APPENDIX 1

*The Water Assets of “The River People”*

A Case Study of the Gila River Indian Community
I. INTRODUCTION

The purpose of this case study is threefold. It will provide a brief historical profile of the Gila River Indian Community, focusing on a description of their primary natural resource, water, the role this asset played in the livelihood of the GRIC, and how it was stripped from the Community. The study will also illustrate the various strategies the GRIC employed to regain their water assets. The GRIC’s relentless battle to restore their water has spanned almost 140 years and has hinged on various strategies such as direct appeals to the federal government, lobbying, protracted litigation, negotiation, settlement, community involvement, and strengthening tribal government infrastructure. Lastly, the study will describe the current status of the GRIC water assets and the Tribe’s asset management strategies.

The GRIC is in fact at a critical juncture of re-instituting political, legal, economic, and social infrastructure, which will be necessary for the Community to effectively convert its “paper” water to “wet” water, manage and protect its water assets, and re-ignite the Community’s historic vitality. The Community is faced with resurrecting severely diminished farmlands (only 10% of the current Reservation land base is being farmed) and a diabetes epidemic that affects more than half of the Community’s population over 25. Not only is the GRIC experiencing an alarming growth of diabetes in their children, they have the highest documented rate of diabetes of any ethnic group in the world. Many have asked, “Can a healthier lifestyle lost generations ago be restored” (Archibold, par.3)? The Pima and Maricopa have affirmed in a chapter of a written work for the Tribe’s education initiative: “Although we no longer live in the nineteenth century, we are still Akimel O’otham and Pee Posh. We have been here since time immemorial and we will always remain here. We have endured. With the return of our water, our way of life—our himdag—will continue” (“History” 8:4).

II. HISTORICAL PROFILE OF THE GILA RIVER INDIAN COMMUNITY & THEIR WATER ASSETS

The Gila River Indian Community is situated along the Gila River on the southern boundary of Phoenix, Arizona. A map indicating the location of the Gila River Indian Reservation in red is shown in Figure 1. A recent map of the Gila River Watershed is shown below in Figure 2. The Community is home to two separate and culturally distinct people: the Akimel O’otham (“River People”) or Pima and the Pee Posh (“People”) or Maricopa. The GRIC Reservation is made up of seven districts along the Gila River and its largest communities are Sacaton, Komatke, Santan, and Blackwater. The government seat and administrative offices are located in Sacaton. Today the GRIC Reservation has a land base of 372,000 acres and a population of approximately 20,000 tribal members.

The United States created the Gila River Indian Reservation in 1859, five years after the Gadsden treaty between the U.S. and Mexico, in

1 This case study refers to the Gila River Indian Community as the “GRIC,” the “Community,” the “T ribe,” or the “Pima and Maricopa.”
2 Maps and photos used in this case study are the property of the GRIC and used with their permission.
which southern Arizona became part of the United States. At the time the Pima and Maricopa came under the administration of the U.S. government in 1859, they were known for their extensive farming practices which originated with the Pimas’ ancestors, the HuHuKam. The HuHuKam were sophisticated desert farmers who built the largest system of irrigation canals in pre-Colombian North America (over 500 miles of canals were hand dug to irrigate fields) and farmed the Gila and Salt River Valleys since time immemorial. River water was central to every facet of the Pima and Maricopa lifestyle – their food, society, spirituality, and economy. Water was the very essence of the River People’s culture. Historical accounts indicate that prior to the 1870s their lands were considered the “bread basket” of the region. The Pima and Maricopa lands consisted of “flowing streams, riparian woodlands, desert plants, grasslands and rich farmland” (“History” 2:5).
III. HISTORY OF ASSET STRIPPING

Until the past few years we have always had plenty of water to irrigate our farms, and never knew what want was. We always had grain stored up for a full year’s supply. We were happy and contented. Since the white men came and built the big canals and acequias we have no water for our crops. The Government refuses to give us food and we do not ask for it; we only ask for water, for which we prefer to earn our living if we can. I am no thief, and I will not beg, but my wife and children were hungry, and I must either steal or they must starve. So I took the horses and traded them for grain, and the hunger of my family was satisfied. You can do with me what you will (qtd. in “History” 4:3).³

