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The Impact of the Winter's Doctrine on Water Allocation to the Gila River Indian Community

Abstract:

Can the Gila River Indian Community rely upon the Winter's Doctrine (1908) to obtain more water than the past? The purpose of this thesis is to examine the impact of the Winter's Doctrine on the Gila River Indian Community (GRIC).

This research paper uses the case study method to evaluate the relevance of the Winter's Doctrine on current negotiations. Results indicate that the Winter's Doctrine is not expected to have much of an impact on current negotiations with the U.S. Congress.

By

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Introduction

In 1908, the Supreme Court handed down their decision on *Winters v United States*, 207 U.S. 564 (1908). The case involved the Gros Ventre and Assiniboiné people, who agreed to settle on the Fort Belknap reservation in 1887 in Northern Montana (Shurts, 2000). After 1887, non-Indians started to settle along the Milk River, which borders the northern part of the reservation (Shurts, 2000). They diverted water from the river mainly for their agricultural use and livestock raising. This left the Native Americans without a water supply or a greatly diminished water supply. The Supreme Court's ruling, commonly referred to as the Winter's Doctrine, states that when the Federal government establishes an Indian reservation, it implicitly reserves a quantity of water necessary to fulfill the purposes of the reservation (207 U.S. 564, 1908). A reservation is land set aside solely for use by Native Americans to continue living, developing, and practicing their traditions. In order to fulfill this purpose, water and other natural resources must be available.

The Winter's Doctrine defines water law for all Native American tribes in the United States. Today, every Native American tribe relies on it to settle or negotiate the water supply for their reservation. The Winter's Doctrine provides American Indian reservations with a "dry" water right. It recognizes that American Indians are entitled to water, but it does not define the amount of water (Shurts, 2000). Water rights are quantified by a state process of adjudication.

Federal agencies are limited in their ability to aid tribes because each state determines water rights within their boundaries. Water rights are primarily based on two other water laws: prior appropriation water law or riparian water law (McCool, 1987). Prior appropriation is basically a first-come, first-served allocation and riparian water law associates water with the land contiguous to the water. The Winter's ruling attempted to blend with prior appropriation by

giving tribes an appropriation date as of the formation of the reservation (Shurts, 2000). This gives most tribes a fairly senior water right, but again it is a “dry” right.

Arizona became a state in 1912 and it inherited twenty different American Indian tribes. One of these tribes is the Gila River Indian Community (GRIC), home of the Pima and Maricopa Indians. A reservation for the GRIC was established in 1859. The GRIC have been negotiating for several years to settle their water claims. Can the GRIC rely upon the Winter’s Doctrine and other water laws to obtain adequate water resources?

The purpose of this thesis is to examine the impact of the Winter’s Doctrine and other water laws on allocation of water to the GRIC. This research paper will apply the case study method approach (Yin, 1984) to evaluate the current relevance of the Winter’s Doctrine. This study will examine (1) water supply, (2) economic conditions, (3) United States water laws, and (4) politics, to determine if the GRIC can rely on the Winter’s Doctrine to obtain more water resources than they have in past attempts.

The remainder of this thesis is organized as follows: Section II is a literature review on Indian water rights settlements or negotiations; Section III presents the method; Section IV data; Section V describes the results; Section VI offers a conclusion; and Section VII is the appendix.

Literature Review

This section contains the background information on GRIC and the four factors stated in the introduction that will help to answer the research question. There was a variety of information with respect to background available to review for this research; however, the literature relevant to this thesis was carefully analyzed due to conflicting information.

Background of the Gila River Indian Community

The GRIC is located south of Phoenix, Tempe and Chandler, Arizona, (See map 1)(EcoPlan Associates, Inc, 2001). The community consists of two American Indian tribes-the Pima and the Maricopa. Their ancestry is descended from the Hohokam, who lived in the Salt River and Gila River basins centuries ago. In 1859, the United States Congress established 372,932 acres of land into a reservation for the GRIC. In 1868, Mr. C. H. Cook wrote that he had an encounter with the Chief of the Pima tribe, and he was told that they had never killed a white man; however, they are enemies with the Apache tribes (Union Mission School Association, 1893). Mr. Cook observed that the Pima and Maricopa tribes were excellent farmers considering the environmental conditions. The tribes grew “cotton, corn, melon, and pumpkins” (Union Mission School Association, 1893).

