APPENDIX H: Statement of Claimants

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STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO: 39-5478

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-5090 Telephone (520)796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____, or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [X] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____, Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [ ] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [ ] Well: Arizona Department of Water Resources Well Registration No. 55-____
D. [X] Other, describe: See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [ ] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		N/S	E/W			
		N/S	E/W			
		N/S	E/W			

9. Claimed Right:

A. Maximum Flow Rate: See attached
- [X] cubic-feet per second
- [ ] gallons per minute
- [ ] Arizona miner's inches

B. Annual Volume of Water Use: See attached acre-feet

C. Storage Right: See attached acre-feet

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10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant John Hestand
Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? _____

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

15. Notarized Statement:

I (We), John Hestand, Senior Water Counsel for GRIC the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

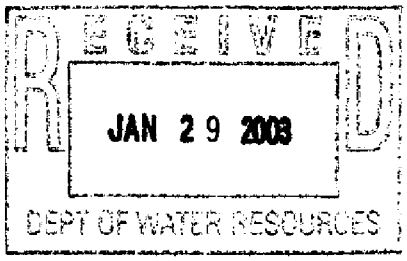
OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2008
(seal)

John Hestand

July 5, 2008
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

or. _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
39-5478
SAN PEDRO RIVER WATERSHED (11)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the San Pedro River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the San Pedro River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the San Pedro River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the

Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.

2. *Basis of Claim:*

   A. *Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____*

   The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

   B. *Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____*

   The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

   C. *Decreed water right. Principal litigants, court, date and case no.____*

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-

determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the San Pedro River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the San Pedro River Watershed. As senior right holder of aboriginal and

Winters rights, the Community claims prior right to the use all surface water and all subflow water, as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

4. *Legal description of the Point of Diversion*

Ashurst-Hayen Diversion Dam
W1/2, NW1/4, Section 8, Township 4S, Range 11E

Sacaton Diversion Dam
SE ¼, SE ¼, SE ¼, Section 12, Township 4S, Range 6E

Diversions of water from the San Pedro River Watershed are currently made at Ashurst-Hayden Dam (slightly below the confluence of the San Pedro River with the Gila River) and through wells, ditches, canals, and pipelines including those of the San Carlos Indian Irrigation Project. In addition, the Sacaton Diversion Dam has been used as a diversion point in the past and is recognized by the *Globe Equity 59 Decree.* Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*

C. *Well: Arizona Department of Water Resources Well Registration No. 55*
D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the San Pedro River Watershed onto its irrigated lands through the use of the Ashurst-Hayden Diversion Dam, the Sacaton Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the Gila River bed (from its confluence with the San Pedro River downstream to and through the Gila River Indian Reservation). In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate:*	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	0	*acre-feet*

The only storage facilities in the San Pedro River Watershed are numerous stock ponds and similar reservoirs that take the dependable base flow that should go to senior downstream rights holders, despite the very junior priority of the owners and operators of the stockponds. Rather than claim any storage rights in these facilities, the Community will instead insist that their owners operate them so as to recognize senior rights and take water only when their junior rights allow.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

    See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

    The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

    Legal questions may be addressed, during normal work hours, to:

    Rodney B. Lewis, General Counsel
    Gila River Indian Community
    P.O. Box 97
    Sacaton, AZ 85247
    (520) 562-6220
    Fax: (520) 562-6233

    John T. Hestand, Senior Water Counsel
    Office of Water Rights
    Gila River Indian Community
    5002 N. Maricopa Road, Box 5090
    Chandler, AZ 85226
    (520) 796-1344
    Fax: (520) 796-1347

    Technical questions may be addressed, during normal work hours, to:

T. Allen J. Gookin, P.E., L.S., P.H.
Gookin Engineers Ltd.
4203 N. Brown Ave.
Scottsdale, AZ 85251
(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Verde River Watershed; the Upper and Lower Gila River Watershed; the Upper and Lower Salt River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

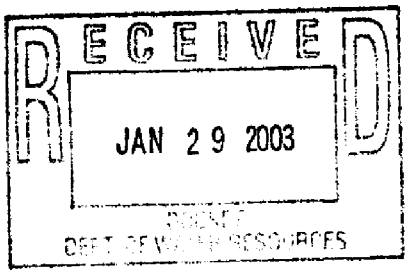
NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003



Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
AUG 29 2008
DEPT OF WATER RESOURCES

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO. 39-12652

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-51 Telephone (520)796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____ or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [X] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____, Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [ ] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [ ] Well: Arizona Department of Water Resources Well Registration No. 55-___
D. [X] Other, describe: See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [ ] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
_____	____	____ N/S	____ E/W	____	_____	_____
_____	____	____ N/S	____ E/W	____	_____	_____
_____	____	____ N/S	____ E/W	____	_____	_____

9. Claimed Right:

A. Maximum Flow Rate: See attached ☒ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches

B. Annual Volume of Water Use: See attached acre-feet

C. Storage Right: See attached acre-feet

JAN 29 2003

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant _____

Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? _____

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

15. Notarized Statement:

I (We), John Hestand, Senior Water Counsel for GRIC

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2006

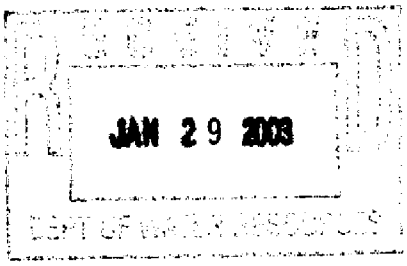
_____ (year)

_____

July 5, 2006
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

or, _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
39-12652
UPPER SALT RIVER WATERSHED (07)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Upper Salt River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Salt River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Salt River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.*

2. *Basis of Claim:*

A. Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____

The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

B. Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____

The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

C. Decreed water right. Principal litigants, court, date and case no.____

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for

which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water

use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to Roosevelt Lake, Apache Lake, Canyon Lake, and Sahuaro Lake, stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Salt River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the Salt River Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all subflow water,

as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

4. *Legal description of the Point of Diversion*

Granite Reef Diversion Dam
E1/2, Section 13, Township 2N, Range 6E

Sacaton Diversion Dam
SE ¼, SE ¼, SE ¼, Section 12, Township 4S, Range 6E

Diversions of water from the Salt River Watershed will be conducted through the Granite Reef Diversion Dam, other diversion dams to be constructed, and/or instream pumps. Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the Salt River Watershed onto its irrigated lands through the use of the

Granite Reef Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the bed of the Salt Rivers, and through the Salt-Gila Aqueduct, or a comparable canal to be constructed. The Community will also convey water through the South Canal, the Consolidated Canal, the Eastern Canal, the Tempe Canal, the Western Canal, the Highline Canal, and their related sub-canals, laterals, sub-laterals, and drains. In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate:*	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	2,026,000	*acre-feet*

The Community claims storage rights in Roosevelt Lake, Apache Lake, Canyon Lake, and Sahuaro Lake only for its *Winters* federally reserved water rights claims and not for its aboriginal or prior appropriation water rights claims. However, whether or not the Community is not awarded *Winters* storage rights, it will insist that the dams be operated in such a way as to avoid interference with

the Community's aboriginal, prior appropriation, and *Winters* federally reserved water rights.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

    See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

    The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

    Legal questions may be addressed, during normal work hours, to:

    Rodney B. Lewis, General Counsel
    Gila River Indian Community
    P.O. Box 97
    Sacaton, AZ 85247
    (520) 562-6220
    Fax: (520) 562-6233

    John T. Hestand, Senior Water Counsel
    Office of Water Rights
    Gila River Indian Community
    5002 N. Maricopa Road, Box 5090
    Chandler, AZ 85226
    (520) 796-1344
    Fax: (520) 796-1347

    Technical questions may be addressed, during normal work hours, to:

    T. Allen J. Gookin, P.E., L.S., P.H.
    Gookin Engineers Ltd.
    4203 N. Brown Ave.
    Scottsdale, AZ 85251

(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Salt River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed; the Upper and Lower Gila River Watershed; the Verde River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

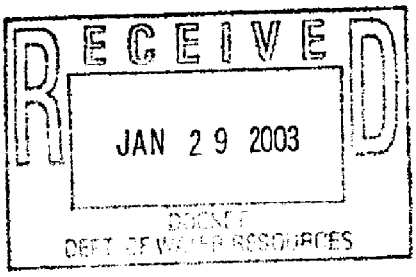
NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003



Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AGUA FRIA RIVER WATERSHED
ABOVE CAMP DYER DAM
SUPERIOR COURT OF MARICOPA COUNTY

For Departmental Use Only
File No. 39-(CV) 24083
Date Filed: 1-29-03
WFN

1. **Claimant Name:** Gila River Indian Community
Claimant Address: c/o OWR 5002 N. Maricopa Rd. City Box 5090 Chandler
State: Arizona Zip Code 85226-5177 Telephone (520)796-1344

2. **Basis of Claim:**
A. ☒ Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. ☒ Appropriation Right acquired after June 12, 1919. Application No. See attached, Permit No. _____, or Certificate of Water Right No. _____
C. ☒ Decreed water right. Principal litigants, court, date and case no. See attached
D. ☒ Right to withdraw groundwater. Grandfathered Right No. See attached
E. ☒ Other, describe: See attached

3. **Source of Water:**
A. ☒ Stream: name See attached, tributary to _____
B. ☒ Spring: name See attached, tributary to _____
C. ☒ Lake or Reservoir: name See attached, tributary to _____
D. ☒ Groundwater.

4. **Legal description of the Point of Diversion:** (attach additional sheet if required)
_____ 1/4, _____ 1/4, _____ 1/4, Section _____, Township _____ N/S, Range _____ E/W
See attached

5. **If there are Stockpond, Domestic or Other Uses** also supplied from the point of diversion, describe:
See attached

6. **Means of Diversion:**
A. ☒ Instream pump.
B. ☒ Gravity flow into a ditch, canal or pipeline.
C. ☒ Well: Arizona Department of Water Resources Well Registration No. 55- See attached
D. ☒ Other, describe: See attached

7. **Means of Conveyance:**
A. ☒ Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. ☒ Other, describe: See attached

8. **Place(s) of Use, Annual Water Use and Claimed Priority Date(s):** (attach additional sheet if required)
County See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		____N/S	____E/W			
		____N/S	____E/W			
		____N/S	____E/W			

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

9. **Claimed Right:**
A. Maximum Flow Rate: See attached ☐ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches
B. Annual Volume of Water Use: See attached acre-feet
C. Storage Right: See attached acre-feet

10. **Attach** photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s) means of conveyance and place(s) of use.
See attached

11. **It may** be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant _____
Senior Water Counsel for GRIC

12. **Should** it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? See attached

13. **Additional comments:** See attached

(attach additional sheet if required)

14. **Attach Filing Fee to Form.** Mail form(s) and filing fee(s) to:

AZ DEPT OF WATER RESOURCES
ADJUDICATION SECTION
PO BOX 458
PHOENIX AZ 85001-0458

15. **Notarized Statement:**
I (We), John Hestand, Senior Water Counsel for GRIC
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2006

(seal)

July 5, 2006
My Commission Expires

_____

Jacquelyn C. Zinkhan
Notary Public

or, _____
Authorized Personnel of the Department of Water Resources

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AGUA FRIA RIVER WATERSHED (06)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Agua Fria River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Agua Fria River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Agua Fria River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.*

2. *Basis of Claim:*

A. Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____

The Gila River Indian Community is not making a prior appropriation water rights claim as to the waters of the Agua Fria Watershed.

B. Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____

The Gila River Indian Community is not making a prior appropriation water rights claim to the waters of the Agua Fria River Watershed.

C. Decreed water right. Principal litigants, court, date and case no.____

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Gila River Indian Community is not making an aboriginal water rights claim as to the waters of the Agua Fria River Watershed.

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water from the Agua Fria River Watershed to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:* All
B. *Spring:* All

C. *Lake or Reservoir:* All (including but not limited to Lake Pleasant, stockponds or other manmade impoundments)

D. *Groundwater* All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Agua Fria River Watershed without limitation. As senior right holder of *Winters* rights, the Community claims prior right to the use all surface water and all subflow water, as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its *Winters* rights.

4. *Legal description of the Point of Diversion*

New Wadell Dam
NW1/4, NW1/4, Section 28, Township 6N, Range 1E

Diversions of water from the Agua Fria River Watershed will be made at the New Wadell Dam, a new diversion site to be constructed, the Granite Reef Diversion Dam, and/or instream pumps. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert *Winters* water from the Agua Fria River Watershed onto the site of use through the Agua Fria, Salt, and or Gila River beds, Granite

Reef Aqueduct, other diversion dams to be constructed, instream pumps, and or wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its *Winters* water to the site of use through the beds of the Agua Fria, Salt, and Gila Rivers, and through the Salt-Gila Aqueduct, Granite Reef Aqueduct, or a comparable canal to be constructed. The Community will also convey water through the South Canal, the Consolidated Canal, the Eastern Canal, the Tempe Canal, the Western Canal, the Highline Canal, and their related sub-canals, laterals, sub-laterals, and drains. Alternatively, a diversion dam could be located in or near Section 36 T4N R1W and a canal built to irrigate lands on the west end of the Reservation. In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate*:	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	1,200,000	*acre-feet*

The Community claims storage rights in Lake Pleasant only for its *Winters* federally reserved water rights claims and not for its aboriginal or prior appropriation water rights claims. However, whether or not the Community is not awarded *Winters* storage rights, it will insist that the dam be operated in such a

way as to avoid interference with the Community's federally reserved water rights.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

    See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

    The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

    Legal questions may be addressed, during normal work hours, to:

    Rodney B. Lewis, General Counsel
    Gila River Indian Community
    P.O. Box 97
    Sacaton, AZ 85247
    (520) 562-6220
    Fax: (520) 562-6233

    John T. Hestand, Senior Water Counsel
    Office of Water Rights
    Gila River Indian Community
    5002 N. Maricopa Road, Box 5090
    Chandler, AZ 85226
    (520) 796-1344
    Fax: (520) 796-1347

    Technical questions may be addressed, during normal work hours, to:

    T. Allen J. Gookin, P.E., L.S., P.H.
    Gookin Engineers Ltd.
    4203 N. Brown Ave.
    Scottsdale, AZ 85251

(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Agua Fria River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Agua Fria River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed; the Upper and Lower Gila River Watershed; the Verde River Watershed; the Santa Cruz River Watershed; and the Upper Salt River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

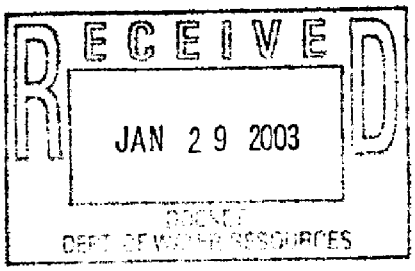
NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003



Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
JAN 29 2009
DEPT OF WATER RESOURCES

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO: 39- 37360 36340

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-5090 Telephone (520)796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____ or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [X] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____, Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [X] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [X] Well: Arizona Department of Water Resources Well Registration No. 55-____
D. [X] ~~Other, describe~~ See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [X] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		N/S	E/W			
		N/S	E/W			
		N/S	E/W			

RECEIVED
JAN 29 2008
DEPT OF WATER RESOURCES

9. Claimed Right:
   A. Maximum Flow Rate: See attached ☒ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches
   B. Annual Volume of Water Use: See attached acre-feet
   C. Storage Right: See attached acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant _____
Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? _____

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

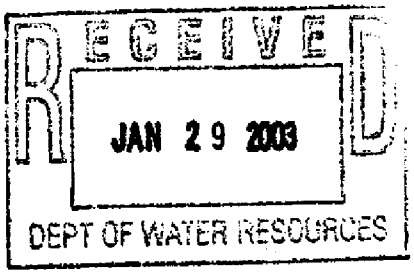
15. Notarized Statement:
I (We), John Hestand, Senior Water Counsel for GRIC
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2008
(seal)

July 5, 2006
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

or, _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
36340 and 37360
LOWER GILA RIVER WATERSHED (L-8)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Lower Gila River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Lower Gila River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Lower Gila River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the

Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.

2. *Basis of Claim:*

   A. *Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____*

   The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

   B. *Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____*

   The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

   C. *Decreed water right. Principal litigants, court, date and case no.____*

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent

livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) ("*Gila V*"), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Lower Gila River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the Lower

Gila Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all subflow water, as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

The Community claims water rights to the streams, springs, groundwater and reservoirs on the Agua Fria River Watershed, the Upper Salt River Watershed, the Santa Cruz River Watershed, the San Pedro River Watershed, the Upper Gila River Watershed, and the Verde River Watershed in separate claims.