Within a matter of ten years after the creation of the GRIC Reservation (1859), the Pima and Maricopa began to notice water shortages. Thereafter, water shortages on the GRIC Reservation became the norm and occurred incrementally into the early 1900s. Man-made upstream diversions were largely responsible for the water loss, though an untimely drought accelerated the depletion of the Tribe’s water assets. The stripping of the Tribe’s water assets and the protracted battle to regain them came with a huge price. Every part of the Pima and Maricopa livelihood was attacked and depleted. A society structured around its water resources collapsed and survival by the Pima and Maricopa required significant compromises, persistence, and flexibility. Table 1 shows a broad timeline of events that led to the depletion of the Pima and Maricopa water resources.

Table 1 - Timeline of Asset Stripping

³ Wee Paps, a Pima and Maricopa man, was arrested for stealing horses in 1895 and responded with the above quotation when asked whether he was sorry for stealing the horses.
The California Gold Rush (1849-1852) was an early contributor to the Tribe’s water shortages. Some 40,000 people passed through Pima and Maricopa villages during the Gold Rush. The increased population temporarily benefited the Tribe’s farming economy, but the number of upstream diversions by settlers in the Upper Gila River Valley was likewise on the rise. The U.S. then completed the stage line from El Paso to San Diego via Maricopa Wells in 1858, which again augmented traffic to the area. In 1859, the Pima and Maricopa sold more than 250,000 pounds of wheat to the stage line and soon boosted crop sales to over 1,000,000 pounds (“History” 3:1). Yet, over the next decade the Pima and Maricopa began to experience noticeable water shortages due to the increased upstream diversions. From 1869 to 1873, the water shortages became critical. The Pima and Maricopa Chiefs petitioned the U.S. government in 1872 for an intervention to halt the water thefts (3:3).

As the Pima and Maricopa migrated to other parts of the reservation and to areas outside the reservation (Salt River Valley) to survive, the extension of the Southern Pacific Railroad into the area in 1879 further exacerbated the tenuous state of the Pima and Maricopa water supply. The U.S. government resolved to remove the Pima and Maricopa to the Indian Territory rather than restore the lost water. However, the Tribe steadfastly refused to leave their homeland, eventually causing the government to admit to a failed removal policy (“History” 3:4). Even so, the water crisis remained, and by 1880 drought hit the area marking the beginning of the “forty years of famine.” In an attempt to control the diverse populations residing in the area at a time of water shortage and drought, the U.S. added additional land to the Gila River Indian Reservation in 1882 and 1883 through Executive Orders without increasing water flows (3:6). The U.S. government then required the Pima and Maricopa to reside on the Reservation. The situation worsened in 1886 when settlers petitioned the government to build the Florence Canal. The U.S. Department of Justice refused to intervene on behalf of the Pima and Maricopa, and upon completion of the Canal in 1889, the Gila River was almost entirely diverted from the Community (4:2).

U.S. policy at the time unleashed a steady erosion and humiliation of the Pima and Maricopa as an independent and self-supporting people. Faced with starvation and extreme poverty, the Pima and Maricopa had no choice but to accept irregular government hand-outs such as wheat. Depletion of other valuable natural resources followed the water loss. The Pima and Maricopa men began cutting mesquite in the 1890s with the purpose of selling the wood to settlers in the area to feed their families. Figure 3 shows Antonio Azul, Chief of the Pima and Maricopa during this period, and piles of mesquite wood. By 1905, the Pima and Maricopa had been forced to cut nearly 100,000 acres of mesquite trees on the reservation, which resulted in a permanent removal of most of the mesquite tree population due to the lack of water (4:2).

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4 Between 1876 and 1915, the U.S. government expanded the reservation six times by Executive Order.
IV. REGAINING CONTROL OF LOST ASSETS

EARLY STRATEGIES

During the last decades of the nineteenth century, the Tribe’s primary strategy to halt water thefts and regain the lost water was to petition the federal government. In the early twentieth century, the Tribe expanded its strategy to regain water assets by bringing national awareness to the water losses through direct appeals to Congress and the President, lobbying, and litigation (see Table 2).