Mr. Cook watched the men and women build irrigation canals together (Union Mission School Association, 1893). The men would use willows to dig the hole and the women would carry the dirt away from the ditch with their baskets (Union Mission School Association, 1893). Each family owned a field large enough to sustain them, which was approximately an acre or smaller (Union Mission School Association, 1893). As people from current-day Mexico began venturing north, the Hohokam traded cotton for axes. In addition to farming, they gathered beans of the mesquites and fruits of the “Suhuarro,” a giant cactus (Union Mission School Association, 1893). During this time, they provided food and hay for the U.S. Army, attempted

to capture the Apache Indians. As seen by the U.S. Army, in the GRIC way of live, agriculture and water resources played a large role.

Sovereignty

The Supreme Court upheld the Winter's Doctrine based on Indian sovereignty (Shurts, 2000). The word sovereignty has many different meanings; however, for the Native American Indian, the definition is "inherent right or power to govern" (Canby, 1998). The concept of Indian sovereignty is not well understood. Before Europeans settled in the United States, Native Americans governed themselves. This gave rise to the issue of whether Indian tribes should continue this practice. Until Johnson v. McIntosh of 1823, Indian sovereignty was not clear. Supreme Court Chief Justice Marshall outlined Native American rights (Johnson v. McIntosh, 1823). Chief Justice Marshall defined two limitations on the Native American; the "conveyance of land" and "the ability to deal with foreign powers" (Canby, 1998). He described Native American tribes as "domestic dependent nations" (20 U.S. (5 Pet.) at 16, 1831), therefore, American Indian reservations are considered to have similar qualities as states. This equalization allowed the Native American to be on the same power level as the Euro-Americans when debating and finalizing water rights.

Economics

The traditional economy of Native American tribes was a non-monetary, trade-and-barter economy closely associated with ceremonial traditions (Ambler, 1990). As Indian lands were settled by others, the traditional economy was hindered with the loss of natural resources, and not well understood by the newcomers (Ambler, 1990). The Federal government became increasingly responsible for the economic well being of tribes and in turn, those tribes became dependent on the Federal government.

The Bureau of Indian Affairs (BIA), whose responsibility was to help American Indian tribes develop so they could interact with the larger society, tried to initiate economic development, without the tribes' knowledge, by leasing reservation land and water to non-Indians. At the time, it may have seemed a reasonable practice, but American Indian people are having a hard time relocating non-Indian people off the reservation. The GRIC also faced this problem of having non-Indians leasing their land. This necessitates non-Indian inclusion in decisions of economic development, which many times created friction and divisiveness between GRIC and non-Indians. The GRIC used their tradition of agriculture for economic development, but were not able to succeed efficiently in this venue because the best sources of water supply were being used by non-Indians. This led to very high poverty rates on the reservation.

In the late seventies and early eighties, the community started to develop more economically by establishing industrial parks, recreation facilities and other establishments that contributed to their current economic status. The location of their reservation land was an advantage to them. The GRIC may have lost many natural resources, but they have the metropolitan area, which they embraced and used to their advantage (EcoPlan Associates, Inc, 2001). In the early nineties, they built a casino from which they greatly benefited because of the large population in the surrounding city.

United States Water laws

Three different types of water laws were identified and recognized by the American jurisdictions: 1) Riparian Rights, 2) Prior Appropriation, and 3) Hybrid Systems (David H. Getches, 1997). Native American Indian water law does not entirely use "riparian" or "appropriative" but their water law foundation is the Winter's Doctrine (Canby, 1998).

Riparian Rights

The Eastern United States use Riparian Rights. This law traveled across the ocean from England with the settlers (Getches, 1997). The Eastern States' water law says that water and land cannot be separated from each other and the people downstream should continue receive water (Getches, 1997). This water law works very well when water is plentiful. However, as people moved into the Western United States, especially the arid Southwest, water was no longer plentiful. Since the miners and settlers discovered valuable resources away from rivers and streams, so they had to divert water, also the riparian right was abandoned by settlers (Getches, 1997).