The Community is not claiming water rights in the Lower Gila River Watershed for water (surface, subflow, or percolating) that develop from localities downstream of the confluence of the Gila River and the Agua Fria River.

4. *Legal description of the Point of Diversion*

Ashurst-Hayen Diversion Dam
W1/2, NW1/4, Section 8, Township 4S, Range 11E

Sacaton Diversion Dam
SE ¼, SE ¼, SE ¼, Section 12, Township 4S, Range 6E

Diversions of water from the Lower Gila River Watershed are currently made at Ashurst-Hayden Dam (slightly below the confluence of the San Pedro River with the Gila River) and through wells, ditches, canals, and pipelines including those of the San Carlos Indian Irrigation Project. In addition, the Sacaton Diversion Dam has been used as a diversion point in the past and is recognized by the *Globe Equity 59 Decree.* Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future

circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the Lower Gila River Watershed onto its irrigated lands through the use of the Ashurst-Hayden Diversion Dam, the Sacaton Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the Gila River bed (from its confluence with the San Pedro River downstream to and through the Gila River Indian Reservation). In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior*

Appropriation Claims by Earliest Date; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate*:	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	0	*acre-feet*

The Community has made claims for storage rights in the Upper Gila River Watershed, the Verde River Watershed, the Upper Salt River Watershed, and the Agua Fria River Watershed.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

Legal questions may be addressed, during normal work hours, to:

Rodney B. Lewis, General Counsel
Gila River Indian Community
P.O. Box 97
Sacaton, AZ 85247
(520) 562-6220
Fax: (520) 562-6233

John T. Hestand, Senior Water Counsel
Office of Water Rights
Gila River Indian Community
5002 N. Maricopa Road, Box 5090
Chandler, AZ 85226

(520) 796-1344
Fax: (520) 796-1347

Technical questions may be addressed, during normal work hours, to:

T. Allen J. Gookin, P.E., L.S., P.H.
Gookin Engineers Ltd.
4203 N. Brown Ave.
Scottsdale, AZ 85251
(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Lower Gila River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed, Verde River Watershed; the Upper Gila River Watershed; the Upper Salt River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed*

Mesquite and Non-Agricultural Lands. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003

RECEIVED
JAN 29 2003
DOCKET
DEPT. OF WATER RESOURCES

Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO. 39- 37360 36340

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-5090 Telephone (520) 796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____ or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [ ] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [ ] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____ Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [ ] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [ ] Well: Arizona Department of Water Resources Well Registration No. 55-____
D. [X] Other, describe: See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [ ] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		N/S	E/W			
		N/S	E/W			
		N/S	E/W			

RECEIVED
JAN 29 2008
DEPT OF WATER RESOURCES

9. Claimed Right:
   - A. Maximum Flow Rate: See attached ☒ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches
   - B. Annual Volume of Water Use: See attached acre-feet
   - C. Storage Right: See attached acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant _____ Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? _____

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

15. Notarized Statement:
I (We), John Hestand, Senior Water Counsel for GRIC the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

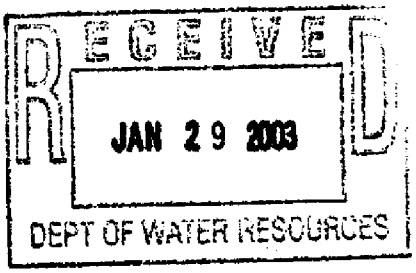
OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2008
(seal)

_____

July 5, 2006
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

or. _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
36340 and 37360
LOWER GILA RIVER WATERSHED (L-8)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Lower Gila River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Lower Gila River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Lower Gila River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the

Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.

2. *Basis of Claim:*

   A. *Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____*

   The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

   B. *Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____*

   The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

   C. *Decreed water right. Principal litigants, court, date and case no.____*

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. .The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent

livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Lower Gila River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the Lower

Gila Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all subflow water, as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

The Community claims water rights to the streams, springs, groundwater and reservoirs on the Agua Fria River Watershed, the Upper Salt River Watershed, the Santa Cruz River Watershed, the San Pedro River Watershed, the Upper Gila River Watershed, and the Verde River Watershed in separate claims.

The Community is not claiming water rights in the Lower Gila River Watershed for water (surface, subflow, or percolating) that develop from localities downstream of the confluence of the Gila River and the Agua Fria River.

4. *Legal description of the Point of Diversion*

Ashurst-Hayen Diversion Dam
W1/2, NW1/4, Section 8, Township 4S, Range 11E

Sacaton Diversion Dam
SE ¼, SE ¼, SE ¼, Section 12, Township 4S, Range 6E

Diversions of water from the Lower Gila River Watershed are currently made at Ashurst-Hayden Dam (slightly below the confluence of the San Pedro River with the Gila River) and through wells, ditches, canals, and pipelines including those of the San Carlos Indian Irrigation Project. In addition, the Sacaton Diversion Dam has been used as a diversion point in the past and is recognized by the *Globe Equity 59 Decree*. Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future

circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the Lower Gila River Watershed onto its irrigated lands through the use of the Ashurst-Hayden Diversion Dam, the Sacaton Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the Gila River bed (from its confluence with the San Pedro River downstream to and through the Gila River Indian Reservation). In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior*

Appropriation Claims by Earliest Date; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A.	*Maximum Flow Rate:*	8,000	*cubic-feet per second*
B.	*Annual Volume of Water Use:*	2,711,097	*acre-feet*
C.	*Storage Right:*	0	*acre-feet*

The Community has made claims for storage rights in the Upper Gila River Watershed, the Verde River Watershed, the Upper Salt River Watershed, and the Agua Fria River Watershed.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

Legal questions may be addressed, during normal work hours, to:

Rodney B. Lewis, General Counsel
Gila River Indian Community
P.O. Box 97
Sacaton, AZ 85247
(520) 562-6220
Fax: (520) 562-6233

John T. Hestand, Senior Water Counsel
Office of Water Rights
Gila River Indian Community
5002 N. Maricopa Road, Box 5090
Chandler, AZ 85226

(520) 796-1344
Fax: (520) 796-1347

Technical questions may be addressed, during normal work hours, to:

T. Allen J. Gookin, P.E., L.S., P.H.
Gookin Engineers Ltd.
4203 N. Brown Ave.
Scottsdale, AZ 85251
(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Lower Gila River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed, Verde River Watershed; the Upper Gila River Watershed; the Upper Salt River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed*

Mesquite and Non-Agricultural Lands. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003

RECEIVED
JAN 29 2003
DOCKET
DEPT OF WATER RESOURCES

Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
JAN 29 2003
CONSERVATION

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO. 39- 41142

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-5090 Telephone (520)796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____, or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [X] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____, Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [X] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [X] Well: Arizona Department of Water Resources Well Registration No. 55-____
D. [X] ~~Other, describe~~ See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [X] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		N/S	E/W			
		N/S	E/W			
		N/S	E/W			

9. Claimed Right:

A. Maximum Flow Rate: See attached
- [X] cubic-feet per second
- [ ] gallons per minute
- [ ] Arizona miner's inches

B. Annual Volume of Water Use: See attached acre-feet

C. Storage Right: See attached acre-feet

JAN 29 2003

DEPT OF WATER RESOURCES

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant John T Hestand

Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person?

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

15. Notarized Statement:

I (We), John Hestand, Senior Water Counsel for GRIC

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

John T Hestand

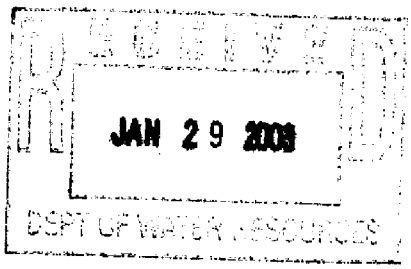
(seal)

July 5, 2006
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2006

or, _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
39-41142
VERDE RIVER WATERSHED (05)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Verde River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Verde River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Verde River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.*

2. *Basis of Claim:*

A. Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____

The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

B. Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____

The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

C. Decreed water right. Principal litigants, court, date and case no.____

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for

which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water

use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to Bartlett Reservoir, Horse Shoe Reservoir, stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Verde River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the Verde Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all subflow water, as well as the right to

prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

4. *Legal description of the Point of Diversion*

Granite Reef Diversion Dam
E1/2, Section 13, Township 2N, Range 6E

Diversions of water from the Verde River Watershed will be conducted through the Granite Reef Diversion Dam, other diversion dams to be constructed, and/or instream pumps. Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the Verde River Watershed onto its irrigated lands through the use of the Granite Reef Diversion Dam, , other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the beds of the Gila, Verde and Salt Rivers, and through the Salt-Gila Aqueduct, or a comparable canal to be constructed. The Community will also convey water through the South Canal, the Consolidated Canal, the Eastern Canal, the Tempe Canal, the Western Canal, the Highline Canal, and their related sub-canals, laterals, sub-laterals, and drains. In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate:*	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	309,600	*acre-feet*

The Community claims storage rights in the Bartlett Reservoir and the Horse Shoe Reservoir only for its *Winters* federally reserved water rights claims and not for its aboriginal or prior appropriation water rights claims. However, whether or not the Community is not awarded *Winters* storage rights, it will insist that the dams be operated in such a way as to avoid interference with the Community's aboriginal, prior appropriation, and *Winters* federally reserved water rights.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

    See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

    The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

    Legal questions may be addressed, during normal work hours, to:

    Rodney B. Lewis, General Counsel
    Gila River Indian Community
    P.O. Box 97
    Sacaton, AZ 85247
    (520) 562-6220
    Fax: (520) 562-6233

    John T. Hestand, Senior Water Counsel
    Office of Water Rights
    Gila River Indian Community
    5002 N. Maricopa Road, Box 5090
    Chandler, AZ 85226
    (520) 796-1344
    Fax: (520) 796-1347

    Technical questions may be addressed, during normal work hours, to:

    T. Allen J. Gookin, P.E., L.S., P.H.
    Gookin Engineers Ltd.
    4203 N. Brown Ave.
    Scottsdale, AZ 85251
    (480) 947-3741
    (480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Verde River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed; the Upper and Lower Gila River Watershed; the Upper and Lower Salt River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

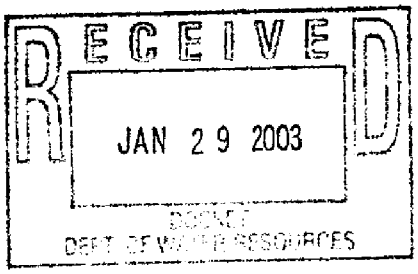
NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003



Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

JAN 29 2003

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
AMENDMENT
SUPERIOR COURT OF MARICOPA COUNTY

CLAIM BEING AMENDED
NO: 39- 60083

1. Claimant Name: Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd Box 5090 Chandler
State: Arizona Zip Code 85226-5177 Telephone (520)796-1344

2. Basis of Claim:
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See Attached, Permit No. _____ or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no.: See Attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See Attached
E. [ ] Other, describe: See attached

3. Source of Water:
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)
____¼, ____¼, ____¼, Section ____ Township ____N/S, Range ____E/W
See attached

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:
See attached

6. Means of Diversion:
A. [ ] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [ ] Well: Arizona Department of Water Resources Well Registration No. 55-____
D. [X] Other, describe: See attached

7. Means of Conveyance:
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [ ] Other, describe: See attached

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		N/S	E/W			
		N/S	E/W			
		N/S	E/W			

9. Claimed Right:

A. Maximum Flow Rate: See attached
- [X] cubic-feet per second
- [ ] gallons per minute
- [ ] Arizona miner's inches

B. Annual Volume of Water Use: See attached acre-feet

C. Storage Right: See attached acre-feet

JAN 29 2003

DEPT OF WATER RESOURCES

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. See attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant John Hestand

Senior Water Counsel for GRIC

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person?

13. Additional comments: See attached

(attach additional sheet if required)

14. Mail form(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, Arizona 85062.

15. Notarized Statement:

I (We), John Hestand, Senior Water Counsel for GRIC

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2006

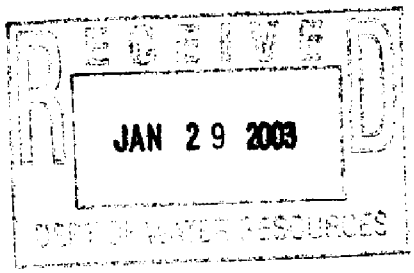
(seal)

John Hestand

July 5, 2006
My Commission Expires:

Jacquelyn C. Zinkhan
Notary Public

or, _____
Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
AMENDMENT
UPPER GILA RIVER WATERSHED (U-8)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Upper Gila River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Upper Gila River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Upper Gila River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.*

2. *Basis of Claim:*

A. Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____

The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

B. Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____

The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

C. Decreed water right. Principal litigants, court, date and case no.____

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for

which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water

use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) (*"Gila V"*), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to the San Carlos Reservoir, stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Upper Gila River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the Upper Gila River Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all subflow water,

as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

The Community claims water rights to the streams, springs, groundwater and reservoirs on the Agua Fria River Watershed, the Upper Salt River Watershed, the Santa Cruz River Watershed, the San Pedro River Watershed, the Upper Gila River Watershed, and the Verde River Watershed in separate claims.

4. *Legal description of the Point of Diversion*

Ashurst-Hayen Diversion Dam
W1/2, NW1/4, Section 8, Township 4S, Range 11E

Sacaton Diversion Dam
SE ¼, SE ¼, SE ¼, Section 12, Township 4S, Range 6E

Diversions of water from the Upper Gila River Watershed are currently made at Ashurst-Hayden Dam (slightly below the confluence of the San Pedro River with the Gila River) and through wells, ditches, canals, and pipelines including those of the San Carlos Indian Irrigation Project. In addition, the Sacaton Diversion Dam has been used as a diversion point in the past and is recognized by the *Globe Equity 59 Decree*. Historically, the Pima and Maricopa Indians had many other diversion points. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

The Community will divert aboriginal, prior appropriation, and *Winters* water from the Upper Gila River Watershed onto its irrigated lands through the use of the Ashurst-Hayden Diversion Dam, the Sacaton Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the Gila River bed (from its confluence with the San Pedro River downstream to and through the Gila River Indian Reservation). In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

   A. *Maximum Flow Rate*: 8,000 *cubic-feet per second*
   B. *Annual Volume of Water Use:* 2,711,097 *acre-feet*

C. *Storage Right:* 1,200,000 *acre-feet*

The Gila River Indian Community has storage rights to 1,200,000 acre-feet for prior appropriation and Winters federally reserved water rights in the San Carlos Reservoir.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

    See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

    The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

    Legal questions may be addressed, during normal work hours, to:

    Rodney B. Lewis, General Counsel
    Gila River Indian Community
    P.O. Box 97
    Sacaton, AZ 85247
    (520) 562-6220
    Fax: (520) 562-6233

    John T. Hestand, Senior Water Counsel
    Office of Water Rights
    Gila River Indian Community
    5002 N. Maricopa Road, Box 5090
    Chandler, AZ 85226
    (520) 796-1344
    Fax: (520) 796-1347

    Technical questions may be addressed, during normal work hours, to:

T. Allen J. Gookin, P.E., L.S., P.H.
Gookin Engineers Ltd.
4203 N. Brown Ave.
Scottsdale, AZ 85251
(480) 947-3741
(480) 947-0262

13. Additional comments:

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Upper Gila River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the San Pedro River Watershed, Verde River Watershed; the Lower Gila River Watershed; the Upper Salt River Watershed; the Santa Cruz River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
Chandler, Arizona 85226

Ph: (520) 796-1344
Fax: (520) 796-1347

January 29, 2003

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

STATEMENT OF CLAIMANT FORM
FOR
IRRIGATION USE
UPPER SANTA CRUZ RIVER WATERSHED
SUPERIOR COURT OF MARICOPA COUNTY

For Departmental Use Only
(09) File No. 39-[illegible]79815
Date Filed: 1-29-03
WFN

1. **Claimant Name:** Gila River Indian Community
Claimant Address: c/o OWR, 5002 N. Maricopa Rd. City Box 5090 Chandler
State: Arizona Zip Code 85226-5177 Telephone (520)796-1344

2. **Basis of Claim:**
A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. See attached
B. [X] Appropriation Right acquired after June 12, 1919. Application No. See attached, Permit No. _____, or Certificate of Water Right No. _____
C. [X] Decreed water right. Principal litigants, court, date and case no. See attached
D. [X] Right to withdraw groundwater. Grandfathered Right No. See attached
E. [X] Other, describe: See attached

3. **Source of Water:**
A. [X] Stream: name See attached, tributary to _____
B. [X] Spring: name See attached, tributary to _____
C. [X] Lake or Reservoir: name See attached, tributary to _____
D. [X] Groundwater.