In 1903, Chief Antonio Azul made a direct appeal to President Roosevelt regarding the dire situation of the Pima and Maricopa and the Tribe’s strong desire to remain self-sufficient. Although immediate relief was out of reach, Roosevelt acknowledged that the suffering of the Pima and Maricopa was in fact due to the loss and deprivation of their water assets (4:4).

During the same period, the U.S. water and land policies shifted with the passage of the Reclamation Act of 1902, in which federal dollars were used to build a series of irrigation projects and dams throughout the West. The Pima and Maricopa, encouraged after Roosevelt’s public acknowledgement, were hopeful that the Reservation would be chosen as a site for such projects and that their water assets would be restored. Between 1905 and 1921, several irrigation projects, dams, and canals were constructed on and around the Gila River Reservation using federal dollars under the Reclamation Act, and came with the promise of protecting any remaining Gila River water for the Pima and Maricopa (DeJong 71). Yet, outside competing interests, politics, and broken promises by the federal government continued to hamper the delivery of stable, consistent water to the Reservation. Chief Azul again voiced the plight of the Tribe in his 1912 manifesto to Congress, “An Appeal for Justice: The Pima Indians of Arizona Appeal to Congress and the People of the United States for Redress of Their Wrongs” (71). Chief Azul urged the U.S. Congress to intervene on behalf of the Pima and Maricopa: “Can the United States Congress and the people of this country whose money has been squandered by the rogues who have robbed us, come to our aid?” (qtd. in DeJong 71).

The Tribe successfully lobbied political friends in Washington, D.C. in an effort to convince Congress to build Coolidge Dam and the San Carlos Indian Irrigation Project in 1924 with the hope that water would be diverted to the GRIC. The Tribe also convinced the U.S. Department of Justice to file a general adjudication of the Gila River in federal court to quantify GRIC water rights. This lawsuit against upstream users of the Gila River was eventually filed by the United States in 1925 and amended in 1927 as the

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<th>Table 2</th>
<th>EARLY TIMELINE AND STRATEGIES TO REGAIN WATER</th>
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<tr>
<td><strong>Direct pleas</strong> made by the Tribe to the federal government</td>
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<td>1869- First recorded water shortage</td>
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<td>1872- Chiefs petition federal government to halt water thefts (upstream diversions); no action</td>
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<td>1886- Tribe asks federal government to intervene on their behalf in the construction of the Florence Canal; government refuses</td>
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<td>1903- Chief Antonio Azul appeals to President Roosevelt</td>
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<td>1911- Chief Azul writes manifesto to Congress, “Appeal for Justice”</td>
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<td><strong>Lobbying</strong> by friends of the Pima and Maricopa in Washington, D.C.</td>
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<td>1924-1929- Construction of Coolidge Dam and San Carlos Indian Irrigation Project; anticipated benefit to Pima and Maricopa does not materialize</td>
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<td><strong>Litigation</strong> - federal attorneys are charged with protecting the Pima and Maricopa water interests</td>
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<td>1925- United States vs. Gila Valley Irrigation District (complaint made in 1925, amended in 1927; also known as the Globe Equity Decree 59)</td>
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<td>1935- Globe Equity Decree 59 issued; unfavorable to Tribe</td>
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United States v. Gila Valley Irrigation District, Globe Equity No. 59. The federal attorneys representing the GRIC disregarded the Tribe's priority rights to the natural flow of the Gila River as well as the intent underlying Congress' authorization of the Coolidge Dam construction. Instead, they agreed to an equal division of both stored and pumped water among all users in what became known as the Globe Equity Decree 59 of 1935, which stemmed from the 1927 amended lawsuit (DeJong 72). Pursuant to this decree, the San Carlos Irrigation and Drainage District received a share of the GRIC waters while non-Indian Upper Gila Valley users retained their rights under state law to divert water from the Gila River. The GRIC did not consent to the decree and attempted to intervene on its own behalf, but its leaders were refused entry into the federal district court in Tucson, Arizona as the decree was accepted by the court (73).