Prior Appropriative

Prior appropriation water law was developed because of practices established by early miners and pioneers (Bliese, 2001). As the western states organized, they simply adapted those early practices and turned them into law. At the turn of the century, there was a great debate over "reclamation" of arid lands – providing water projects that would allow settlers to reclaim land from the desert and turn it into productive farmland. The debate centered on whether water projects should be federal projects or state and local projects (McCool, 1987). President Theodore Roosevelt supported federal water projects and in 1902 the United States Reclamation Service, now the Bureau of Reclamation was formed (McCool, 1987). This Federal presence created extensive systems of federal dams, reservoirs, and canals that have their own agency regulations governing water distribution and use (McCool, 1987). Many federal projects were subsequently turned over to local irrigation districts to operate and maintain. The districts were formed under state law and distributed water locally. Bliese (2001) generalized these four levels of laws and regulations for the Western United States:

- (1) Some general principles that were created by the early miners and pioneers;
- (2) State laws that embody those general principles but vary from state to state;
- (3) The extensive system of federal dams, reservoirs, and canals that have their own agency regulations governing water distribution and use; and
- (4) The many irrigation districts (subject to state laws but with their governing structures, rules, and motives) that distribute water at the local level (Bliese, 2001).

John Bliese (2001) states that a new law was created entitled the “appropriative” system and put into use from the 100th meridian line because of the arid land (see map 2). This new western water law is described, as being a “first-come, first-serve basis”, as well as it must be put to beneficial use. “Beneficial Use” is defined as “mining, agricultural, industrial, municipal, domestic, stock raising, and hydropower” (Bliese, 2001). Under this system, water rights are identified by the date the water was put to beneficial use. Senior rights were developed early and junior rights developed later. In cases of drought or increased development, the senior right would fulfill before the junior right; more junior rights can potentially run out of water.

Arizona has followed the “Prior Appropriation Doctrine” of water rights since the Territorial Legislature enacted it in 1864. There are 4 basic principles:

1. The water appropriated must be put to a beneficial use;
2. Only that amount of water that could be beneficially used could be appropriated;
3. The oldest rights are satisfied first and when there is not enough water the junior rights may not receive any water unless the senior right is completely satisfied; and
4. The right to use of water may be transferred to other lands, or to other uses without loss of seniority. (Morrison-Maierle, 1981)

The courts of the state of Arizona have undertaken general stream adjudications of the Gila River system and the Little Colorado River system following the initiation of lawsuits by private parties. General stream adjudications are judicial proceedings to determine the extent and priority of water rights in an entire river system. General stream adjudications are required

by a state statute that was substantially modified in 1979 - Arizona Revised Statutes Annotated §§ 45-251 to -260 (West Group, 2001). The adjudications primarily concern surface water uses, but ultimately may address groundwater uses. The final court decrees will establish the existence and ownership of water rights, and important characteristics of the water rights including the location of water uses, the quantity of water used, and priority date of the water rights.

Politics

The Western Governors' Association writes that it would have been less troublesome if Congress had included water rights as part of the process when creating the Belknap reservation (Western Governor's Association, 1991). Unfortunately, most American Indian reservation settlements did not include quantified water rights. History of the Winter's Doctrine shows that it would not have been an easy process because of the myriad of Native American Indian laws and the fundamental premise of the BIA – make the American Indian fit into the non-Indian world. Daniel McCool (1997), states that early in the history of American Indian water, the BIA did not use the Winter's Doctrine in all its attempts in claiming American Indian waters. Clearly, the Winter's Doctrine benefited the American Indian tribes, but the BIA focused on the beneficial uses so it could protect what little water rights the tribes had (McCool, 1997). McCool (1997) explains that it appears there was pressure from outside certain reservations for development. In effect, BIA started to lease American Indian land to non-Indians to create economic income for the tribes (McCool, 1997). To top off the confusion, BIA used prior appropriation part of the time, and at other times, the Winter's Doctrine.

The problem with using prior appropriation was that showing beneficial use was necessary to establish the water right. The Native Americans, who were skilled, experienced

farmers, had already settled the land and were using the available resources long before the waves of Europeans immigrants took over claims of the land and pushed the American Indian people aside (Knack & Stewart, 1984). The Pima and Maricopa Indians irrigated their farms in the Salt River valley and middle Gila River valleys before the Civil war (U.S. Bureau of Reclamation, 1993). Nevertheless, non-Indian people perceived the Native American Indian as wasteful because they did not develop their lands as non-Indians did (Shurts, 2000).