4. **Legal description of the Point of Diversion:** (attach additional sheet if required)
_____ 1/4, _____ 1/4, _____ 1/4, Section _____, Township _____ N/S, Range _____ E/W
See attached

5. **If there are Stockpond, Domestic or Other Uses** also supplied from the point of diversion, describe:
See attached

6. **Means of Diversion:**
A. [X] Instream pump.
B. [X] Gravity flow into a ditch, canal or pipeline.
C. [X] Well: Arizona Department of Water Resources Well Registration No. 55- See attached
D. [X] Other, describe: See attached

7. **Means of Conveyance:**
A. [X] Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: See attached
B. [X] Other, describe: See attached

8. **Place(s) of Use, Annual Water Use and Claimed Priority Date(s):** (attach additional sheet if required)
County See attached

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
		____N/S	____E/W			
		____N/S	____E/W			
		____N/S	____E/W			

RECEIVED
JAN 29 2003
DEPT OF WATER RESOURCES

9. **Claimed Right:**
A. Maximum Flow Rate: See attached ☐ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches
B. Annual Volume of Water Use: See attached acre-feet
C. Storage Right: See attached acre-feet

10. **Attach** photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s) means of conveyance and place(s) of use.
See attached

11. **It may** be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant John 7 Hestand
Senior Water Counsel for GRIC

12. **Should** it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? See attached

13. **Additional comments:** See attached

(attach additional sheet if required)

14. **Attach Filing Fee to Form.** Mail form(s) and filing fee(s) to:
AZ DEPT OF WATER RESOURCES
ADJUDICATION SECTION
PO BOX 458
PHOENIX AZ 85001-0458

15. **Notarized Statement:**
I (We), John Hestand, Senior Water Counsel for GRIC
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

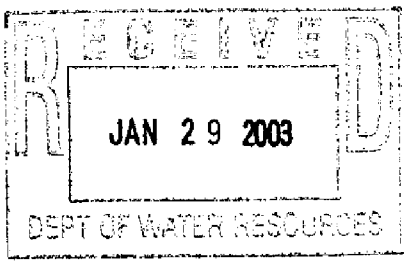
John 7 Hestand

(seal)
July 5, 2006
My Commission Expires

Jacquelyn C. Zinkhan
Notary Public

OFFICIAL SEAL
JACQUELYN C. ZINKHAN
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 5, 2006

Authorized Personnel of the Department of Water Resources



ATTACHMENT TO
STATEMENT OF CLAIMANT FORM
FOR IRRIGATION USE
SANTA CRUZ RIVER WATERSHED (09)

The Gila River Indian Community, on its own behalf and on behalf of its members and allottees, claims the right to use any and all of the appropriable waters of the Santa Cruz River Watershed for irrigation use to fulfill its/their aboriginal, prior appropriation, and *Winters* federally reserved water rights for the entire acreage of the Gila River Indian Reservation ("GRIR"). The Community also claims the right to restrict use of non-appropriable waters (including, but not limited to percolating groundwater) when necessary to protect or preserve the aboriginal and *Winters* federally reserved water rights of GRIR.

Lands within the Gila River Indian Reservation may have aboriginal, prior appropriation, and/or *Winters* federally reserved water rights. Lands within GRIR may have prior appropriation rights because of actual use, because of one or more filings of appropriative rights, and/or because of court decrees. If a unit of land has rights arising from multiple legal bases, the Community claims water rights for the amount of the water duty for the earliest priority/*Winters* date and then under any subsequent right up to a full water duty of nine (9) acre-feet per acre.

This water rights claim is based on the best information available to the Community as of January 29, 2003, and is as accurate and complete as the information allows. However, the Community intends to continue research and investigations in order to refine existing data and acquire new data. Such refined or new data may necessitate the amendment of this claim sometime in the future, in order to reflect updated information.

The Community does not restrict its water right claims, or in any way waive claims to water rights that it may have, to any waters of the Santa Cruz River Watershed based on any omission or imprecision in language used in this claim form. The Community claims the right to use the waters of the Santa Cruz River Watershed to the broadest extent of any possible legal claim, for any legal or beneficial use, and for all lands located anywhere within the exterior boundaries of the Gila River Indian Reservation.

The Gila River Indian Reservation was created pursuant to Act of Congress, approved on February 28, 1859 (11 Stat. 401) and the following Executive Orders: Order of August 31, 1876, Order of January 10, 1879; Order of June 14, 1879; Order of May 5, 1882; Order of November 15, 1883; Order No. 1349 of May 8, 1911; Order of June 2, 1913; Order No. 1782 of August 27, 1914; Order of March 18, 1915; and Order of July 19, 1915. The lands contained within GRIR are depicted on Maps 1 through 5 and the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.*

2. *Basis of Claim:*

A. *Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.____*

The Gila River Indian Community has appropriation rights acquired prior to June 12, 1919, through the actual beneficial use of water for irrigation purposes prior to 1919 and through filings with governmental entities claiming appropriation rights prior to June 12, 1919. The acres upon which water was put to beneficial use for agricultural purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for agricultural purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims

B. *Appropriation Right acquired after June 12, 1919. Application No.____ Permit No.____ or Certificate of Water Right No.____*

The Gila River Indian Community has appropriation rights acquired after June 12, 1919, through the actual beneficial use of water for irrigation purposes after 1919 and through filings claiming appropriation rights for irrigation purposes after June 12, 1919. The acres upon which water was put to beneficial use for irrigation purposes, and/or upon which appropriative water rights were filed, the water duty claimed, and the priority date claimed are described in the Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation, including appropriate Registry numbers and other identifying information. The acres upon which water was put to beneficial use for irrigation purposes, upon which appropriative water rights were filed, and/or quantified in court decrees are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating the historically irrigated lands of GRIR and the lands for which irrigation rights were filed with state, county, or other governmental entities. These maps are attached to the Submittal Concerning Water Right Claims.

C. *Decreed water right. Principal litigants, court, date and case no.____*

The Gila River Indian Reservation has decreed water rights under the *Globe Equity 59 Decree* and the *Haggard/Benson-Allison Decrees.* The acres for

which irrigation water rights were decreed, the water duty awarded, the priority dates and the storage rights quantified by these decrees is described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation.* The acres for which irrigation water rights were quantified by these *Decrees* are also depicted on Map 3 *Prior Appropriation Claims by Earliest Date* and in the maps delineating lands with decreed irrigation water rights. These maps are attached to the Submittal Concerning Water Right Claims

D. Right to withdraw groundwater. Grandfathered Right No.____

The Gila River Indian Reservation has the right to withdraw groundwater from beneath its lands free from state regulation or restriction. Pursuant to the decision of the Arizona Supreme Court in *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source, (Gila III),* GRIR is entitled to rely upon groundwater resources to fulfill its *Winters* federally reserved water rights and to restrict uses of surface water, subflow underground water, and /or percolating underground water that interfere with or restrict its groundwater supply or use. While the Community filed information about its wells with the Arizona Department of Water Resources, the Department properly did not assign Grandfathered Right numbers to Reservation wells, based on the lack of jurisdiction of the Arizona Groundwater Code on GRIR lands. A list of wells on the Reservation is found in Appendix H of the 1996 Preliminary GRIR HSR.

E. Other, describe:

Aboriginal Water Rights Claims:

The Pima and Maricopa Indians retained the right to use water on their lands now incorporated within the Gila River Indian Reservation. These aboriginal water rights have a priority date of "time immemorial" and arise from the aboriginal irrigated agricultural and aboriginal mesquite orchards maintained and used by the Pima and Maricopa Indians. The acres for which aboriginal water rights are claimed, and the water duty for the aboriginal water rights, are described in the *Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation* and are also depicted on Map 4—*Aboriginal Claims.*

Winters Federally Reserved Water Rights Claims:

The Gila River Indian Reservation claims sufficient water to satisfy the present and future needs of the Pima and Maricopa Indians for a permanent livable homeland that allows them to exercise self-sufficiency and self-determination. Based upon their history, culture, geography, topography, natural resources (including groundwater), their economic base, past water

use, and present and projected population, the Gila River Indian Community, on its own behalf and on behalf of its members, claims the use of water for irrigated agriculture for 275,000 acres of practicably irrigable land, with a water duty of 9 acre-feet per acre and priority dates of 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915.

In *In Re the General Adjudication of All Rights to Use Water in the Gila River System and Source,* 201 Ariz. 307, 35 P.3d 68 (2001) ("*Gila V*"), acknowledged that the *Winters* water rights were to provide for Indians' needs, now and in the future, and that changes in circumstances would necessitate changes in use. The Pima and Maricopa Indians intend to reinstitute their agrarian culture and engage in irrigated agriculture on the vast majority of their lands. However, if and as circumstances change, the Community may change its water use from irrigated agriculture to municipal and industrial purposes. The experience of the Salt River Project demonstrates that, as land changes from agricultural uses to municipal and industrial purposes, the water duty remains virtually identical (although the consumptive use may reduce somewhat). Therefore, the award of the appropriate water duty for irrigated agriculture *Winters* water rights of the Gila River Indian Reservation will be the appropriate water duty for the municipal and industrial *Winters* water rights for those same acres, if and when they urbanize.

The acres for which *Winters* federally reserved water rights for irrigation purposes are claimed are described in the Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation. These acres are also depicted on Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System;* Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*, and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

3. *Source of Water:*

A. *Stream:*	All
B. *Spring:*	All
C. *Lake or Reservoir:*	All (including but not limited to stockponds or other manmade impoundments)
D. *Groundwater*	All (subflow and percolating)

The Community, as a senior downstream right holder, claims the right of use from any and every source of water in the Santa Cruz River Watershed without limitation. As senior right holder of prior appropriation rights, the Community claims the prior right to use all surface water and all subflow water in the San Pedro River Watershed. As senior right holder of aboriginal and *Winters* rights, the Community claims prior right to the use all surface water and all

subflow water, as well as the right to prohibit any use of percolating underground water that in any way interferes with or restricts its aboriginal or *Winters* rights.

4. *Legal description of the Point of Diversion*

   Historically, the Pima and Maricopa Indians had many diversion points from the Santa Cruz River. However, because of depletion of the water supply by junior water right holders, the Community and its Pima and Maricopa members have been prevented from using their aboriginal, prior appropriation, and *Winters* federally reserved waters. Appendix H of the 1996 Preliminary GRIR HSR lists wells in existence at that time. These wells are a source of diversion. As the GRIR water rights are quantified and honored, diversions will be made from other surface and groundwater locations including mesquite.

5. *If there are Stockpond, Domestic or other Uses also supplied from the point of diversion, describe:*

   The Community, its members, and allottees will use the points of diversion listed in Section #4 to fulfill their domestic water rights claim of 13,000 acre-feet (7,500 acre-foot consumptive use) and their water rights claim for power production of 700 acre-feet (700 acre-foot consumptive use) as well as the *Winters* rights uses arising from a change in circumstance and resulting in a change from an agricultural water use to a municipal and industrial use. Therefore, *Winters* water rights quantified for use in irrigated agriculture may, based on future circumstances, be changed to *Winters* water rights used to meet the municipal, commercial or industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

6. *Means of Diversion:*

   A. *Instream pump*
   B. *Gravity flow into a ditch, canal or pipeline*
   C. *Well: Arizona Department of Water Resources Well Registration No. 55*
   D. *Other, describe:*

   The Community will divert aboriginal, prior appropriation, and *Winters* water from the Santa Cruz River Watershed onto its irrigated lands through the use of the Ashurst-Hayden Diversion Dam, the Sacaton Diversion Dam, other diversion dams to be constructed, and/or instream pumps. The Community will use gravity flow into ditches, canals, and/or pipelines. The Community will also divert its water from wells.

7. *Means of Conveyance:*

   A. *Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address:*
   B. *Other, describe*

The Community will convey its aboriginal, prior appropriation, and *Winters* water to the site of use through the Gila River bed (from its confluence with the Santa Cruz River downstream to and through the Gila River Indian Reservation). In addition the Community will convey its waters to the site of use through ditches, canals, pipelines, and wells that are a part of the San Carlos Indian Irrigation Project (SCIIP), the Pima-Maricopa Project (P-MIP), and the Pima-Maricopa Project Plus (P-MIP+). The Community will use the groundwater aquifer to transmit water throughout the Reservation with use at the site coming through surface diversion of reemerging flows or through underground diversions through wells.

8. *Place(s) of Use, Annual Water Use and Claimed Priority Dates(s):*

Legal subdivision	*Section*	*Township N/S*	*Range E/W*	*Acres*	*Annual Water Use (acre-feet)*	*Claimed Priority Date (month/day/year*

See the *Submittal of Information and Sources Concerning the Water Rights Claims for the Gila River Indian Reservation*, Map 1—*Arable and Non-Arable Lands with P-MIP + Delivery System*; Map 2—*Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands*; Map 3—*Prior Appropriation Claims by Earliest Date*; Map 4—*Aboriginal Claims*; and Map 5—*Arable and Non-Arable Lands With Reservation Expansions By Year.*

9. *Claimed Right:*

A. *Maximum Flow Rate*:	8,000	*cubic-feet per second*
B. *Annual Volume of Water Use:*	2,711,097	*acre-feet*
C. *Storage Right:*	0	*acre-feet*

The only storage facilities in the Santa Cruz River Watershed are numerous stock ponds and similar reservoirs that take the dependable base flow that should go to senior downstream rights holders, despite the very junior priority of the owners and operators of the stockponds. Rather than claim any storage rights in these facilities, the Community will instead insist that their owners operate them so as to recognize senior rights and take water only when their junior rights allow.

10. *Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.*

See Map 1—*Arable and Non-Arable Lands With P-MIP+ Delivery System*

11. *It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection:*

The Gila River Indian Community is a sovereign nation and as such, its permission is required before non-members may enter and inspect its lands. While the Community grants ADWR the right to inspect the diversion, conveyance, and places of use on the Reservation, ADWR must still contact the appropriate Community officials to arrange the time and method of inspection.

12. *Should it be necessary for a representative of the Department to contact you as the claimant or your representative are there any special instructions regarding time of day or address to aid in locating the specified person?*

Legal questions may be addressed, during normal work hours, to:

Rodney B. Lewis, General Counsel
Gila River Indian Community
P.O. Box 97
Sacaton, AZ 85247
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John T. Hestand, Senior Water Counsel
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Gila River Indian Community
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Technical questions may be addressed, during normal work hours, to:

T. Allen J. Gookin, P.E., L.S., P.H.
Gookin Engineers Ltd.
4203 N. Brown Ave.
Scottsdale, AZ 85251
(480) 947-3741
(480) 947-0262

13. *Additional comments:*

The Community is claiming rights to all waters of the Gila River System and Source that are available to fulfill the aboriginal, prior appropriation, and *Winters* federally reserved water rights for the full acreage of the Gila River Indian Reservation. Therefore, the Community's Statement of Claimant Form for

Irrigation Uses of the waters of the Santa Cruz River Watershed must be considered in conjunction with the Community's Statement of Claimant Form for Irrigation Uses of the waters of the Verde River Watershed; the Upper and Lower Gila River Watersheds; the Upper Salt River Watershed; the San Pedro River Watershed; and the Agua Fria River Watershed; as well as the Community's Statement of Claimant Forms for Other Uses for each watershed. Water rights that are initially quantified for irrigated agricultural or other purposes may, based on changes in circumstances, be changed to *Winters* water rights used to meet the municipal, commercial, industrial, domestic, mining, recreation, livestock, fish and wildlife, health, and environmental needs of the Pima and Maricopa Indians and the Gila River Indian Reservation.