People expected the Coolidge Dam and San Carlos Indian Irrigation Project to be the “savior of the Pimas” (“History” 5:5). Yet, while the Pima and Maricopa received a limited amount of water from this project, upstream diversions and groundwater pumping did not cease and the dam did not divert significant or even adequate amounts of water to the Reservation. In effect, Globe Equity Decree 59 served as an endorsement of the continued theft of GRIC water assets. By the late 1930s, many Pima and Maricopa had been forced to abandon their farmlands and take up work in nearby towns, further eroding their livelihoods (5:6). And, by this point, many tribal members were living off of government commodities rather than their farmlands.

**RECENT STRATEGIES – AFTER GLOBE EQUITY DECREE 59**

*For decades, water settlement was a shared dream of our people. It was a vision of security and stability for future generations to enjoy a better quality of life here in the desert than the one many of us endured. Now that water settlement is a reality, our Community is faced not with pursuing that dream but with protecting it and building upon what past generations hoped would come to pass with our water settlement. Water is our largest and most precious renewable natural resource and we can now look forward to helping ourselves meet the future challenges. Water settlement will enhance our economy and improve our quality of life. It will ensure sustainable growth for the current and future people of our Community (qtd in “History” 8:1).*

After the Globe Equity Decree of 1935, the GRIC continued to employ litigation as a strategy to regain its lost water assets, but it expanded this strategy to include a formal negotiation and settlement operation. The GRIC also conducted extensive community outreach and initiated plans to improve infrastructure in an attempt to bolster the two-pronged strategy, strengthen the GRIC water rights claims, and facilitate future tribal control of water assets. **Table 3**, shown below, provides examples of strategies used by the Tribe since the Globe Equity Decree to regain the GRIC water assets as well as a timeline of the actions that led up to the restoration of the water assets and those taken by the GRIC to manage and protect them.
Many things have changed in thirty years, but some things have, unfortunately, stayed almost exactly the same. This Adjudication has now lived through seven U.S. Presidents. During this time, the population of Phoenix has increased several-fold. [...] The upstream water diversions by junior users in derogation of the senior vested rights [...] still continue unabated and, if anything, have increased. In this Adjudication, time has virtually stood still (qtd. in Feller 429).

The Globe Equity Decree saw challenges from all Gila River users, with the first challenge of dozens occurring in 1939 and others continuing into the 1980s. The GRIC pressed on with litigation alongside the other users of the Gila River, but a new window of opportunity for the Tribe opened with the State of Arizona’s development of the Central Arizona Project (“CAP”) starting in 1944. Arizona aimed to use the CAP to divert its share of Colorado River water to the center of the state. In 1948, the GRIC governor, David A. Johnson, announced the GRIC’s interest in the Colorado River water: “If it will do us good, we want it…if it will take us into court later on, we don’t want it” (qtd. in DeJong 73). Years would pass before Arizona could put the CAP to full use because the battle between California and Arizona for usage of the Colorado River water raged on, culminating in the 1963 U.S. Supreme Court ruling, Arizona v. California. The Supreme Court in this case held that “the only feasible and fair way by which reserved water for the reservations can be measured is irrigable acreage” and found that the quantity of water reserved for Indian reservations was “intended to satisfy the future as well as present needs of the Indian Reservations” (Arizona v. California 600-601). Prior to 1963, California had maintained the upper hand over Arizona in the apportionment of the Colorado River water, but Arizona v. California modified the legal framework underlying California’s previous claims to the Colorado River water (August, Jr.,
Gammage, Jr. 18). The Supreme Court ruling paved the way for the passage of the 1968 Colorado River Basin Project Act, in which Congress authorized the construction of the CAP and afforded Arizona 2.8 million acre-feet of Colorado River water per year. It would take another 25 years to complete construction of the CAP, and Arizona would underestimate the cost by millions of dollars, amassing an enormous debt to the federal government (18), which would eventually serve as an additional inducement for the State to settle Indian water rights claims (21).

The GRIC’s early interest in the CAP water demonstrated the Tribe’s pragmatism and resilience in their quest to restore their water assets. It was also an early sign that the GRIC’s approach to regaining its water assets would continue to be multi-faceted and supplemented with non-litigious avenues. The GRIC knew that full restoration of their primary water source, the Gila River, was no longer a viable option as the lower Gila River had all but dried up from acute overuse, watershed damage, and upstream diversions. The Tribe embraced the idea of restoring the Community’s water assets with a combination of water sources. Moreover, in light of the Globe Equity Decree, the Tribe understood that there was no silver bullet in litigation alone and that it was costly and time consuming (“History” 6:4).