Burton (1994) writes “key politicians, engineers, bureaucrats, lobbyists, and land developers” have developed the water in the west. In 1902, the United States Bureau of Reclamation was established to develop western waters. This made the resources of the Federal government available to develop beneficial use of the waters of the west (Burton, 1994). More importantly, this opened the west even more to settlement by non-Indian people. Homesteaders were better able to succeed since the government had harnessed rivers and streams for agricultural development (Burton, 1994). The American Indian voice in Congress was small, and most tribes were left out of this great development of the west, in fact many tribes suffered from this development of the west (Burton, 1994).

The GRIC were included in the planning of some of these early developments. The government talked about developing a water system on the reservation. However, the planning and talk did not turn into actual water systems. The BIA failed to negotiate or represent the community properly with the surrounding non-Indian community in securing water development. The GRIC was politically powerless in dealing with outside leaders during this time of major water development. The phrase “money talks” was reality for the GRIC.

The BIA not adequately providing water resources and not applying the Winter’s Doctrine shows that there was little faith in a law that was supposed to protect American Indian

waters. In more recent times, a different approach has been welcomed by Congress and the states – the “Indian Blanket approach”. The “Indian Blanket approach” was a process where the American Indian community and non-Indian community came together to ask their political leaders for water (Burton, 1994). Politically, the more constituents that benefit, the better for the politician – more votes. American Indians and non-Indians coming to agreement provide a larger political base (McCool, 1997). One prime problem for the American Indian tribes is that they only get one chance to settle or negotiate their water rights. Some tribes have been in negotiation since the 1960s.

American Indian Water Supply

After the Winter’s Doctrine, Native American Indian water continued to have low priority. On the reservation, the federal government developed little water supply because American Indian people lacked the political structure and leaders to deal with non-Indians who wanted the water their own for development (Ambler, 1990). The dependency on the federal government had caused much damage for the American Indian people because the government was developing land and other natural resources without the knowledge of the American Indian people (Ambler, 1990). It appears there was a common misconception that American Indian people did not have the ability to manage their natural resources.

Marjane Ambler (1990) writes that in the non-Indian communities water was not considered a natural resource because of the abundance of it. Many states developed irrigation systems and other water resources assuming that water would always be available when the developers had the money for further progress (Ambler, 1990). However, demand for water increased, and because of cases like *Arizona v California* in 1963, people wanted to know how much water the State of Arizona was entitled to as well as the American Indian people were

entitled to. This case questioned whether the Winter's Doctrine still had standing. If it did, then how much water does a tribe receive? The court ruled that the Winter's Doctrine was valid. The court went then further by trying to define how much water American Indian people could get. As a result, a new method was created called "*practicably irrigable acreage*" or PIA (Canby, 1998). This method of quantification simply said that water should be provided to irrigate the acreage that is irrigable (Canby, 1998). In the arid southwest and today's economy, agriculture is not necessarily the best form of income for GRIC. This is especially true for tribes, as many of them have been forced into areas where agricultural is not profitable and the number of acres that can be irrigated is small. Most recent water settlements are not sticking to PIA to determine settlement amounts.

Method

This thesis utilizes the case study method. Yin (1984) defines this method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context in which multiple sources of evidence are used (Yin, 1984). This study examines the GRIC water resources to investigate the relevance of the Winter's Doctrine according to today's water settlements. The factors considered for this thesis include (1) water supply, (2) economic conditions, (3) United States water laws, and (4) politics. Data collected on the GRIC was obtained from available literature.