The Community's water rights claim contains many elements that are transitory in nature. In addition, many lands are capable of being used for more than one purpose. For example, a given tract of land might initially be planted in mesquite, to improve the underlying soils while generating a profit, then be converted into conventional Euro-American crops and, later, be subdivided into housing for the members of the Community. The Community's claim is divided into certain categories based on the initial development, and the Community reserves the right to make the appropriate conversions at a water duty of nine (9) acre feet per acre. If, for any reason, one of the claimed uses (Practicably Irrigated Agriculture using conventional Euro-American crops, Practicably Irrigated Agriculture using Native American crops [such as mesquite], Domestic, Municipal, Industrial, Power Generation, Cultural Use, National Monument, Riparian Habitat, Production of Diabetic Foods, or any other use) is denied, or if the ability to change from one use to another use is denied, then the Community claims the full water duty for the land for its highest and best use available. The planned alternative uses for each acre are depicted on Map 2-*Arable and Non-Arable Lands With Proposed Mesquite and Non-Agricultural Lands*. The number of permutations available for the varying combinations of permitted uses and conversions, make computation of all possible claims impractical. Map 2 provides the information necessary to allow determination of any combination desired.

NOTICE: While, to avoid confusion, no separate alternative *Other* claim is currently being filed, the Community reserves the right to file amended claims, for other purposes, should such claims be necessary.

GILA RIVER INDIAN COMMUNITY

OFFICE OF WATER RIGHTS
5002 N. Maricopa Road, Box 5090
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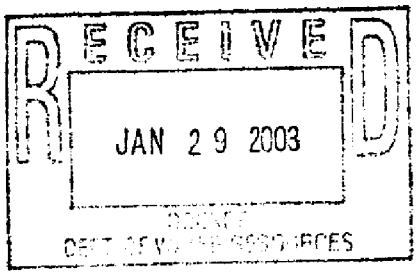
January 29, 2003



Ms. Janet L. Ronald
Arizona Department of Water Resources
Legal Division
500 N. Third Street, First Floor
Phoenix, Arizona 85004-3903

Re: Gila River Indian Community's Amended Water Rights Claims

Dear Ms. Ronald:

The Gila River Indian Community has submitted Statement of Claimant Forms for the lands encompassed in the Gila River Indian Reservation ("GRIR"). In 2001, the Arizona Supreme Court issued its opinion in *The General Adjudication of All Rights to Use Water in the Gila River System and Source*, 201 Ariz. 307, 35 P.3d 68 ("*Gila V*"), setting out factors to be considered in determining the *Winters* federally reserved water rights for Indian reservations. Subsequently, Judge Ballinger directed the Arizona Department of Water Resources to examine these factors in developing hydrographic survey reports ("HSR") for Indian reservations. He also offered the Community the opportunity to amend its water rights claims in accordance with the *Gila V* factors.[1]

The Community appreciates this opportunity, and is filing Amended Statement of Claimant Forms for the lands encompassed in GRIR. These Amended Statement of Claimant Forms (and their accompanying attachments) set out the nature, extent, and priority of the Community's claims. The Community is making claims for the right to use water (for agricultural, health, municipal, industrial, commercial, domestic, cultural, recreational, environmental, wildlife, and other beneficial uses) under the aboriginal, prior appropriation, and *Winters* federally reserved water rights doctrines.

Judge Ballinger also provided the Community with an opportunity to submit information and documents concerning its current and future land use planning, in support of its water rights claims. The Community is submitting such information and documents.

[1] State statutes also allow filing amended Statement of Claimant Forms.

Many of the source documents, containing information in support of the Community's water rights claims and its current and future land and water use plans, have already been disclosed. Rather than burden ADWR with additional paper, the Community is providing a list of sources with the following notations:

- "OSM#" following a source indicates the document's number in the archives of the Office of the Special Master.
- "TBD" indicates that the source is being disclosed to the Office of the Special Master and will soon have an OSM number.
- "WBP" means that the document will be provided upon request. The Community believes that these documents are already in ADWR's possession, *e.g.*, U.S.G.S. documents, ADWR Reports, etc. If we are incorrect, and ADWR does not have some of these documents, please do not hesitate to contact us and we will provide hard copies.

In addition, the Community is providing information in the form of maps, statistical compilations of data, and narrative compilations of data. The Court has directed the Community to provide ADWR with sufficient information so as to allow a ready determination of the basis for the Community's claims—the lands for which the Community is claiming the right to use water, and the nature, extent, and priority of the water right claimed. The Court has also allowed the Community to submit additional information, under seal, providing explanation of or corroboration for the Community's water rights claims and its current and future land and water use plans.

At the *W-1* Status Conference on January 22, 2002, Judge Ballinger and the parties discussed the constraints placed upon ADWR because of inadequate funding. In its report to the Court, ADWR listed several reasons as to why it might be counterproductive to proceed immediately on completion of the GRIR HSR. It appears that the Court will be directing ADWR to focus its attentions on other matters over the next year or two, and the question of when and how to proceed on the GRIR HSR will be decided well in the future.

Judge Ballinger recognized that the Community will continue to acquire information and documents that further support and/or explain the basis, nature, extent, and priority of the Community's water rights claims, and its current and future land and water use plans. This additional information and documentation is to be submitted to ADWR in the future. Rather than burden ADWR with a series of interim submissions, the Community will continue its work and, when it is notified that ADWR is again addressing the GRIR HSR, the Community will provide a comprehensive supplemental submission.

The Community is submitting:

- Statement of Claimant Forms
- Map 1—Arable and Non-Arable Lands With P-MIP+ Delivery System

- Map 2—Arable and Non-Arable Lands with Proposed Mesquite and Non-Agricultural Lands
- Map 3—Prior Appropriation Claims by Earliest Date
- Map 4—Aboriginal Claims
- Map 5—Arable and Non-Arable Lands With Reservation Expansions By Year
- Maps—Individual Maps Showing Prior Appropriation Claims by Source
- Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation
- Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation
- Bibliography of Sources
- Submittal, Under Seal, of Additional Information Concerning the Community's Aboriginal, Prior Appropriation, and *Winters* Federally Reserved Water Rights Claims and the Community's Current and Present Land and Water Use Plans

Please do not hesitate to contact me or John Hestand if ADWR has any questions, or if we can be of assistance on this or any other matter.

Sincerely,

Rodney B. Lewis
General Counsel
Gila River Indian Community

Submittal of Information and Sources Concerning the Legal Status, Governmental Organization, and Land Ownership of the Gila River Indian Reservation

By
Gila River Indian Community
Office of Water Rights

January 29, 2003

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The Gila River Indian Reservation was created by an Act of Congress in 1859. Expansions to the Reservation occurred in 1876, 1879, 1882, and 1883, that brought the Reservation to a size approximating the current boundaries. Minor changes were made in the boundaries of the Reservation during the period 1911 through 1915. These changes left the Reservation with its current boundaries (See Figure 1).

The Gila River Pima-Maricopa Indian Community was organized May 14, 1936, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378). An amended Constitution and Bylaws of the Community was approved on March 17, 1960 and the name was changed to the Gila River Indian Community. The Reservation is governed by the Gila River Indian Community Council. The representatives of this Council are elected from 7 districts. There are 17 Council members as well as a Governor, Lieutenant Governor, Chief Judge, and two Associate Judges.

LAND OWNERSHIP

Land within the Gila River Indian Community is either beneficially owned by the Indian Community or individuals through allotments. Figure 2 locates allotted and Community lands on the Reservation.

Allotment System and Federal Trust Responsibility

The system of beneficial land ownership of the Reservation was established by the amended General Allotment Act of 1887.[1]

This Act originally provided that Reservation lands were to be divided into allotments of either 40 acres of irrigable cultivable land, 80 acres of non-irrigable but

[1] 25 U.S.C.A. § 331 ET SEQ., 24 STAT. 388.

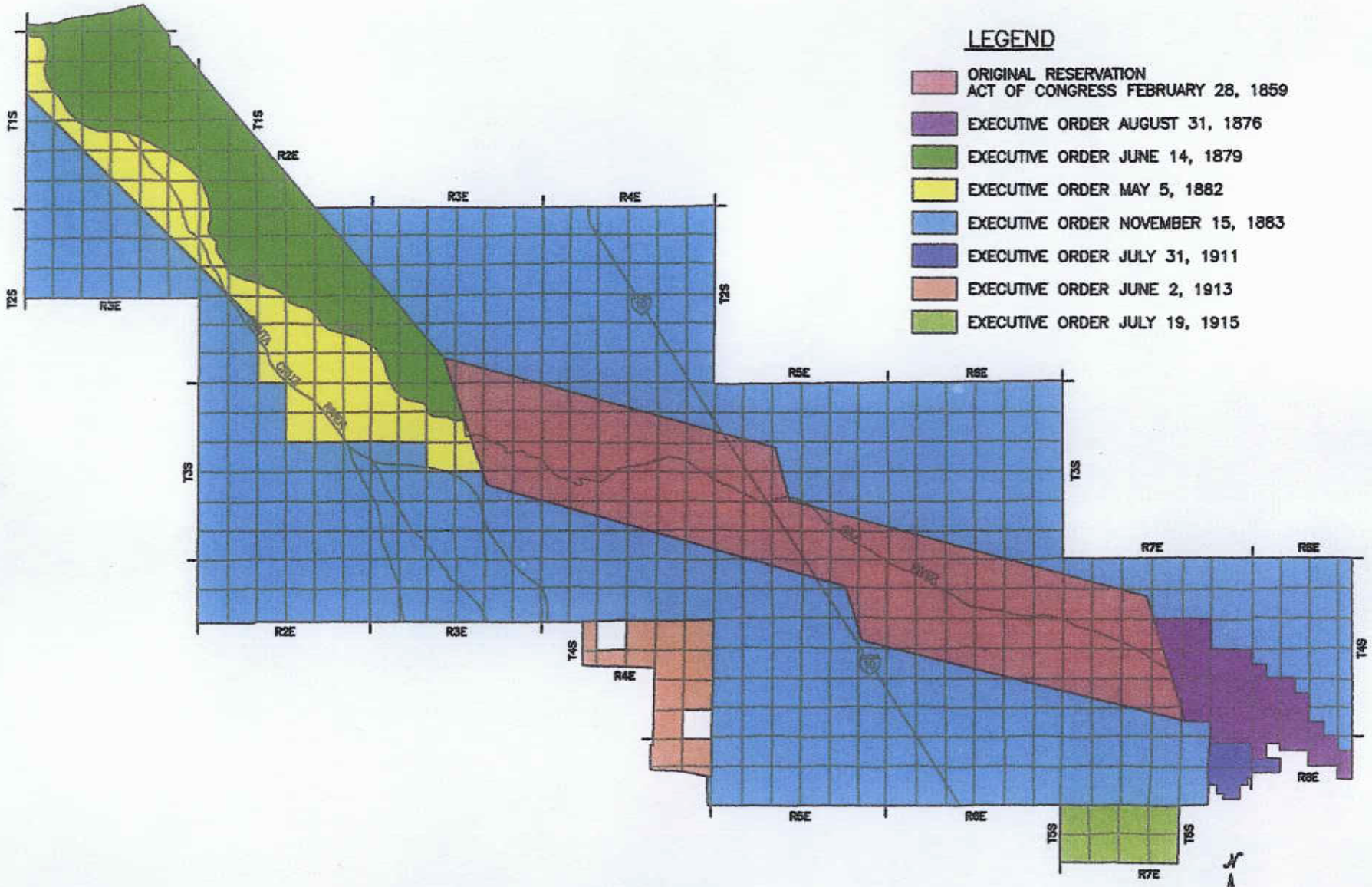

Figure 1

ORIGINAL GILA RIVER INDIAN RESERVATION AND SUBSEQUENT ADDITIONS

SOURCE: BUREAU OF INDIAN AFFAIRS
MAPRB12.DWG

09/15/97

cultivable land or 160 acres of grazing land for each member of the Tribe. This was not done with this Reservation. Each member of the Community who was enrolled in the time the Act was executed (1916-1924), was assigned two ten-acre parcels of Tribal land. Each person received a 10-acre 'primary' parcel and a 10-acre 'secondary' parcel.

Generally, the two parcels were not contiguous. Those lands that were not assigned to individual Community members remained as Tribal lands, owned collectively by the Community.

The General Allotment Act also provided that all Indian lands, both allotted and Tribal, would be held in trust by the Federal government for the beneficiaries of the various trusts. The Indian Reorganization Act of 1934, which reshaped the Federal/Indian relationship and legal framework, ended the policy of allotments. The Act also perpetuated the federal trust role. Federal law precludes the sale of Tribal or allotted trust lands to non-Indian entities.

The Bureau of Indian Affairs of the Department of the Interior is the federal agency charged with carrying out the federal trust role. As the federal trustee, the BIA maintains records of land ownership, leases, rights-of-way, and easements. The Gila River Indian Community is authorized to grant 99-year leases; although the Community or allottees have never exercised this prerogative. Leases have only been issued for relative short periods of time. Approval of the BIA is required for all leases and the BIA, as trustee, collects and distributes payments for the beneficiaries.

Allotted Land

There are 97,392 acres of allotted land in more than 5,000 allotments amounting to approximately 26% of the total Reservation. Allotted property rights are respected by

the Community. The Community Constitution grants the Community Government the right of eminent domain and governmental control powers over land use. The Community government has never used eminent domain and has enacted few land use regulations of allotted land.

Community Land

The Community owns approximately 274,400 acres (74%) of the Reservation lands. Some Community land has been irrigated. The majority of these are under the management of the Gila River Farms and lie in the vicinity of Sacaton.

EXISTING IRRIGATION FACILITIES

The Gila River Indian Reservation has two irrigation projects to serve the Gila River Indian Reservation. These are the San Carlos Indian Irrigation Project (SCIIP), and the Pima-Maricopa Irrigation Project (P-MIP).

SCIIP consists of three parts:

- SCIIP Administration
- San Carlos Irrigation and Drainage District (SCIDD)
- Pima Agency

The SCIIP Administration operates Coolidge Dam, joint works canals (which generally are canals that serve both the SCIDD and Indian portions of the project), and the wells that provide groundwater for SCIIP (except for private wells near SCIDD lands).

SCIDD is an irrigation district organized under state law for the purpose of contracting with the Federal Government. SCIDD handles the distribution of water to the non-Indian lands. SCIDD has water rights for 50,000 acres under the *Globe Equity #59*

Decree ("Decree"). SCIIP waters for the Indian lands are administered by the Pima Agency of the BIA. The Pima Agency lands have decreed water rights for 50,546 acres.

Most of the lands of the 1916 Florence Casa-Grande Project (FCGP) were integrated into SCIIP. The FCGP lands that did not join SCIDD are still entitled to water rights under the FGCP but do not share in the stored or pumped rights of SCIIP ("natural flow only" lands). In addition to the FCGP lands that were integrated into SCIIP ("full participation" lands), new lands were brought in to bring the non-Indian total up to 50,000 acres ("SCIDD only" lands).

SCIIP allocates water to the Pima Agency lands. The FCGP encompassed 35,000 acres of Indian land. SCIIP encompasses 50,546 acres of Indian land. Under the *Decree*, the water for 35,000 acres that originated under the FGCP are deemed to be an immemorial right, and are spread over 50,546 acres. The water for 15,546 acres with a 1924 right under SCIIP are also spread over the entirety of 50,546 acres. Instead of saying that the Pima Agency has two sets of lands under SCIIP, the *Decree* delineated two sets of water rights.

As a result of the Acts of Congress, Landowner Agreements, the repayment contract, and the Decree, there are five categories of water rights within SCIIP. These are:

1) Natural flow only lands. These are the lands that are in only the FCGP and consist of 1,544.6 acres.
2) SCIDD only lands. There are approximately 24,544.6 acres of SCIDD only lands. These are lands that share in the stored and pumped rights and the 1924 act, but have no rights under the FCGP Act.
3) Full Participation Lands. These are lands that were in the FCGP and are now in SCIIP. These lands constitute 25,455.4 acres.
4) Immemorial Indian right. This consists of 50,546 acres with an immemorial priority sufficient to irrigate 35,000 acres.

5) 1924 Indian rights. This consists of 50,546 acres with a 1924 priority sufficient to irrigate 15,546 acres.

Physical facilities under SCIIP administration include Coolidge Dam (located within the boundaries of the San Carlos Apache Reservation), Ashurst-Hayden Dam (which serves as the point of diversion), Sacaton Dam (a secondary diversion dam not currently used), the Florence Casa Grande Canal, the Picacho Reservoir, the Northside Canal, the Pima Lateral, four sublaterals (smaller canals) which extend to the Reservation boundary and the first 3.7 miles of the Southside Canal. SCIIP also operates 98 wells.[2] SCIIP is managed by the BIA. For the most part, the canal facilities of SCIIP, SCIDD, and the Pima Agency consist of unlined canals. The only significant exception to this is a long reach of the Southside Canal, located on the Gila River Indian Reservation. The Southside Canal is lined and still in excellent condition.