By the late 1970s, the Carter Administration began backing water policy reform and encouraged negotiated settlements over adjudications (DeJong 75). The Department of Interior envisioned an approach in which litigation and settlement would work in tandem to resolve Indian water rights claims, with litigation serving as an inducement to settle (75). The GRIC adopted this tactic and began to pursue formal negotiation and settlement with the federal government and Arizona, alongside litigation, in the battle to bring home the Community’s water (Lewis, Hestand 40). Rodney Lewis, former long-time General Counsel of the GRIC, explained the GRIC’s perspective on litigation as an inducement to settle:

“From the beginning, the Community realized that it would not be able to achieve a fair and reasonable settlement if it could not convince the opposing parties that its Winters, prior appropriation, and aboriginal water rights claims were real and substantial threats to their water supplies. No one was going to negotiate a settlement that provided the Community with enough water to meet the needs of its members, and enough money to build the superstructure necessary to deliver and use the water, unless the Community could establish that it had a legitimate chance of winning an even greater water supply through the Gila River Adjudication (40).”

The hope that the litigation would induce settlement did indeed materialize with the monumental 2004 Arizona Water Settlements Act (Title II of which is the Gila River Indian Community Water Rights Settlement Act, referred to hereinafter as “Gila River Agreement”), underpinned by the lengthy and complex General Adjudication of All Rights to Use Water in the Gila River System and Source (“Gila River Adjudication”). The filing of a petition in 1974 to adjudicate water rights of the Salt River initiated the Gila River Adjudication (Lewis, Hestand 40). The Gila River Adjudication managed to spawn a series of tortuous judicial decisions spanning almost two decades, including: Gila I, 830 P.2d 442 (1992); Gila II, 857 P.2d 1236 (1993); Gila III, 989 P.2d 739 (1999); Gila IV, 9 P.3d 1069 (2000); Gila V, 35 P.3d 68 (2001); Gila VI, 127 P.3d 882 (2006); and Gila VII, 173 P.3d 440 (2007). It notably has **not** produced a final judgment. One scholar labeled it “The Adjudication That Ate Arizona Water Law” and characterized it as “the largest and longest judicial proceeding in the history of Arizona” and “among the most complex judicial proceedings in the history of the United States” (Feller 405-06). With the GRIC and about 24,000 other parties to the Gila River Adjudication having filed over 78,000 claims and combined litigation expenses having surpassed 100 million dollars by the mid-1990s, “its end is nowhere in sight” (407). For
most of these 24,000 parties, the reality has been that “one does not ‘get out’ of the Gila adjudication. It is a sort of judicial black hole into which light, sound, lawyers, water—even Judge Goodfarb—indeed, whole forests of paper, will disappear. The only way out is out the other end” (qtd. in Feller 405).

Though a major claimant in the Gila River Adjudication, the GRIC managed nonetheless to break away from the Adjudication, at least in part, when it settled its water rights claims with Arizona and the U.S. in 2004 and successfully reclaimed approximately 653,500 acre-feet of water (per year). The Gila River Agreement of 2004 also came with $200 million in federal funds to support the GRIC with necessary infrastructure improvements for use of the settlement water. It was agreed that 63% of the settlement water budget would consist of CAP water. The enforcement date of the Gila River Agreement was December 14, 2007. A logo created by the GRIC for their water rights settlement is shown in Figure 4. The Gila River Agreement process, like the Gila River Adjudication, was laborious and lengthy for all parties involved. Litigation formed the backdrop of the agreement process, serving as a constant reminder of the GRIC’s massive water rights claims.

**Role of Community Outreach and Involvement**

There was a spreading consensus that the Indian tribes of Arizona had very large reserved water rights claims in the state, such as the GRIC’s claim to 1.5 million acre-feet of Gila River water in the Gila Adjudication (the largest of all the Gila Adjudication claims) (Newcom, par.3). The 1908 U.S. Supreme Court case, Winters v. United States, and the 1963 Supreme Court case, Arizona v. California provided the foundation for the GRIC’s water rights claims. Winters v. United States established the Winters doctrine of reserved rights in finding there was an implicit reservation of water with the creation of Indian reservations (Winters v. U.S. 577) while Arizona v. California set the standard for quantification of water rights for Indian reservations as “enough water […] to practically irrigate all the practicably irrigable acreage on the reservations” (Arizona v. California 601).