Results

Results I: History of Water Supply on the Gila River Indian Community

<i>Dates</i>	<i>Water Supply</i>
1879	Extended the Reservation to the Salt River to assure the reservation's right to Salt River Water
1897	Right-of-way for a canal so Salt river water can be delivered to the reservation
1907	Expenditure of \$300,000 to pay for the Reservation's Proportionate Part of the Salt River Project
1924	Irrigation project not completed and provided less than 100 thousand Acre-feet average surface water
1964	Central Arizona Project (CAP) Water Delivery Contract for 173,100 Acre Annually
1993	102,000 Acre-feet annually of CAP Water Deliver
1996	Over 173,000 Acre-feet Annually of CAP Water, Surface and Groundwater
2002	Settlement: Over 653,000 Acre-feet Annually

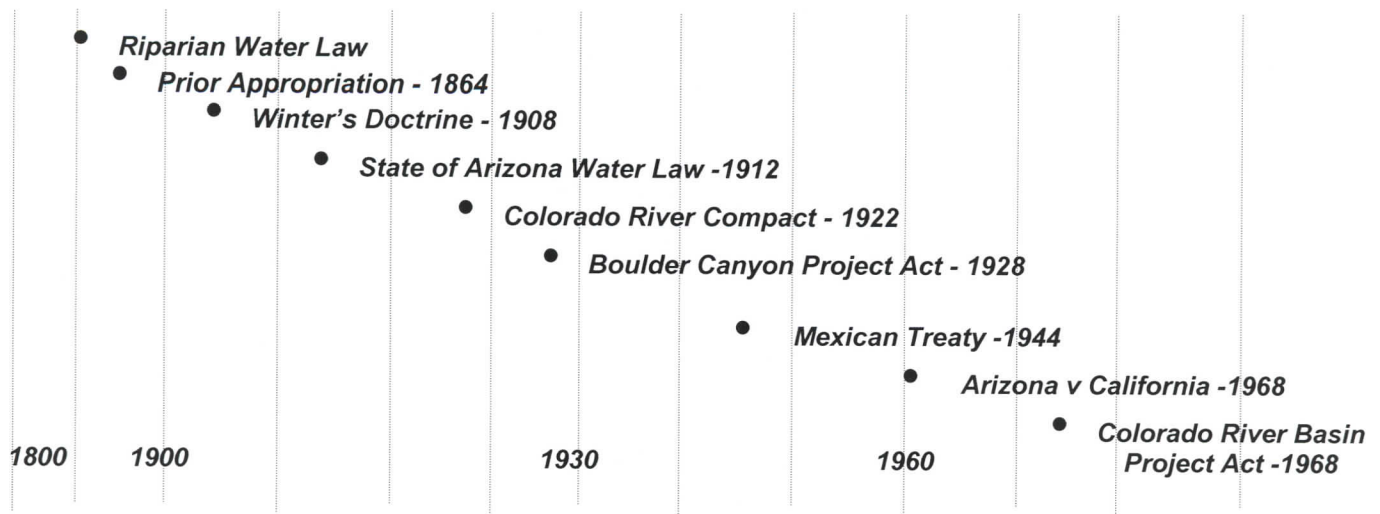
This table shows that the water supply of the GRIC has changed over time. The Winter's Doctrine does not define how much water the Native American should have, so the impact on the GRIC shows the result of an undefined quantity of water supply. This shows that the reservation's water supply declined as the demand for water increased in the surrounding area. The Community's water supply increased but it floated between broken agreements with the government because the demand increased in the surrounding area community. For example, in the 1964, the Central Arizona Project (CAP) was supposed to deliver 173,100 acre feet annually, but in 1996, records show that the community water supply was a combination of surface water, ground water and CAP water to make up 173,100 acre feet annually.

Results II: Economic Conditions

Results II: Economic Conditions	
Date	Types of Economic Development
Primitive time to Present	Agriculture
1980	Lone-Butte Industrial Park
1980	Firebird Lake Water Sports World
1980	Gila River Arts and Crafts
1994	Gila River Casino
2000	Farmer's Market
Future	Arizona Cardinal's Stadium

This table shows the economic changes over time on the GRIC. The economic condition of the GRIC never has been good. Like most American Indian reservations, this community endured the hardship of poverty from the time it became a reservation until the late 1900s. During the critical time when surrounding non-Indian communities were establishing their water resources, the communities did not have the financial resources to help them negotiate for water rights. It appears that they were left behind because their main source of income was agriculture, which didn't provide the necessary resources. Recently, the community started to develop other resources that could help them financially. Since the development of casinos, they are starting to catch up financially with the non-Indian communities surrounding the reservation.

Results III: Water Laws



This table shows the different laws that were enacted dealing with Colorado River water.