SCIIP was planned to have 80,000 acres of land served by surface water and 20,000 acres of land served by groundwater. SCIIP has failed to provide the amount of water needed to develop the anticipated 20,000 acres of lands served by groundwater. Only briefly in the 1940s was enough water pumped to accommodate 20,000 acres. Due to groundwater depletion, the pump lift has increased and the yields of the SCIIP wells have decreased since the 1940s. The amount of groundwater pumped is progressively declining.

The second project is the Pima-Maricopa Irrigation Project (P-MIP). P-MIP is designed to serve only lands on the Gila River Indian Reservation. The project has received its primary environmental compliance and Congress has approved 394 million dollars [adjusted for inflation], of which tens of millions of dollars in Congressional

[2] San Carlos Indian Irrigation Project 1993, 7.

funding have already been appropriated. Portions of the P-MIP are now under construction. The project is expected to take over a decade to finish. The project will allow irrigation service to 146,000 acres of land on the Reservation. P-MIP will be a high-tech fully-lined system in accordance with Bureau of Reclamation standards as developed for the Central Arizona Project. The lands served by this project include, but are not limited to the lands served by the Pima Agency under the San Carlos Indian Irrigation Project. One of the key features of the project is that it will provide the backbone system necessary to transmit water from the east end of the Reservation all the way to the west end – Maricopa Colony area.

Other irrigation lands have been developed throughout the Reservation using groundwater pumps or other secondary sources of water such as drainwater from the Salt River Project.

As water rights are confirmed, the Community will expand the existing irrigation systems to farm additional acres. This will reduce the per acre cost for additional acres in a unified project.

Delivery System Funding

The Community has a number of options available for funding additional water delivery and use systems so as to allow the practical and beneficial use of the aboriginal, prior appropriation, and *Winters* federally reserved water that will be quantified in the *General Adjudication*.

One of the traditional methods for funding water delivery and use systems (Indian PIA, Indian prior appropriation, non-Indian prior appropriation, Indian and non-Indian riparian) is the United States of America. Congress has a long history of funding water

delivery and use systems to benefit Indians and non-Indians throughout the country. The United States Congress has repeatedly demonstrated its willingness to honor the nation's moral and legal obligations to the Pima and Maricopa Indians. Currently, Congress is funding P-MIP for the Reservation. The Community is certain that the United States Congress will continue to honor those moral and legal obligations in the future so as to provide for the practical use of the water that will be quantified for the Community's use.

However, the Community will not allow its water rights to be taken away, or fail to use the water quantified to it, if the United States were for some reason not to honor its obligations to the Community and its Pima and Maricopa members. The Community has the ability, fortitude, and willingness to fund any additional water delivery and use system that might be necessary to allow practical use of the aboriginal, prior appropriation, and *Winters* waters that are quantified in this adjudication.

If required to self-fund its additional water delivery and use system the Community will use one or more of the following funding mechanisms.

- The Gila River Indian Community may issue bonds for all or part of the water delivery and use system. Indian tribes and communities commonly issue bonds to finance public works projects, just as do other governmental entities.

- The Community may self-fund the water delivery and use system using revenues raised from tribal enterprises (such as the existing Community farms, the three casinos, golf courses, etc.), through joint projects with off-Reservation investors (such as the Sheraton Resort), or through temporary leases of Community lands.

- Recognizing that any water delivery and use system will take a period of time to build out, the Community may fund the initial construction and use profits from the lands that first receive the water to fund the build out of the system.

The Gila River Indian Community has always been very conscious of the potentially transitory nature of some of its sources of funding. The Community is constantly reinvesting the profits from its tribal enterprises in additional tribal enterprises, infrastructure, and its most valuable resource—its members. The Community is vitally aware of the need to spend current revenues to ensure a healthy and prosperous future for its members (current and future) through the development of a economically diversified permanent homeland that perpetuates the culture and traditions of the Pima and Maricopa Indians. The Community recognizes that money spent in the next few decades to build a water delivery and use system will allow their descendents to continue the Pima and Maricopa culture of irrigated agriculture and will allow a future that is not ravaged by poverty, disease, and early death.

The Community has a long standing practice, even when funds were extremely limited, of spending Community funds to construct and operate wells and other delivery systems to maximize the use of the little water that has not been stolen from them and to purchase CAP water, both for the Community enterprises and the Community members who farm.

Submittal of Information and Sources Concerning Water Rights Claims for the Gila River Indian Reservation

By
Gila River Indian Community
Office of Water Rights

January 29, 2003

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PLANS FOR WATER UTILIZATION

Attached are two maps depicting the proposed development of the Gila River Indian Reservation. Map 1 shows an extension of the Pima-Maricopa Irrigation Project ("P-MIP"). P-MIP is a federally funded and authorized project that is currently under construction on the Gila River Indian Reservation. The irrigation system to utilize the Community's aboriginal, prior appropriation, and *Winters* water is called P-MIP+.

P-MIP+ is a system designed to take full advantage of the Gila River Indian Reservation. It is designed around the concept of conjunctive use (using both surface and groundwater, and the links between them). Any project of this size will, of necessity, be built over a period of time. The project is conceptually divided into three phases. These are

1. Early Buildout
2. Late Buildout
3. Final Maturation

The early buildout phase has already begun. This involves the construction of the P-MIP irrigation system. As water rights are secured, additional surface water will be diverted to satisfy these new lands brought under cultivation, rather than utilizing CAP water. Water from the Agua Fria and Salt Rivers can be transferred easily to the Gila River Indian Reservation. This would be achieved by a number of methods. Water could be added to the existing Salt-Gila aqueduct, which is greatly oversized. A parallel canal could be constructed alongside the Salt-Gila aqueduct for the sole purpose of serving the Reservation.

The buildout will be arranged to construct main canals to the saline and sodic lands on the Santa Cruz Flats and the west end of the reservation. By constructing the canals to

these lands (that were harmed by historic farming activities with inadequate water supplies) remediation can be started as early as possible. Reclamation of saline/sodic lands is accomplished more easily, and more effectively, through the use of mesquite than through conventional Euro-American techniques. Map 2 depicts the lands to be reclaimed or maintained by mesquite.

Mesquite would be planted very densely, in plantation style, on lands that are to be reclaimed as crop land. Mesquite is capable of growing in salt concentrations as high as seawater. At the same time, mesquite is capable of reducing the salinity and sodicity of land more effectively than conventional techniques. Every year the plantations would be trimmed and thinned, saving the best lumber producing trees, until the optimal density of 111 trees per hectare is obtained. The by-products of the trimming would be sold in the interim, as would pod harvests. As space is freed up between the trees, pasture will be planted to enable the land to be used as pasture. Between mesquite beans and the grass growth, the plantations are ideal grazing land. At the end of the plantation lumber cycle, the trees are harvested and sold for lumber, and the land has been reclaimed for more conventional crops. This use has been termed "Interim Mesquite Plantation."

The initial irrigation of the mesquite would be performed through surface flows. As time passes, and more surface irrigation water becomes available, the water table under the Reservation will rise, allowing the mesquite to start tapping the groundwater directly.

As the groundwater level begins to rise on the Reservation, the Community will enter the late buildout phase. At this point, the federally funded P-MIP project should be completed, and the majority of the privately funded portion of P-MIP as well. Construction of the P-MIP+ canals will have begun. P-MIP+ is designed to expand upon

the current P-MIP plan by extending canals and adding new canals to maximize the available acreage. New surface pumps will be incorporated to raise water to portions of the Reservation that are arable, but cannot be served by gravity flow. If localized areas show groundwater levels rising more quickly than planned, wells will be installed to allow reuse of the deep percolation, and to prevent water logging.

At this stage of development, the water table will have risen closer to the surface, and a large amount of surface water will be available. The water will begin to be diverted not only from Ashurst-Hayden Dam, but also from the new diversion dams on the Reservation. This process will create a live stream through much of the Reservation, fed both by surface and return groundwater flows.

The importance of a live stream to the Pima Indians, by their name, is demonstrated in their own language. Akimel O'odham means "the River People." As the river begins to be re-established, a riparian zone would be established along the river in the flood prone areas. This riparian zone, aside from providing environmental, recreational, and aesthetic benefits, will also provide natural flood protection by slowing floodwaters to non-erosive velocities (allowing them to spread over the land and deposit the silt) and rejuvenating the land. At the west end of the Reservation, mesquite will be planted, with the intent of not only reclaiming the soil but maintaining permanent plantations. These mesquite will help regulate salinity and groundwater levels on the west end. In addition to providing the locations of lands to be reclaimed, Map 2 also shows the riparian zones ("Riparian Mesquite") and the eventual permanent mesquite plantations ("Mesquite Plantations").

In the final maturation phase of the project, all the canals and lands will be developed. As the project pays for itself, it may experience additional rises in the water table. As these situations occur, they will be solved by the addition of new wells. Experience will adjust the number of wells as required. These wells will provide a firmer water supply by supplementing the surface flow as well as preventing water logging.

Much of the Gila River Indian Reservation has been farmed at one time or another. Prior to the Euro-American administration of the Reservation lands, the Pima and Maricopa Indians would alternate farmlands and mesquite orchards as a way of fertilizing the lands and engaging in multi-cropping.

Thereafter, considerable migration of farmlands occurred as differing problems arose. In the early Euro-American periods, the Pima-Maricopas would migrate in attempts to find water, after non-Indian farmers had depleted the water supply then available. The BIA has intermittently implemented policies designed to encourage or discourage irrigation in certain areas. Much of the historic and current farmland is near the borders of the Reservation because of a BIA policy that prohibited groundwater development on the Reservation, necessitating that water be pumped from non-Reservation lands onto the Reservation. This restriction has been eliminated.

Current agricultural land use on the Reservation is divided into three basic groups.

actually living on the Gila River Indian Reservation was 11,290. Current Community membership is 16,985; and many Community members living off-Reservation desire to move back on the Reservation as jobs, services, and housing become available. The Community predicts that the future population will increase to 58,500 by 2100, based on the current growth rate.

Non-agricultural development will occur near the Reservation's exterior borders. The ultimate border lands development does not affect the quantification of the Community's water rights, because developing farmlands and establishing a water duty for agricultural needs inherently establishes the water duty for M&I development. Experience in the Salt River Project has demonstrated that, as M&I uses replace farmland, the demand for water remains virtually unchanged. The consumptive use may reduce, but the water duty is unchanged.

Another industrial use envisioned in the plan is the creation of a 100-megawatt electrical generating plant. The generating plant is to provide a reliable and economic source of power and energy for the pumping and municipal needs of the Reservation. A 100-megawatt plant will provide sufficient electricity for all on-Reservation irrigation needs, with possible additional energy for on-Reservation M&I uses or even off-Reservation sales.

In *Gila V*, the Arizona Supreme Court held that an Indian reservation water right may have its use changed. In the future, it is likely that municipal and industrial uses will expand along with the population of the Reservation and surrounding areas. Commercial, light industry, and recreational operations will provide for community use and economic opportunity through non-Indian use. Experience in Arizona has shown that, as farmland

is retired to become municipal, the overall demand does not change. The municipal uses may, therefore, be quantified by a practicably irrigable acreage analysis. Map 2 also shows the existing non-agricultural use areas on the reservation, as well as probable expansion areas.

WATER RIGHTS

The Gila River Indian Community is presenting water rights claims for the lands of the Gila River Indian Reservation. These claims may be broadly grouped as *Winters* Rights, Aboriginal Rights, and Prior Appropriation Rights. Any given acre may have one or more basis for its water right claims. These claims do not preclude each other. For example, if an acre has a 6 acre-foot immemorial right and a 9 acre-foot 1900 right, the first 6 acre-feet of water it takes is under immemorial priority, and the next 3 acre-feet (9-6) are 1900 priority.

Winters Doctrine Rights

The Gila River Indian Reservation has been studied by the Soil Conservation Service ("SCS") and the Bureau of Reclamation ("BOR") to classify the soils as to their arability. A total of three comprehensive soil surveys were made.[1]

A portion of the land involved in irrigation cannot be used to actually produce crops. A certain percentage of land must be set aside to meet the requirements of support infrastructure. These include roads to and from the farms, canals, and housing for farm workers and families, etc. In 1952, the BOR studied aerial photographs and calculated that the total incidental area in the lower Colorado River Basin was 6.79 percent of the

[1] United States Soil Conservation Service Map 1969; United States Soil Conservation Service 1995; United States Bureau of Reclamation 1984.

irrigated area.[2] The ADWR concluded that 91 percent of the acreage can actually be irrigated (a reduction of 9 percent).[3] The BIA estimated, in their review of the 1969 SCS soil survey, that 10 percent of the land would be used for non-crop purposes.[4]

Given the intense cultivation envisioned, it is likely that most support services will be located on otherwise farmable areas. Therefore, the Community accepts the 9 percent reduction proposed by ADWR. The Community has not deducted lands that are currently being used for support purposes from its claims, choosing instead to apply the 9 percent to overall acreage. For example, the roads that are necessary to get to the farmlands to be developed in the future, are, in many cases, already built. To subtract them twice would be duplicative.

There are 301,362.5 acres of arable soils on the Reservation. Of this, approximately 275,000 acres will be capable of being cropped, with the remaining acres being used to provide support infrastructure to the land to be irrigated.

Based upon current cropping patterns in Maricopa and Pinal Counties, a consumptive irrigation requirement of 4 acre-feet per acre is typical. After applying typical field and canal efficiencies, the diversion requirement is 9 acre-feet per acre. This totals an agricultural *Winters* water claim of 2,475,000 acre-feet.

Based on projected population numbers, the Community can expect a domestic water claim of 13,000 acre-feet--7,500 acre-feet of this water would be consumptively used. The Community is also claiming a *Winters* water right for power production, totaling 700 acre-feet. All of the water for power generation would be consumptively used.

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[2] United States Bureau of Reclamation 1952, 82.
[3] Arizona Department of Water Resources 1996, 3-16.
[4] Cumming 1975, Map B.

As noted previously, when agricultural land is converted to a municipal and industrial use, the Community will experience a change of use, but not a change of water duty. The amount of domestic use is separate from the agriculture use and is added to the Community water rights claim. Other M & I uses will be converted from agricultural uses as required.

Pursuant to the *Winters* Doctrine, the Gila River Indian Reservation is claiming a combined diversion water right in the amount of

2,488,700 acre-feet.

This demand for water and the associated consumptive use requirement of 1,105,950 acre-feet can be supplied by a combination of the various sources available, including, but not limited to, Gila River, Salt River, Aqua Fria, Santa Cruz River, their tributaries, rediversions, and groundwater.

The *Winters* dates for the 2,488,700 acre-feet of *Winters* water rights will be 1859, 1876, 1879, 1882, 1883, 1911, 1913, and 1915 depending on the location of the acres for which rights are claimed.

The Gila River Indian Community is also making a claim for storage rights on the Gila, Salt, and Aqua Fria Rivers to be used in fulfilling its water rights claims. On the Gila River, the Community is claiming 1,200,000 acre-feet (subject to physical availability) of storage in the San Carlos Reservoir for beneficial uses. This right is based

on the *Winters* Doctrine and Prior Appropriation. Storage is claimed on the Salt, Verde, and Aqua Fria Rivers based upon the *Winters* Doctrine. The amounts claimed, by Dam, are:

Dam	River	Storage Claimed	Owner
Roosevelt	Salt	1,653,000 AF	U.S.
Horse Mesa	Salt	245,000 AF	U.S.
Mormon Flat	Salt	58,000 AF	U.S.
Stewart Mountain	Salt	70,000 AF	U.S.
Bartlett	Verde	178,200 AF	U.S.
Horseshoe	Verde	131,400 AF	U.S.
New Waddell	Agua Fria	1,108,600 AF	U.S.

Aboriginal Rights

The Pima-Maricopas claim aboriginal rights based upon two uses. The first claim is irrigation rights to the Gila, Salt, and Santa Cruz Rivers. The second claim is to the water requirements for the mesquite orchards.