The GRIC made concerted efforts to reinforce and effectively articulate their reserved water rights claims. They hired and worked closely with a team of local hydrology, legal, agriculture, and engineering experts to carefully identify the Community’s water needs, expectations of tribal members, and potential uses of water on the Reservation. The Community and its team of experts held more than fifty community meetings in this endeavor, from which they were able to produce the Gila River Indian Community Master Plan Report for Land and Water Use. The Master Plan, “primarily intended to serve a political function of encouraging water settlement” (DeJong 89) constituted a “defensible water budget” (Lewis, Hestand 40). In the end, the GRIC’s well-defined water rights claims, which rested on a solid legal foundation and which the GRIC had made transparent early on through community outreach and involvement, underpinned the GRIC’s two-pronged strategy of litigation and settlement and were

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5 The GRIC continues to be a claimant in the Gila River Adjudication. The impact of the 2004 Settlement on the GRIC’s role in this adjudication is still under assessment at this time.
decidedly persuasive. Tom Buschatzke, the City Water Manager for Phoenix, Arizona, commented that if the GRIC had continued to pursue their massive water rights claim in the Gila Adjudication, “it would have posed a major threat to the water supply of fast-growing Phoenix. […] We believed, and still believe, […] that without settlements, (Indian tribes) are threats to our water supply” (qtd. in Kraker, par. 29).

**Repayment of CAP Construction Costs – Inducement for Arizona to Settle**

An outside factor that also played a significant role in the Gila River Agreement process was the huge debt Arizona owed to the federal government for repayment of CAP construction costs (Newcom, par. 14). Notice of completion of CAP construction by Arizona occurred in 1994 and triggered Arizona’s repayment of the construction costs to the federal government. As it stood, Arizona and the U.S. did not agree on the repayment calculations, which differed by an outstanding $1 billion (August, Jr., Gammage, Jr. 20). During its discussions with the U.S. on the repayment of the debt, Arizona learned that the U.S. was “less interested in the amount of the repayment than in the question of how much CAP water might be reallocated to Arizona’s Native American tribes” (21). As it turned out, Title I of the 2004 Arizona Water Settlements Act, consisted of a repayment settlement between the federal government and Arizona for Arizona’s CAP debt and allocated a portion of CAP water for use by Arizona Indian tribes.

**Enhancements to Tribal Infrastructure**

*Establishment of GRIC Water-Negotiating Team & Office of Water Rights*

As the GRIC inched closer to a settlement with Arizona and the U.S., the tribal government began infrastructure improvements that would support a water rights settlement and facilitate future tribal control of the water assets by demonstrating the capacity of the GRIC to manage the restoration of its water assets. After successive failures by the federal government to effectively represent the GRIC’s water rights claims, the GRIC hired a local law firm to handle its water rights claims in the years following the Globe Equity Decree (“History” 6:4). The GRIC General Counsel worked closely with this outside law firm from the outset of the Gila River Adjudication in the mid-1970s. In 1990, the GRIC created a water-negotiating team to head the settlement process (DeJong 76). The GRIC established the Office of Water Rights (OWR) in 1997, which housed both the litigating team and the water-negotiating team of GRIC attorneys. The GRIC charged the OWR with the following objectives:

- Negotiate a water settlement on behalf of the Community;
- Litigate all water issues in state and federal courts;
- Implement the Arizona Water Settlement Act upon completion; and
- Negotiate alternative water funding opportunities (GRIC Interim Report 1).

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6 Title I of the 2004 Arizona Water Settlements Act is cited as the “Central Arizona Project Settlement Act of 2004.”
The GRIC hired an outside law firm in Washington D.C. in the late 1990s to work with the OWR attorneys on settlement negotiations (Bennon).