The law of the Colorado River; this law is the bone back for water development in the Southwestern United States. This law consist of Colorado River Compact of 1922, Boulder Canyon Project Act of 1928, Mexican 1944, and Colorado River Basin Project Act of 1968 and they are explain in detail below. They are included as part of this analysis because the GRIC will obtain a major part of their water from the Colorado River via the CAP. Arizona v California of 1963 is in this analysis because Gila River Indian Community is located in Arizona.

Colorado River Compact (1922)

The Colorado River Compact, also known as “the Compact,” divides the Colorado River into two basins, the Upper and Lower, located at Lee’s Ferry, Arizona, one mile below the mouth of the Paria River. The division of water was to be 7.5 million acre-feet (MAF) over any consecutive 10-year period to each basin. Both basins are to supply equal amounts of water to fulfill treaties with Mexico that could not be fulfilled with surplus waters. The Lower Basin was also given the right to increase beneficial consumption by 1 MAF per year. The Compact provided that the upper Basin states would not withhold, and the Lower Basin states would not

demand water to be delivered which cannot be applied to domestic and agricultural use.

American Indian reserved water rights were not affected. The Compact states: “Nothing in this compact shall be construed as effecting the obligations of the United States of America to Indian tribes” (Colorado River Compact 1922, Article VII). (Colorado River Compact, 1922)

Boulder Canyon Project Act (1928)

The Boulder Canyon Project Act authorized the construction of Hoover Dam and the All-American Canal. It also in effect, apportioned the Lower Basin States’ allocation as follows:

California	4.4 MAF
Arizona	2.8 MAF
Nevada	.3 MAF

As shown, the GRIC is located in the state of Arizona, and this Act shows that the state of Arizona is to receive 2.8 MAF (million acre feet) from the construction of Hoover Dam. It is the state’s responsibility to determine the quantity of water due to GRIC (Laws of the Colorado River).

Mexican Treaty (1944)

In 1944, the United States and Mexico signed a treaty concerning the waters of certain international rivers, including the Colorado River. The treaty guaranteed a scheduled annual delivery of 1.5 MAF to Mexico (except in the event of a extraordinary drought or serious accident) and up to 1.7 MAF in years of surplus on the Colorado River. This treaty quantified the amount of water that the upper and lower basins were required to allot to Mexico (Laws of the Colorado River).

Upper Colorado River Basin Compact (1948)

In the Upper Colorado River Basin Compact, Arizona receives 50,000 acre-feet (.67% of the total) and the other four states split the remaining water as follows:

Colorado	51.75%	(3.9 MAF)
New Mexico	11.25%	(.8 MAF)
Utah	23%	(1.7 MAF)
Wyoming	14%	(1.0 MAF)

(Laws of the Colorado River).

Arizona v. California 373 U.S. 546 (1963)

Arizona sued California to resolve a dispute over rights to use the Lower Basin apportionment of the Colorado River Compact. The Supreme Court held that the Boulder Canyon Project Act had already apportioned the Lower Basin as shown above. The Court also held that Arizona and Nevada had exclusive right to the beneficial use of their tributaries, meaning that water from those tributaries was not obligated to satisfy the Mexican Treaty requirements. This decision also introduced the concept of practicably irrigable acreage.

Colorado River Basin Project Act (1968)

The Colorado River Basin Project Act authorized construction of the Central Arizona Project, five projects in Colorado, investigation of methods for augmenting the flow of the Colorado River, computation of consumptive uses by the Secretary of the Interior, and development of operating criteria (Laws of the Colorado River).

Results IV: Political Condition

Bureau of Indian Affairs (BIA)	Lost Faith in the Winter's Doctrine
Too Many Hats	Congress Justice Department
Indian Blanket Method	Congress Urban location

This table shows the political environment of the Winter's Doctrine. Today, the United States Congress seems to more fully support development of water resources if both American Indian and non-Indian communities co-author a bill for more water development in their area. A single community pushing for their water resource development is rarely supported at the congressional level because of the cost of water development in today's world. The Winter's Doctrine never had the full confidence of federal agencies and today Congress is moved more by economics than by political standing.