The first claim to the normal flow of the Gila, Salt, and Santz Cruz Rivers is documented by early explorers who wrote that the Pimas had diverted the entirety of the Gila River into their canals.[5] In addition, evidence from the turn of the previous century documented a number of the acres that had been cultivated before the 1900s. As documented by the USGS, the Pima-Maricopas had irrigated 44,900 acres of land within the boundaries of the Reservation.[6] Using a diversion rate of 1/80th cfs per acre, which is a common rate for non-modern irrigation, the flow requirement would be 551 cfs. This is consistent with the very early observations of the entire Gila River being diverted, and indicates that other supplies must have been used (for example, reliance on the re-emerging flow due to the high groundwater table). The acre-foot claim for a 44,000

[5] Emory 1948, 33; Bartlett 1854, 215, 232-233.
[6] United States Geological Survey 1991, 6.

aboriginal irrigation diversion demand is (at 9 AF/A), 404,100 acre-feet. This acreage would have been supplied from three rivers; the Gila, the Salt, and the Santa Cruz, along with the groundwater generated flows of each river. The Salt and Gila Rivers were important to the Akimel O'Ohdam and Pee Posh. In 1869, Captain Grossman met with the still autonomous chiefs of the Akimel O'Ohdam and Pee Posh. In that conversation, Antonio Azul, the head Chief, laid out the Pima position.

> I told Colonel Grey that we claimed all the Gila River and Salt River valley from the Picach to Vacua Monte. Colonel Grey promised us all this land... .[7]

Another Pima present also advised the U.S. Representative:

> [W]e are the original owners of Salt River Valley. We have been so from time immemorial.
>
> ***
>
> We cannot be refused the land on Salt River, it is our legal property; it is there we get our subsistence; we always have considered it as our own.[8]

The Maricopa Chief, Juan Chivaria, affirmed the Pima-Maricopa Confederation's position.

> I believe in everything the Pimas have said, am satisfied with their speeches and believe they are right in their speeches and claims.[9]

In aboriginal times, there was an extensive amount of mesquite on the lands within the Reservation. To survive during the starving years, Pima-Maricopa cut 100,000 acres of mesquite lands for firewood.[10] Some mesquite acreage survived the starving years (1894-1904) into the 1930s. The mesquite map of Dr. Rea and the water table maps

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[7] Grossman 1869, np.
[8] Grossman 1869, np.
[9] Grossman 1969, np.
[10] Dobyns 1998b 15, Table; Olson 1940, 956-958.

of Mr. Lee indicate a mesquite coverage of 128,812 acres.[11] The consumptive water requirement of 128,812 acres of mesquite is 530,705 acre-feet.

Mesquite draws water directly from the groundwater. The groundwater is provided by many sources, including mountain front recharge and recharge from washes. However, it comes primarily from three sources: the Gila River, the Salt River, and the Santa Cruz River. The combination of all three rivers and the resulting groundwater table led to the proliferation of the mesquite forests. Therefore, the aboriginal mesquite claim of 530,705 acre-feet is placed upon all three rivers. The Aqua Fria River is not included in this claim since it is sufficiently downstream that it is unlikely that any appreciable water migrated up to the Reservation to meet the requirement of the mesquite. The Pimas managed the mesquite resource and clearly claimed it as part of their water right. On October 30, 1869, Antonio Azul, the Head Chief of the Pimas, told the U.S. Representatives:

> When this reservation was laid out, and Colonel Grey asked us what lands we wanted. We told him that we wanted it as far up as the Yellow Cottonwoods, above Florence, that there we found our mesquite beans and cactus fruit and that there we had planted years ago.[12]

The mesquite constituted an important resource to the Pima people. The total aboriginal claim is for a total of

934,805 acre-feet

from the surface water and groundwater supplies of the Gila, Salt, and Santa Cruz Rivers with an immemorial date.

[11] Rea 1997; USGS 1905.
[12] Grossman 1869, np.

Prior Appropriative Rights

Prior appropriative rights are established through three mechanisms: 1) court decrees quantifying the rights, 2) filings with the state, and 3) the actual use of water. We will discuss each of these, and their relation to the Community's water rights claims, in turn.

These claims are individually depicted in the numerous 11" x 17" maps attached. The earliest prior appropriation claim to each parcel is depicted on Map 3.

Decrees

There are two decrees that have quantified part of the prior appropriation water rights of GRIR. The first is the *Globe Equity No. 59 Decree*. *Globe Equity No. 59* is a very complicated decree recognizing that the SCIIP lands of the Gila River Indian Reservation are to receive water sufficient to irrigate 35,000 acres at a water duty of 6 acre feet per acre with an immemorial priority. This totals 210,000 acre-feet. The right for the 210,000 acre-feet of immemorial water is to be distributed over the total entitlement under the *Decree* of 50,546 acres, which provides a water duty of 4.15 acre-feet per acre for 50,546 acres. The second water right recognized in the *Decree*, for the SCIIP lands of the Reservation, is a 1924 water right for 6 acre-feet sufficient to irrigate 15,546 acres of land. This water is also to be distributed over the same 50,546 acres. This provides an additional right to 1.85 acre-feet per acre, with a priority date of 1924. Finally, the *Decree* recognizes the right to store the flows of the Gila River behind Coolidge Dam in the San Carlos Reservoir, with a 1924 priority, with no limitation on actual use in any given year. Pursuant to the authorizing legislation, the Pimas are to have the first priority to that stored water. Language in the *Decree* confirms that priority,

although the actual allocation of water has historically been done on an ad-hoc basis with numerous different and conflicting policies followed by the BIA. The *Decree* recognized the right to store 1.2 million acre-feet. However, due to siltation, and the loss of the flood gates, the capacity of the San Carlos Reservoir is now 866,600 acre-feet.

Two related decrees, the *Benson-Allison Decree* and *Haggard Decree*, recognize prior appropriation rights to irrigate Indian land in Township 1 South, Range 1 East, and Township 1 North, Range 1 East, Gila and Salt River Basin Meridian, as follows:

ACRES	YEAR
480 acres	Before 1894
75 acres	1894
75 acres	1895
75 acres	1896
75 acres	1897
75 acres	1898
75 acres	1899
75 acres	1900
75 acres	1901

Pursuant to *Benson-Allison,* these acres are entitled to 48 miners inches for every 160 acres of land, plus 1 ½ percent for each mile of diversion canal from its head to the land. The *Benson-Allison Decree* was an extension of the *Haggard Decree*, and expanded the water duty.

Historic Irrigation

During the preparation of this submittal, numerous archives were researched to determine what acreages were irrigation during historic times, including but not limited to:

- Office of the Special Master Documents ("OSM's")
- Federal Archives
- SCIIP Archives

- Gila River Indian Community Archives
- Gookin Engineers, Ltd. Archives
- Files of Cox & Cox
- ASU Library
- State Archives
- Udall Society
- Stetson Engineers Reports
- ADWR Reports

These maps were digitized into a GIS system. Each map's acreage was listed as irrigated as of the year the map was draw, unless the source specified otherwise. These maps are abbreviated on Map 3 as:

- Immemorial ADWR

  The 1999 ADWR Preliminary HSR shows lands irrigated prior to the white man, as drawn by Southworth based on an interview with Mr. George Pablo in 1914.

- Immemorial SCIIP

  These lands are shown in the Designation of Project Lands from the Secretary of the Interior.

- 1901, 1904, 1914, 1935, 1955, 1971, 1994, 1998 Stetson

  These maps are Arcview data-files provided by Stetson Engineers.

- 1901 Robinson

  This is a map entitled "Map of Maricopa Indian Settlement on the Gila River Reservation showing canals, roads, and land cultivated" by H.F. Robinson, dated 1901.

- 1904 ADWR

This is a map from the 1999 ADWR Preliminary HSR. It shows irrigation in 1904 based on a map by Meskimmons.

- 1904 Meskimmons

This is a map entitled "Map of Pima and Maricopa Indian Reservation Arizona showing location of land in passed [sic] and present use – canals, dams, etc." by J.R. Meskimmons in 1904.

- 1909 Reclamation Service

This map was prepared by the Reclamation Service in 1909. It is entitled "Sketch map showing pumping stations, transmission lines, and proposed canals on Gila River Indian Reservation." It shows land irrigated by the San Tan Ditch, land to be irrigated by wells and land to be irrigated by floodwater.

- 1914 Department of Interior

This is a map from the United States Indian Service dated 1914. It is entitled "Map of Gila River Indian Reservation showing irrigation canals now in use, canals formerly used areas, under cultivation and areas formerly cultivated."

- 1914 Southworth

This is a series of maps surveyed by C. H. Southworth in 1914. They depict irrigated fields by crop with canals and other features.

- 1916 Department of Interior

This is a series of maps from the United States Indian Service dated November 1916. They depict irrigated land, alkali land, canals, and land with adjudicated water rights.

- 1926 Department of Interior

This is a map entitled "Gila River Project General Map" by the United States Indian Service, dated June 1926. It shows irrigation locations for Indian and white lands.

- 1935 Fairchild

This data was entered from a map provided by Stetson Engineers, based upon an aerial photo from 1935 by Fairchild Aerial Photography.

- 1937 BIA

This is a map drawn by the BIA entitled "Map of the Gila River Indian Reservation showing irrigation wells and leased lands April 1953." In the notes, it states: Drawn by R. A., Dupont July 16, 1937."

- 1955 BIA

This is a map entitled "Portion of Map showing non-San Carlos Project area of Maricopa, cooperative colonies and Gila Crossing Projects" dated 1955 by the BIA.

- 1956 BIA Maricopa District, 1956 BIA Gila Crossing

These two maps were prepared by the BIA and presented in an atlas of maps relating to various Indian Reservations. The first map is entitled "Map showing Indian irrigated lands Gila River Indian Reservation Arizona Maricopa District December 1956." The second is "Map showing Indian irrigated lands Gila River Indian Reservation Arizona Gila Crossing District December 1956."

- 1957 BIA

This is entitled "Map showing Indian Irrigated lands Gila River Indian Reservation Arizona San Carlos Irrigation Project" dated February 1957. It depicts the irrigated lands of the San Carlos Project.

- 1958 BOR

These maps are entitled "Land Classification San Carlos Project-Indian Lands" dated September 22, 1958. It shows arable land classifications and developed lands.

- 1971 USGS

This data was entered from a map provided by Stetson Engineers, based upon 1971 black and white orthophotoquads of the Gila River Indian Reservation.

- 1979 BOR

This is a series of maps entitled "Farm Land & Well Location Land Classification" by the Bureau of Reclamation in 1979.

- 1994 Kenney Aerial Photos

This data was entered from a map provided by Stetson Engineers, based upon 1994 color air photos taken by Kenney Aerial Mapping.

- 1994 USBR

This data was entered from a map provided by Stetson Engineers, based upon field work done by the United States Bureau of Reclamation in 1994.

Filings

The Pima and Maricopa Indians irrigated in the region of GRIR before the first Arizona water code. In 1893, the territorial legislature adopted the Howell Water Code. That Code included the requirement that new water appropriations be posted at the point of diversion and recorded at the County Recorder's office.

The Gila River Indian Community (Gila River Pima-Maricopa Indian Community, Pima Tribal Council, Pima Business Council) is a sovereign entity under the trust responsibility of the United States Government. As such, there is a serious question as to whether the Community or the United States was required to file its prior appropriation claims under any of the laws promulgated by the Territory or State of Arizona. However, the Community and the United States voluntarily complied with these state filing statutes.

"10" Filings

Filings under the Howell Code have been designated by the ADWR with a prefix of "10." In *Arizona v. California*, California introduced Exhibits No. 4521 through 4532, setting forth at least some of the filings made by or on behalf of the GRIR. ADWR, in both the 1996 and the 1999 HSR, referenced "10" filings. The filing numbers used in the GRIR claims are taken from the 1999 HSR. In the case of discrepancies between the HSR and the *Arizona v. California* exhibits, we used the exhibit data.

10-0702086.0101, 10-1602258.1002

On October 23, 1902, James Alexander filed for water rights for 150 cfs. This was to be diverted from the Salt River at T1N R2E Section 30, and be used for irrigation of lands near the junction of the Salt and Gila Rivers on the Gila River Indian Reservation. ADWR erroneously (and understandably, after examination of the written document) listed this diversion point as section 36. These two filings appear to be identical except for where they were filed. In the 1996 ADWR Preliminary HSR, the filing number for 10-0702086.0101 is shown as 10-1602086.0101.

10-1113200.0201

This filing was made on April 4, 1911, by the Superintendent of the Pima Indian School. It claimed 20,000 miner's inches of flow from the Gila River (500 CFS) at the confluence of the Little Gila River (now the Casa Blanca Canal) with the Gila River. These waters were to be used in large portions of the Reservation, specifically in Townships 4S 7E, 4S 6E, 4S 5E, 2S 5E, 3S 4E, 3S 3E.

10-1113202.0201

On April 4, 1911, James Alexander, Superintendent of Pima School filed for 3,000 miner's inches (75 CFS) to be diverted in Section 12, T5S R8E from the Gila River. In the 1999 ADWR Preliminary HSR, the date of filing is listed as April 11, 1911. In the 1996 ADWR Preliminary HSR, the date of filing is shown as April 4, 1911, with a filing number of 10-1613202.1002. The waters from this diversion were to be used in T5S R8E, T4S R8E, T4S R7E. Mr. Alexander references that this right to diversions initially occurred in 1882.

10-1113203.0201

On April 4, 1911, James Alexander filed for water to be diverted from Section 12, T5S, R8E from the Gila River. The waters are to be used on lands of T45, R8E, T4S, R7E, T5S, R8E. This filing is for 3000 miner's inches. The 1996 ADWR Preliminary HSR shows the filing number as 10-1613203.1002.

10-1113204.0201

On April 4, 1911, James Alexander filed for waters to be diverted from Section 12, T4S, R6E from the Gila River. These waters are to be used in lands of T4S R6E, T3S R6E, T4S R4E, T4S R3E. This filing claimed 15,000 miner's inches (375 cfs). In the 1999 Preliminary HSR, ADWR shows a point of diversion at T5S, R6E Section 12, but all other data is not the same. The 1996 Preliminary HSR shows the filing number as 10-1613204.1002.

10-0702294.0101, 10-1113570.0201, 10-1604044.1001, 10-0702299.0101, 10-1113583.0201, 10-1604045.1001, 10-0702310.0102, 10-1114052.0201, 10-1604122.1001

On May 16 & 17, 1912, the United States of America filed for waters to be diverted in T4S R7E at the San Tan Canal heading, a quantity of 150,000 AC-FT from the Gila River. The claim was to divert water at that location and convey it for use on lands located to the west of that location. The first three filings are identical, except for the place of filing. 10-07022940101 was filed in Maricopa County, 10-1113570.0201 was filed in Pinal County, 10-1604044.1001 was filed with the Arizona Secretary of State.

On June 7 & 8, 1912, the United States of America filed for waters to be diverted. This filing appears identical to the May 16 & 17 filing, except for typographical corrections and one clause relating to "normal or low water mark flow," and appears to be a supplemental filing. The second three filings appear to be identical except for the place of filing.

On September 3 & 4, 1912, the United States of America appeared to amend its earlier filings. There did not appear to be any substantive changes. The third set of three filings appear to be identical except for the place of filing.

The Preliminary HSR shows the filing number for 10-0702294.0101 as 10-1602294.0101 and shows the filing number for 10-0702299.0101 as 10-1602299.0101.

10-1113581.0201, 10-1604049.1001, 10-1114053.0201, 10-1604119.1001

On June 8, 1912, The United States of America filed on the Santa Cruz River for 60,000 AC-FT. The filing expressly mentions a diversion for the Ak-Chin Community and for a reservoir site for a dam near the site of the current Momoli Dam on the Tohono

O'Odham Reservation. The filing also claims other waters for use by the United States wards "the Papagos and Pima Indians."

The first two filings are identical, except for the place of filing. 10-1113581.0201 was filed in Pinal County and 10-16040019.1001 was filed with the Arizona Secretary of State. On September 3 & 4, 1912, the United States of America appears to have amended its earlier filings. The only noticeable change is who filed. The second two filings appear to be identical except for the place of filing.

10-1113580.0201, 10-1604047.1001, 10-1114051.0202, 10-1604121.1001

The United States of America filed on the Vekol Wash. The Vekol Wash is a tributary to the Santa Cruz River. The United States filed for 10,000 AC-FT to be diverted in Sections 6 and 7 of T5S R3E. The water was to be used on the Pima Indian Reservation of the Gila River. The first two filings are identical, except for the places of filing. On September 3 & 4, 1912, the United States of America appears to have amended its earlier filings. The only noticeable change is who filed. The second two filings appear to be identical, except for the place of filing.