**Establishment of Pima-Maricopa Irrigation Project**

Another piece of infrastructure requiring immediate attention was the GRIC’s water delivery system. In 1995, the GRIC and the Bureau of Reclamation finalized an agreement in which the GRIC would use federal funds to construct a portion of the delivery system which would bring CAP water to the reservation (DeJong 77). The GRIC established the Pima-Maricopa Irrigation Project (“P-MIP) under the tribal government organizational structure to oversee the design and construction of the water delivery system. The P-MIP will serve as the water delivery system for all settlement waters and has an anticipated completion date of 2025. The P-MIP has three principal goals:

- Restoring water to the Akimel O’otham and Pee Posh.
- Putting Akimel O’otham and Pee Posh rights to the use of water to beneficial use.
- Demonstrating and exercising sound management to ensure continuity of the Community’s traditional economy of agriculture (“P-MIP Goals”).

The GRIC expects that the P-MIP will provide irrigation for approximately 146,000 acres of farmland (“Project Status,” par. 1). Title I of the 2004 Arizona Water Settlements Act allocates funds to cover some of the costs of P-MIP construction.

**V. EXERCISING ASSET MANAGEMENT, PROTECTION, & CONTROL**

It has been said that those who forget their past are prone to relive it. We have endeavored to ensure that our Community never forgets its past so that we will not ever have to experience the difficulties many of our people did with the loss of our water. But it has also been said that if a people do not know where they are going, then any path will get them there. Our future—and the future of our children—are too precious to allow any path to get us there (“History” 8:1).

Since the 2004 settlement with Arizona, the GRIC has continued to address infrastructure improvements to ensure strong management, protection, and future control of the Community’s water resources. An important goal of the GRIC and the OWR is to empower the Community to be self-sufficient in managing their water resources for the benefit of tribal members today and well into the future” (GRIC Draft Final Report 3).

**GRIC Water Code**

The completion of the Gila River Agreement required the OWR to overhaul the GRIC’s outdated water laws. Prior to the Agreement, there was little tribal regulatory framework or governmental structure in place to govern the GRIC’s water resources (GRIC Interim Report 6). Post-Agreement, the OWR has prioritized the drafting and approval of the GRIC Water Code. The 2004 Gila River Agreement set June 2009 as the deadline for completion and approval of the Water Code. The GRIC has held numerous public meetings in all seven reservation districts and sought input from key stakeholders in developing the Water Code. The Water Code establishes essential parameters for the management, regulation, control, and allocation of the GRIC water resources by the GRIC. It will ultimately allow the GRIC to convert paper water to wet water.
GRIC Water Portfolio

The GRIC OWR has also developed a Water Use Portfolio, which outlines how the GRIC will manage its settlement water. One goal outlined in the Portfolio is to promote a more traditional agrarian subsistence lifestyle to curb the diabetes epidemic on the GRIC Reservation (GRIC Draft Final Report 3). The Portfolio also addresses other water uses, including municipal, commercial and industrial, domestic, recreational, and environmental uses (3).

Educational Outreach

The GRIC is using educational outreach as a tool to inform the Community about the Gila River Agreement with the hope that future generations will continue to treasure and protect the Community’s water resources. The development of an education curriculum based on farming and traditional GRIC uses of water is underway. The GRIC has implemented farming programs within the Community’s schools to teach children how to garden and farm (GRIC Interim Report 11). The Community regularly organizes contests encouraging students to learn about agriculture and water uses (12). One student wrote in her 1st place essay:

When our water was taken from us many years ago our elders had to adapt. [...] Now as we have received our water back we need to bring everything back that we lost with it. With our water, changes are going to happen and now it is our turn to adapt. [...] As a youth it is my job to make sure our water stays here for everyone: yesterday, today, and tomorrow (qtd. in GRIC Interim Report, Attachment E).

Grant seeking from the Federal Government & Non-Profit Organizations

Several GRIC departments have sought additional funds from both the federal government and private organizations to improve tribal government and tribal member capacity in the area of water asset management.

Native American Asset Watch Initiative Grant – First Nations Development Institute

The OWR applied for and received a Native American Asset Watch Initiative grant (“NAAWI”) from First Nations Development Institute in 2007. Under the NAAWI grant, the OWR set out to improve:

- Educational outreach through summer internships,
- Retention of historical water rights records,
- Hydrology technology, and
- Mapping of the GRIC water assets (GRIC Draft Final Report 1).