Bureau of Indian Affairs (BIA) no confidence

The BIA used the Winter's Doctrine off and on because they were trying to save what little water the Native American reservation had instead of helping them gain more water. The BIA got little support from Congress and Bureau of Reclamation as the Western water was developed. Without the political, power necessary to get money for projects on American Indian reservation.

Too Many hats

Congress and Justice played a double agent role by providing the Gila River Indian Community with attorneys and supporting them in court but at the same, they were helping the

non-Indians with money to development water resources so they can claim beneficial use for the non-Indians.

Success of the Indian Blanket Method

The Indian Blanket method was successful in the rural American. Lloyd Burton (1991) thought that the Bureau of Reclamation used this method to get rights to develop major projects in the west.

Summary of Results

Factors	Supports Additional Water
Water Allocation	No
Economic	No
Water Laws	No
Political	Mixed

Discussion

The four factors used to answer the research question showed there is little current relevance to the Winter's Doctrine. Politics show mixed support for the impact of the Winter's Doctrine on the future of the GRIC. Economics, current water laws, and current water supply show the Winter's Doctrine to have no impact for the future.

Water Supply

The water supply over time shows that the Winter's Doctrine will not help the GRIC because the Winter's Doctrine does not define how much water Native Americans should receive. The history shows that the Community's water supply increased before the population increased in the surrounding area, but as the demand for water increased in the surrounding area, the water rights and water supply for GRIC decreased. It is publicly recognized that water is in short supply in the Phoenix metropolitan area. To gain water, the water supply must be increased, or existing water rights purchased.

The records of 1996 shows the combination of surface water, ground water, and CAP water to make up 173,100 acre feet annually, this raise a question of how can the ground be accurately calculated?

Economic Conditions

The economic conditions for the GRIC were not stable for a long time. As the Community started to develop resources other than agriculture and take advantage of the metropolitan location of their reservation, economic conditions have changed. The opportunities are abundant now foe development, but it may be too late, because Colorado River Water laws specifically outline how Federal government can use Water in the Southwest. Once an entity begins to use the water supply, it is hard to stop it. The water supply in the Phoenix area is

extremely close to being overused. To buy water rights already in use and change their use could cause economic disaster in the surrounding areas.

Water laws

The development of water law in the west is a continuing process but rooted in the past. Changing the existing water laws would be all but impossible. The water laws and their impact on the GRIC are discussed below.

Riparian Water Laws:

This water law will not help the Gila River Indian Community because this is not recognize by the State of Arizona.

Prior Appropriation and Winter's Doctrine

Many Western States rely on prior appropriations and the states have set rules and regulations for water resources development following the format of prior appropriations. The Winter's Doctrine is based on American Indian sovereignty, not on prior appropriation. However, since the Winter's Doctrine gives the tribe a priority date as the date of the formation of the reservation, the GRIC have a very senior priority. The problem is to determine the quantity of water available to the tribe and that is done through a state adjudication process. The adjudication process must involve all parties using the water and must deal with current water supply.

Laws of the Colorado River

These water laws outline how much water Arizona is allocated from the Colorado River. The GRIC is benefiting from these laws because they are receiving water from the Colorado River through the Central Arizona Project (CAP). This law consist of Colorado River Compact of 1922, Boulder Canyon Project Act of 1928, Mexican 1944, and Colorado River Basin Project

Act of 1968 and they are explain in detail below. They are included as part of this analysis because the GRIC will obtain a major part of their water from the Colorado River via the CAP.

Political Conditions

The political environment for the GRIC is sufficient because the Community and the metropolitan areas surrounding the reservation have worked together to receive water in their area.

Conclusion

The Winter's Doctrine (1908) will not help the GRIC gain additional water during present and future negotiations. Economically, the GRIC has been in poverty for a long time and only recently developed other revenue sources besides agriculture. However, help in the one form of economic development may have come too late for them because the available water has greatly diminished and the many water laws that define water rights have already been enacted through long tough battles that most people do not wish to refight. These laws shaped the western water system before the GRIC had enough money to sit at the negotiation table. Right now, the GRIC is settling their water rights and the results show that the Winter's Doctrine would not help to increase the amount of water in the settlement.

The Colorado River Laws are working against and for the GRIC because some water is being delivered to the reservation land, but it is taking away water from them that has to be used elsewhere people before the GRIC can receive their share.