10-1115393.0201

The United States of America filed on May 22, 1916, for 2,000 CFS to be diverted from the Gila River in the northwest quarter of Section 8, T4S R11E. This canal was to extend and tie into the existing little Gila. The 1999 Preliminary HSR shows this filing date as May 16, 1916.

10-0702438.0102

On September 15, 1917, the United States of America filed for waters to be diverted from the Tempe Drainage Ditch. This filing was for 100 cfs from the Tempe drain in T1N R4E to irrigate lands on the Gila River Indian Reservation.

"33" Filings

In 1919, the Arizona State Legislature adopted the Surface Water Code. The 1919 Surface Water Code did not provide a method to recognize pre-1919 water rights. The Code is currently contained in Arizona Revised Statutes Sections 45-151 through 45-167. Filings made pursuant to the Water Code have been variously recorded as "33" filings, "4-a" filings or "3-R" filings by the State.

A-353. On April 25, 1924, the United States Indian Service filed with the State Land Department to appropriate 25 cfs from the drainage canals of the Maricopa County Drainage District No. 25. On August 3, 1954, a Certificate of Water Right was granted by the State Land Department for this appropriation. The appropriation was to provide irrigation of 1,380 acres. In the 1996 ADWR Preliminary HSR, a certificate of water right is shown that is likely to be the same filing. Its number is 4A-395.

"36" Filings

In 1974, the Arizona State Legislature enacted the Water Rights Registration Act. This Act is contained in ARS Sections 45-180 to 45-193.

Filing 36-83951. This filing claimed 1,598,830.2 acre-feet for use on the Reservation for multiple purposes. The priority date claimed was prior to 1992. This claim was based upon the "Reservation Doctrine" of the United States of America.

Filing 36-83952. The Community filed for 1,598,830.2 acre-feet for use on the Reservation for multiple purposes. The basis of the claim was prior appropriation and beneficial use dating back prior to 1492.

Filing 36-83953. This was filed by the Gila River Indian Community and claimed 1,598,830.2 acre-feet of water for multiple purposes. The basis of this claim was rights reserved by the Community and its predecessors in interest.

Questionnaire. On April 2, 1980, the Arizona Water Commissioner acknowledged the statement of claim and asked for additional information. Specifically, the name of the water source and the legal description of point of diversion in place of use. The Community responded on June 30, 1980, with a detailed explanation of the water rights being claimed by the Community under these three filings.

1980 GROUNDWATER MANAGEMENT ACT

In 1980, the Arizona State Legislature passed the Groundwater Management Act, which, among other things, required the registration of wells by non-Indians in the State of Arizona. While not subject to the act, as a courtesy, the Community provided a filing on September 14, 1981, as to the available information on the wells. It is unclear from our records if the Department ever assigned a number or numbers to this filing. Filings under the Groundwater Management Act were normally given the prefix of "55."

"39" Filings

As a portion of the proceedings for the Adjudication of the waters of Arizona, the parties were required to submit Statement of Claimant Forms. The Community filed six Statement of Claimant Forms. All these Statements claimed used for agriculture, as well as any other purposes needed for the Reservation.

FILING	RIVER	AMOUNT
36-5478	San Pedro River	1,598,830.2
39-12652	Salt River	1,598,830.2
39-36340	Lower Gila River	1,599,252
39-37360	Lower Gila River	1,599,252
39-41142	Verde River	1,598,830.2
39-60083	Upper Gila River	1,598,830.2

The Community is claiming a prior appropriation right with a consumptive use of 4 acre-feet and a water duty of 9 acre-feet for the acres that were historically irrigated or for which a filing was historically made, and a priority date as of the first date of the final map showing the right on the first date referenced for the right.

Combining decreed lands, irrigated lands, and filings for rights, the total claimed prior appropriation right is 301,233 acres. The year-by-year claims for priority water are tabulated on the following page.

The total amount of water claimed under prior appropriation is

2,711,097 acre-feet.

WATER QUALITY

Currently, upstream depletions adversely affect surface and groundwater sources. The Community's water rights claims are based on receipt of good quality water, capable of use on moderately salt-tolerant crops, except for those lands which are designated for permanent mesquite plantations.

Year - Source	Acres	Total Acres	New Acres	Recur Acres
Immemorial- ADWR	23530	23530	23530	0
Immemorial - SCIPP	51657	67988	60789	7199
1894 - Haggard	480	68467	480	0
1895 - Haggard	75	68542	75	0
1896 - Haggard	75	68617	75	0
1897 - Haggard	75	68692	75	0
1898 - Haggard	75	68766	75	0
1899 - Haggard	75	68841	75	0
1900 - Haggard	75	68917	75	0
1901 - Haggard	75	68991	75	0
1901 - Stetson	2	68993	2	0
1901 - Robinson	1073	69220	227	846
1904 - Stetson	8062	74661	5441	2621
1904 - ADWR	30116	83409	8748	21368
1904 - Meskimons	24838	84387	978	23860
1909 - Reclamation Service	18856	93777	9389	9467
1911 - ADWR	68468	118248	24471	43997
1912 - ADWR	280970	290060	171811	109159
1914 - Stetson	778	290060	0	778
1914 - Dept. of Interior	31332	290036	3	31329
1914 - Southworth	19438	290066	3	19435
1916 - Dept of Interior	23146	290070	4	23142
1916 - ADWR	290594	293775	3705	286889
1917 - ADWR	61154	293778	2	61152
1926 - Dept. of Interior	8666	293778	0	8666
1935 - Stetson	1332	293778	0	1332
1935 - Fairchild	49740	293778	0	49740
1937 - BIA	66914	293843	65	66849
1955 - Stetson	113	293843	0	113
1955 - BIA	5214	293843	0	5214
1956 - BIA Maricopa District	1093	293843	0	1093
1956 - BIA Gila Crossing	3376	293843	0	3376
1957 - BIA	50826	293850	7	50819
1958 - BIA	44645	293850	0	44645
1971 - Stetson	1366	293850	0	1366
1971 - USGS	64058	294426	576	63482
1980 - BOR	137074	296216	1790	135285
1994 - Kenney Aerial Photos	79068	296286	70	78998
1994 - Stetson	1239	296288	2	1237
1994 - USBR	63389	296302	14	63375
1998 - Stetson	84176	296336	34	84142

Bibliography of Sources Used for the Submittals of Information and Sources by the Gila River Indian Community

By
Gila River Indian Community
Office of Water Rights

January 29, 2003

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(OSM #) refers to the exhibit numbers of the Office of the Special Master's database compiled for W1-203. (TBD) refers to documents to be disclosed by the Gila River Indian Community. (WBP) refers to undisclosed but commonly available documents that will be provided upon request but have not been disclosed to reduce waste.

24 Stat. 388. (WBP)

25 U.S.C.A. § 331 Et. Seq. (WBP)

29 Stat. 527 and 528, Ch. 228, Sec. 8. (WBP)

33 Stat. 1081. (WBP)

34 Stat. 333. (WBP)

36 Stat. 272. (WBP)

36 Stat. 1062. (WBP)

37 Stat. 522. (WBP)

38 Stat. 84. (WBP)

38 Stat. 582. (WBP)

38 Stat. 1228. (WBP)

39 Stat. 129. (WBP)

39 Stat. 130. (WBP)

39 Stat. 561. (WBP)

39 Stat. 969. (WBP)

39 Stat. 974. (WBP)

41 Stat. 3. (WBP)

41 Stat. 408. (WBP)

41 Stat. 552. (WBP)

41 Stat. 1225. (WBP)

42 Stat. 1174. (WBP)

43 Stat. 33. (WBP)

43 Stat. 475 and 476, Ch. 228. (WBP)

43 Stat. 704. (WBP)

43 Stat. 1141. (WBP)

44 Stat. 453. (WBP)

44 Stat. 841. (WBP)

44 Stat. 934. (WBP)

45 Stat. 18. (WBP)

45 Stat. 883. (WBP)

45 Stat. 1562, 1573 and 1623. (WBP)

46 Stat. 90. (WBP)

46 Stat. 1115 and 1126. (WBP)

46 Stat. 1552. (WBP)

47 Stat. 91, 100. (WBP)

47 Stat. 820, 829. (WBP)

48 Stat. 195. (WBP)

48 Stat. 362, 370. (WBP)

49 Stat. 176, 187. (WBP)

49 Stat. 1757. (WBP)

50 Stat. 577. (WBP)

52 Stat. 304-307. (WBP)

52 Stat. 816. (WBP)

52 Stat. 1131. (WBP)

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53 Stat. 685 and 700. (WBP)

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P-MIP Plus Delivery System

- P-MIP Canal
- Break in Canal (It is assumed that water will not normally flow through this section.)
- P-MIP Plus Additional Canal, Conceptualized by Gookin Engineers
- P-MIP Canal, Capacity Must be Enlarged for P-MIP Plus
- P-MIP Plus Pipe (Water is Pumped)
- P-MIP Low Head Pipe
- Diversion Dam

N W E S

Pump Lift 11
Pump Lift 10
Pump Lift 9
Pump Lift 12
Pump Lift 7
Pump Lift 8
Diversion Dam
Reems Road
Riggs Road
Maricopa Road
Goodyear Road
Casa Blanca Road
Santan Road
Pump Lift 6
Pump Lift 5
Pump Lift 4
Pump Lift 3
Pump Lift 2
Pump Lift 1

0 2 4 8 12 16 Miles

ACCURACY STATEMENT:
The information compiled on this map has been obtained from third parties deemed to be reliable. While GIS Southwest, Inc. has attempted to verify all information received, we assume no responsibility for its accuracy.

LEGEND

Land Classes

- Classified as Arable
- Classified as Non Arable
- GRIC Boundary
- Gila River

Gila River Indian Community

Arable and Non-Arable Lands
with PMIP-Plus Delivery System
Map #1

January 28, 2003

Data compiled and map composed by:
GIS Southwest, Inc.
8601 N. Black Canyon Hwy.
Suit 215
Phoenix, AZ 85021
(602) 864-1928
www.gisglobal.com

Sources:
Bureau of Reclamation
Certified Soil Survey
Soil Conservation Survey
1969 and 1995 Surveys

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Land Class Acreage

Land Class	Total Acreage
Existing Non-Agricultural	13,759
Proposed Conversion Land	47,026
Proposed Monument	2,010
Interim Mesquite Plantation	22,160
Riparian Mesquite	14,293
Mesquite Plantation	25,430
Permanent Irrigated Agriculture	189,439
Desert Range	72,718

* Acreage exceeds Reservation acreage due to some lands having changing uses over time.

N
W E
S

Maricopa Road
Riggs Road
Goodyear Road
Casa Blanca Road
Santan Road

0 2 4 8 12 16 Miles

ACCURACY STATEMENT:
The information compiled on this map has been obtained from third parties deemed to be reliable. While GIS Southwest, Inc. has attempted to verify all information received, we assume no responsibility for its accuracy.

LEGEND

Land Classes

- Permanent Irrigated Agriculture
- Desert Range
- Mesquite Plantation
- Interim Mesquite Plantation
- Riparian Mesquite
- Non-Agricultural
- Proposed Conversion Land
- Proposed Cultural Monument
- GRIC Boundary
- Gila River

Gila River Indian Community

Arable and Non-Arable Lands with Proposed Agricultural and Non-Agricultural Lands Map #2

January 28, 2003

Data compiled and map composed by:
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Suit 215
Phoenix, AZ 85021
(602) 864-1928
www.gisglobal.com

Sources:
Bureau of Reclamation
Certified Soil Survey
Franzoy-Corey Survey 1978
Gookin Engineers

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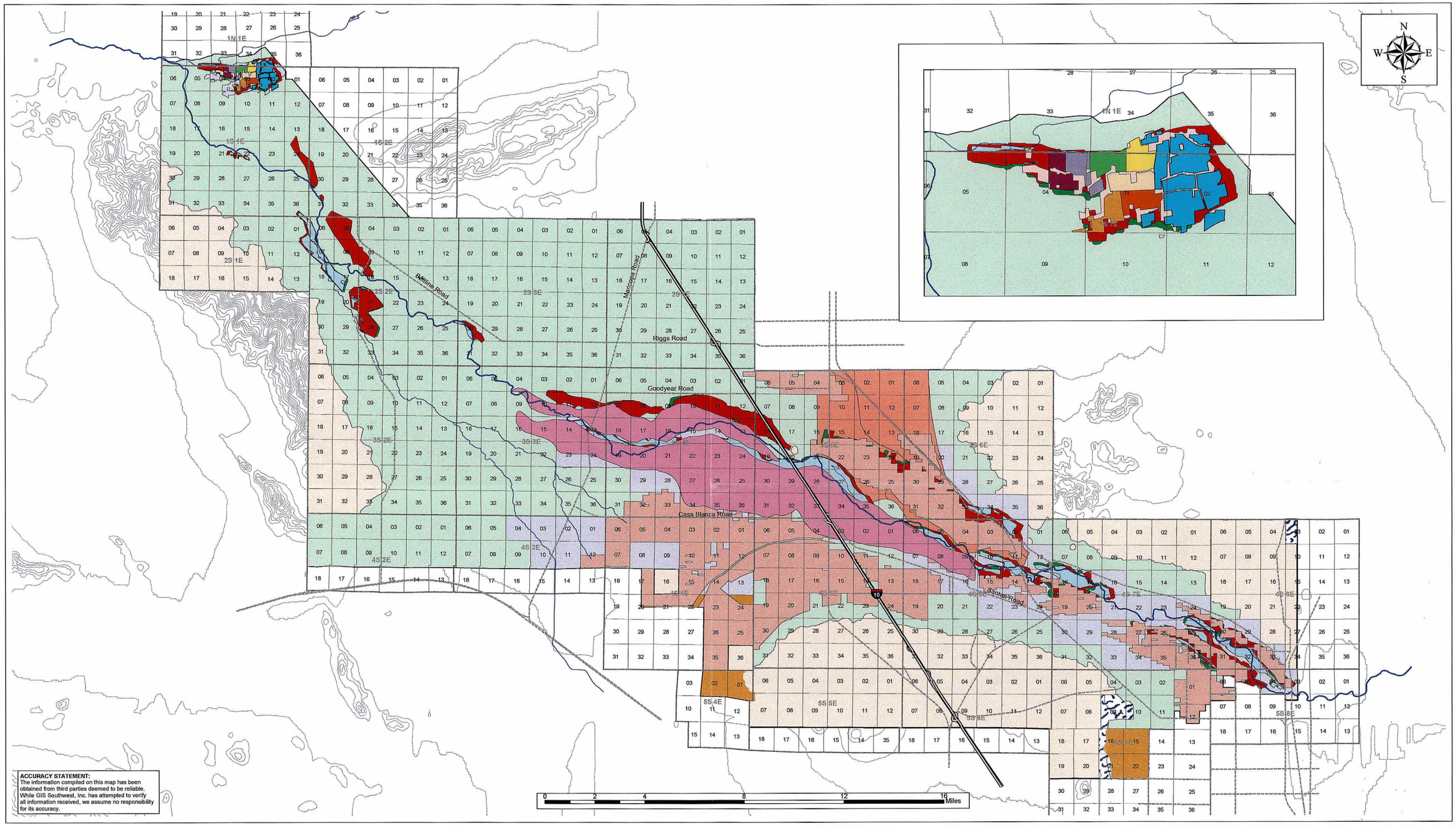

ACCURACY STATEMENT:
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Appropriation by Year

LEGEND

- Immemorial ADWR
- Immemorial SCIIP
- 1894 - Haggard
- 1895 - Haggard
- 1896 - Haggard
- 1897 - Haggard
- 1898 - Haggard
- 1899 - Haggard
- 1900 - Haggard
- 1901 - Haggard
- 1901 - Stetson
- 1901- Robinson
- 1904 - Stetson
- 1904 - ADWR
- 1904 - Meskimons
- 1909 - Reclamation Service
- 1911 - ADWR
- 1912 - ADWR
- 1914 - Stetson
- 1914 - Dept. of Interior
- 1914 Southworth
- 1916 - Dept. of Interior
- 1916 - ADWR
- 1917 - ADWR
- 1926 - Dept. of Interior
- 1935 - Stetson
- 1935 - Fairchild
- 1937 - BIA
- 1955 - Stetson
- 1955 - BIA
- 1956 - BIA
- 1957 - BIA
- 1958 - BOR
- 1971 - Stetson
- 1971 - USGS
- 1980 - BOR
- 1994 - Kenney
- 1994 - Stetson
- 1994 - USBR
- 1998 - Stetson
- GRIC Boundary
- Gila River

Gila River Indian Community

Prior Appropriation Claims by Earliest Dates
Map #3

January 28, 2003

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Source(s):
ADWR
SCIIP
Haggard
Robinson
Stetson
Meskimons
BOR
Dept. of Interior
Southworth
Fairchild
BIA
USGS
Kenney

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Aboriginal Land Class Acreage

Land Class	Total Acreage
Aboriginal Agriculture	44,900
Aboriginal Mesquite	128,812

Maricopa Road
Riggs Road
Goodyear Road
Casa Blanca Road
Santan Road
Pinal Road

0 2 4 8 12 16 Miles

ACCURACY STATEMENT:
The information compiled on this map has been obtained from third parties deemed to be reliable. While GIS Southwest, Inc. has attempted to verify all information received, we assume no responsibility for its accuracy.