The OWR worked closely with the GRIC Employment/Training Department’s Job Training Program to establish two six-week OWR summer internship positions for college students. The OWR created a six-week itinerary of activities for the interns, including exposure to the organizational structure and purpose of the OWR, historical profile of the water rights struggles of the GRIC leading up to the 2004 Gila River Agreement, and the development of the GRIC Water Code. The interns visited the Tribal Court, the Arizona Supreme Court, the Arizona State University Law School, and the State Capital with the goal of learning more about Indian law, water law, and the GRIC water rights struggles (8).
The interns also participated in the reconfiguration of the GRIC water rights records. For decades, the GRIC stored its water rights records off-site. The OWR used the NAAWI funds to bring the records home and to enhance the storage and archival process of the records with the goal of preserving the GRIC’s rich water rights history for future generations and providing improved access to the records (10).

The OWR used some NAAWI funds to purchase equipment for the in-house Hydrology staff, who play a major role in the implementation of the 2004 Gila River Agreement. In addition, the NAAWI grant provided funds for training opportunities to improve the capacity of the OWR in managing and protecting the GRIC water resources (11).

The final component of the NAAWI grant was the mapping of the GRIC water assets by the OWR. The OWR researched and documented in its NAAWI reports to FNDI what led to the stripping of the water assets, how the GRIC regained their assets, and the steps the GRIC is taking to manage the assets (15).

**District 5 Agriculture Committee**

Several families who live in District 5 of the GRIC Reservation decided to start their own farming co-op, District 5 Agriculture Committee, using the U.S. Department of Agriculture’s Environmental Quality Incentives Program (“EQIP”). The GRIC Tribal Council authorized the Committee and entered into a contract with the USDA. The EQIP provides financial and technical assistance to co-op families to install and implement necessary structural and management practices on their farmlands. Families participating in the EQIP co-op share the technical expertise, farming equipment, and labor forced required to operate small farms on their properties. The GRIC is eying the District 5 Agriculture Committee as a potential model to promote the Community’s return to an agrarian lifestyle (GRIC Interim Report 12).

**VI. CONTEMPORARY SIGNIFICANCE – LESSONS LEARNED**

The Pima and Maricopa were relentless in their battle to restore their water rights because they were very cognizant of the importance of their water assets to the livelihood and ultimate survival of their people. The rapid transformation of their society due to the increase of water thefts sparked quick action by the Tribe. In the first decades of the twentieth century, they learned that the myriad federal Reclamation projects, which promised to increase water on the Reservation, were in reality a façade to supply more water to the growing population off the Reservation. After numerous empty promises by the U.S. government, the Pima and Maricopa understood that the federal government was unwilling to uphold the federal trust responsibility arising out of the establishment of the Gila River Reservation. They also understood the importance of direct tribal representation in legal forums as they had been precluded from intervening in the Globe Equity Decree 59 of 1935. They recognized the high price of litigation with the Globe Equity Decree 59 and understood that the Tribe must continue the battle to restore their water resources in different forums, in court and outside of court.

Since the mid-1970s, the combination of community outreach conducted by the GRIC, input and engagement by tribal members, and timely improvements to infrastructure worked to strengthen the GRIC’s water rights claims. Backed by the steady pressure of litigation and air tight water rights claims, the GRIC was able to come to the negotiating table with Arizona and the U.S. and effectuate a mutually agreeable settlement (2004 Gila River Agreement) that would meet the needs of the GRIC as well as other water users in Arizona.
Works Cited


Cases and Legislation Cited


Amended Complaint, United States v. Gila Valley Irrigation District, Globe Equity No. 59 (1927).

Bill of Complaint, United States v. Gila Valley Irrigation District, Globe Equity No. 59 (1925).

Decree, United States v. Gila Valley Irrigation District, Globe Equity No. 59 (1935).

Winters v. United States, 207 U.S. 564 (1908) (finding that the U.S. government reserved the waters of the Milk River for the Indians of the Fort Belknap Reservation “for a use that would be continued through the years” when the Indian lands were ceded to the U.S. and the Reservation created).

**Interviews**