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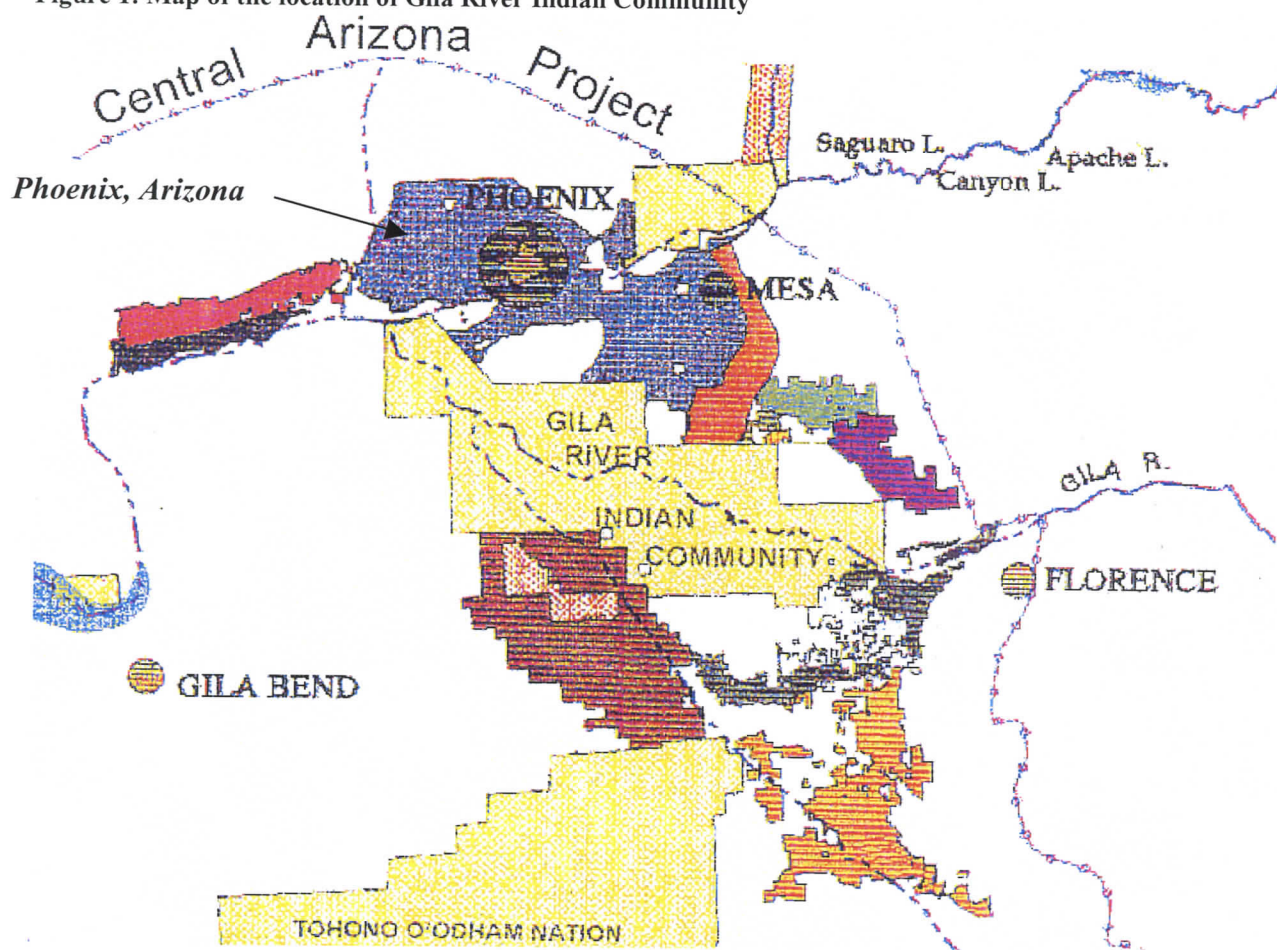
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Attachments

Figure 1: Map of the location of Gila River Indian Community



Source: Gila Indian Community Planned Water Development 2000

Figure 2: 100th Meridian Line



Source: http://www.lib.utexas.edu/maps/united_states/usa_pol01.jpg