact of this water settlement on the daily life of Native peoples and their families as well as the cultural significance of water in the community’s life. I believe the Gila River Indian Community Water Rights Settlement is an important example to use as a case study for examining the connection between water rights and human and cultural rights.

I am inviting your participation, which will involve answering questions related to Indian water rights and the Gila River Indian Community Water Rights Settlement, more specifically the cultural and spiritual connection that water plays in the community. I shall ask a maximum of ten questions during a scheduled interview session. The interview session will not be any longer than two hours and shall take place here at the Ironwood Branch of the Phoenix Public Library located at: 4333 East Chandler Boulevard, Phoenix, AZ 85048-8840. You have the right not to answer any question, and to stop the interview at any time.

Your participation in this study is completely voluntary. If you choose not to participate or to withdraw from the study at any time, there will be no penalty to do so. However, to participate in this study you must be 18 years old or older, an enrolled member of the Gila River Indian Community, knowledgeable about
the water rights settlement and reservation water issues.

The benefit of these interviews is to have people’s perspectives told and known. Those perspectives will be integrated to become part of a research thesis connecting water rights to human and cultural rights. Further, research may also give a chance for participants to express their perspectives on future water usage on the reservation. Benefits also extend to other Native American and indigenous people who are fighting for water rights. There are no foreseeable risks or discomforts to your participation.

Your responses will remain confidential. During the interview I will ask you not to use any identifying information of yourself or in reference to others. Interviews will be recorded using an audio recorder and shall be transcribed within 5 days after the interview. Any identifying information that may be recorded will be replaced with pseudonyms in the transcriptions and the audiotapes will be destroyed at that time. The results of this study may be used in reports, presentations, or publications but your name will not be used. However, prior permission will be requested to do so.

I would like to also audiotape this interview. The interview will not be recorded without your permission. Please let me know if you do not want the interview to be taped; you also can change your mind after the interview starts, just let me know. For any privacy concerns, all identifying information from audiotapes will be removed when tapes are transcribed. All names will be replaced with pseudonyms and the audio tapes will be destroyed within 5 working days following the interview.

If you have any questions concerning the research study, please contact the research team at: Isaac Navajo, Co-Investigator Isaac.Navajo@asu.edu, 1600 N. Arizona Ave., #3013, Chandler, AZ 85225, (505) 860-4677 (cell) or Dr. William Paul Simmons, Principal Investigator William.Simmons@asu.edu, FAB 301H, 4701 W. Thunderbird Rd., Glendale, AZ 85306, (602) 543-6089 (office). If you have any questions about your rights as a subject/participant in this research, or if you feel you have been placed at risk, you can contact the Chair of the Human Subjects Institutional Review Board, through the ASU Office of Research Integrity and Assurance, at (480) 965-6788. Please let me know if you wish to be part of the study.

Questions

1. What part of the Community do you currently reside? Does it have a traditional Akimel O’dham name? Do you know how it came to be called by that name? Are there any significant or historical events that have occurred in the area that you are aware of?
2. Do you know anything about the recent water settlement?

3. Have you been part of any discussion of Indian water rights in the Community? If so, can you tell me about those discussions? What was discussed? Who was discussing them? Do you think these discussions are important and why?

4. Can you tell me about what you think about this settlement? For yourself? For your family, and for the Community?

5. I believe the Akimel O’odham people were farmers and had a strong agrarian tradition before the Gila River stopped flowing. I say “had” because I’m not sure if farming still plays a major role today. Can you tell me if you, or your family is involved with farming? If so, how has the settlement affected your family?

6. Now that the Gila River Indian Community has its water recognized through the settlement, what does it mean to you? Spiritually? Culturally?

7. What would it mean to you to see the Gila River flowing through the Community once again? You might ask for yourself, your family and then Community?

8. If you could describe the level of satisfaction the settlement has had, how you describe it?

9. Are there any stories that you know of relating to water that you would like to share?

10. Are there any other opinions, perspectives or questions about what we have discussed here today that you would like to share?