LEGEND

Aboriginal Land Classes

- Aboriginal Agriculture
- Aboriginal Mesquite
- GRIC Boundary
- Gila River

Gila River Indian Community

Aboriginal Claim
Map #4

January 28, 2003

Data compiled and map composed by:
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8601 N. Black Canyon Hwy.
Suit 215
Phoenix, AZ 85021
(602) 864-1928
www.gisglobal.com

Sources:
Willis T. Lee - 1904
BIA - Amadeo M Rea - 1997

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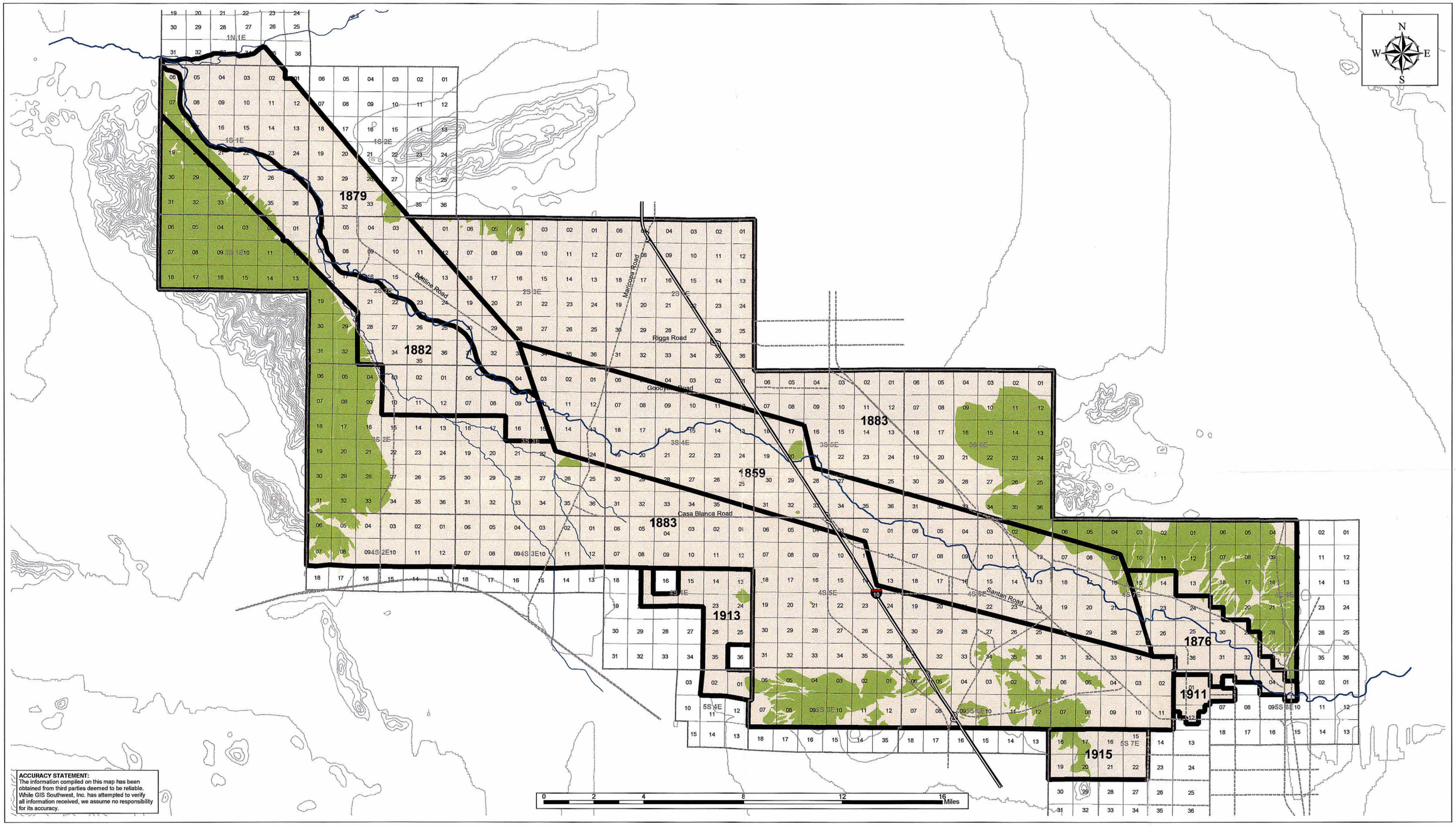

ACCURACY STATEMENT:
The information compiled on this map has been obtained from third parties deemed to be reliable. While GIS Southwest, Inc. has attempted to verify all information received, we assume no responsibility for its accuracy.

LEGEND

Land Classes

- Classified as Arable
- Classified as Non-Arable
- GRIC Boundary by Yearly Expansion
- Gila River

Gila River Indian Community

Arable and Non-Arable Lands with Reservation Expansions by Year

Map #5

January 28, 2003

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Phoenix, AZ 85021
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www.gisglobal.com

Sources:
Bureau of Reclamation
Certified Soil Survey
Soil Conservation Survey
1969 and 1995 Surveys

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39-35092

STATEMENT OF CLAIMANT FORM
FOR
OTHER USES[1]
LOWER GILA RIVER WATERSHED

SUPERIOR COURT OF MARICOPA COUNTY

For Departmental Use Only

File No: 39-35092

Date Filed: 1-20-87

WFN:

FEE REQUESTED
3-25-87

1. Claimant Name: United States on behalf of the Gila River Pima-Maricopa Indian Community
   Claimant Address: P.O. Box 7007 City Phoenix
   State: Arizona Zip Code 85011 Telephone 241-2305

2. Basis of Claim:
   A. [X] Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.
   B. [X] Appropriation Right acquired after June 12, 1919. Application No. Permit No. or Certificate of Water Right No.
   C. [X] Decreed water right. Principal litigants, court, date and case no.: Gila River Decree - Globe Equity No. 59 (June 29, 1935); Haggard and Benson - Allison Decree (Nov. 14, 1917)
   D. [X] Right to withdraw groundwater.
   E. [X] Other, describe: Federal Reserved Water Rights

3. Claimed Priority Date: Time Immemorial (month/day/year)

4. Use:
   A. [X] Municipal
   B. [X] Commercial or Industrial
   C. [X] Mining
   D. [X] Stockwatering other than from a stockpond
   E. [X] Recreation, Fish & Wildlife
   F. [X] Other, describe: Domestic, agricultural and other uses deemed beneficial by the Gila River Pima-Maricopa Indian Community

5. Source of Water:
   A. [X] Stream: name Gila River & Tributaries, tributary to Colorado River
   B. [ ] Spring: name , tributary to
   C. [X] Lake or Reservoir: name San Carlos, tributary to Gila River and any storage facilities constructed in the future.
   D. [X] Groundwater

6. Legal description of the Point of Diversion: (attach additional sheet if required) See attached documents and maps.
   ¼, ¼, ¼, Section , Township N/S, Range E/W

7. If there are Irrigation, Domestic or Stockpond uses also supplied from the Point of Diversion, describe:
   Irrigation, domestic, and stockpond

8. Means of Diversion:
   A. [ ] Instream pump
   B. [X] Gravity flow into ditch, canal or pipeline.
   C. [X] Well: Arizona Department of Water Resources Well Registration No. 55-621903 thru 621954
   D. [X] Other, describe Wells on lands owned for the benefit of the Gila River Pima-Maricopa Indian Reservation and San Carlos Project wells which serve reservation lands.

[1] *See Instructions for explanation of uses in this category*

9. Means of Conveyance:

A. ☒ Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: San Carlos Irrigation Project; Salt River Project Facilities.

B. ☒ Other, describe: Ground water pumping

10. Place of Use, if other than point of diversion: (attach additional sheet if required)

County Maricopa & Pinal

Legal Subdivision	Section	Township	Range
See attached documents & maps.	____	____N/S	____E/W
____	____	____N/S	____E/W

11. Claimed Right:

A. Maximum Flow Rate: ____ ☐ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches

B. Annual Volume of Water Use: 1,547,160 acre-feet

C. Storage Right: unquantified acre-feet at this time.

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s), place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant ____

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? ____

15. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

16. Additional comments: See attachments

(attach additional sheet if required)

17. Notarized Statement:

I (We), James H. Stevens, Phoenix Area Director

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

James H Stevens

(seal)

12-16-1990
My Commission Expires:

Lila J. Freitag
Notary Public

or, ____
Authorized Personnel of the Department of Water Resources

Lower Gila River Watershed

Superior Court of Maricopa County
Statement of Claimant
Federal Reserved Water Rights

The attached water rights claim is submitted by the United States of America as trustee for the Gila River Pima-Maricopa Indian Community.

It is the position of the United States that this claim does not in any way effect a waiver of the Community's immunity from suit. It is the position of the government that the Community's immunity from suit has not been waived by the McCarran Amendment (43 U.S.C. §666). The Community can become a party to this proceeding in its own behalf only if it chooses.

This water rights claim is based on the best information available to the United States as of January 1987, and is as accurate and complete as the information allows. However, the United States intends to continue discussions and investigations in order to refine existing data. Such refinement may necessitate the amendment of this claim sometime in the future in order to reflect updated information.

I. Name and address of Claimant:

United States of America.
Department of Interior
Bureau of Indian Affairs, as Trustee for the
Gila River Pima Maricopa Indian Community
P.O. Box 7007
Phoenix, Arizona 85011

II. Name of Indian Reservation:

Gila River Indian Reservation

III. The basis for the reserved water right claim.

A. Authority.

The legal basis for this claim is the federal reserved water rights doctrine as recognized by the Supreme Court of the United States. See Winters v. United States, 207 U.S. 564 (1908), Arizona v. California, 373 U.S. 128 (1978). The claim asserted herein is based on the intention of the Congress and the President to create a homeland for the Gila River Pima Maricopa Indians in a geographical area where water "... would be essential to the life of the Indian people and to the animals they hunted and the crops they raised" (Arizona v. California, supra, 373 U.S. at 599), and for the development of the "arts of civilization" (Winters v. United States, supra, 207 U.S. at 576). Through this claim the United States claims sufficient water to provide for the agricultural, recreational, municipal/domestic, industrial, commercial, power development, wildlife, stockwatering and other present and future water uses to fulfill the purposes of the Gila River Indian Reservation and to maintain the reservation as a permanent tribal homeland for the Gila River Pima-Maricopa Indians.

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JAN 20 1987
DEPT. OF
WATER RESOURCES

The water rights claims advance herein on behalf of the Gila River Pima-Maricopa Indian Community is intended to include claims to water for allotted lands within the reservation.

B. Legal Description of lands.

The Gila River Indian Reservation lies within the following townships:

T.1N R.1E, T.1S R.1E, T.1S R.2E, T.2S R.1E, T.2S R.2E, T.2S R.3E, T.2S R.4E, T.3S R.2E, T.3S R.3E, T.3S R.4E, T.3S R.5E, T.3S R.6E, T.4S R.2E, T.4S R.3E, T.4S R.4E, T.4S R.5E, T.4S R.6E, T.4S R.7E, T.4S R.8E, T.5S R.4E, T.5S R.5E, T.5S R.6E, T.5S R.7E, T.5S R.8E, (see attached map).

IV. Historical water use.

A. Legal description of the current point(s) of diversion.

	SEC	T	R
1. Ashurst-Hayden Dam	8	4S	11E
2. Sacaton Dam	18	4S	7E
3. Gila Crossing			
Upper	25	2S	2E
Lower	16	2S	2E
4. Salt River	30	1N	2E

Numerous historical diversion points along the Gila and Salt River, including wells on lands owned for the benefit of the Gila River Pima-Maricopa Indian Reservation and San Carlos Project wells which serve reservation lands.

B. Legal description of the current place(s) of use. 1 & 36 entered for each T & R per Tom Buschatzke

1) San Carlos Indian Irrigation Project. T.3S R.4E, T.3S R.5E, T.3S R.6E, T.4S R.4E, T.4S R.5E, T.4S R.6E, T.4S R.7E, T.4S R.8E, T.5S R.7E, T.5S R.8E.

2) Non-Project Lands. T.1N R.1E, T.1S R.1E, T.1S R.2E, T.2S R.1E, T.2S R.2E, T.2S R.3E, T.2S R.4E, T.3S R.4E, T.3S R.5E, T.3S R.6E.

RECEIVED JAN 20 1987 DEPT. OF WATER RESOURCES

C. Current purposes of water use.

Irrigation, domestic, industrial, municipal, stock, recreation and mining.

D. Water requirements equivalent to a full supply for present development.

Current water usage associated with present agricultural, domestic, municipal, industrial, and commercial development is about 270,000 acre-feet of surface and ground water annually.

V. The quantity and priority(ies) of the reserved water right(s) claim(s). Irrigation has been practiced by the Pima Indians along the Gila and Salt Rivers since time immemorial. A priority of time immemorial is claimed for 1,547,160 acre-feet per year for agricultural domestic, stockwatering, mining and commercial/industrial, hydropower, and an unquantified amount of storage, evaporation, seepage and transport losses, and other beneficial uses.

Irrigation (255,200 acres at 6.0 acre-feet per acre) - 1,531,200 acre-feet annually.1/

Domestic (Projected population 10,800 at 250 gpcpd) - 3,025 acre-feet annually.

Commercial Industrial - 11,000 acre-feet annually.

Stockwatering - 335 acre-feet annually.

Mining (sand and gravel) -1,600 acre-feet annually.

Storage, evaporative, seepage, transport losses, and other beneficial uses not yet quantified.

The sources of water for the claim made on behalf of the Gila River Pima-Maricopa Indian Community are surface and groundwater supplies appurtenant to the Gila River Pima-Maricopa Indian Reservation. Those sources include:

1/Future new additional irrigation will/may rely extensively on reservation groundwater resource, including groundwater mining if necessary.

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JAN 20 1987
DEPT. OF
WATER RESOURCES

1) the Gila River, including water from the Gila River the right to which was not adjudicated by the Decree in Globe Equity 59, e.g. the water of the San Pedro River and other unadjudicated tributary sources;

2) the Salt River; and

3) the estimated 20 million acre-feet of recoverable groundwater and recharge related thereto.

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DEPT. OF
WATER RESOURCES

In the event that it is determined that the Decree in Globe Equity 59 is not determinative of the Gila River Pima-Maricopa Indian Community's right to surface water from the Gila River then the United States claims sufficient additional water from the Gila River system to fulfill the Community's reserved water rights.

The Gila River Pima-Maricopa Indian Reservation was first established by an Act of Congress approved February 28, 1859 (11 Stat. 401. Sec. 3). An Executive Order of June 14, 1879 added to the reservation and revoked an Executive Order of January 10, 1879.

Executive Orders of August 31, 1876, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, and July 19, 1915 added areas to the reservation.

VI. Plan for additional water use of claimed reserved water rights, including a time schedule.

Due to a variety of circumstances, specific plans and time schedules are not available at this time related to the anticipated future uses. When such plans and time schedules become available to the United States, the government will submit the plans and schedules to the Court.

Arms, &c. not to be purchased, unless, &c.

SEC. 2. *And be it further enacted*, That no part of the money hereby appropriated shall be used for the purchase of arms or ammunition to be given or furnished to any of the Indians herein named, unless such purchase of arms or ammunition aforesaid be in fulfilment of the obligations of existing treaties.

Tracts occupied by the Pima and Maricopa Indians on the Gila River to be surveyed, &c.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and required to cause to be surveyed, and the boundaries thereof permanently marked, the tract or tracts of land lying on or near the Gila River, in the Territory of Arizona, New Mexico, now occupied by the confederated bands of Pima and Maricopa Indians, and the sum of one thousand dollars is hereby appropriated to defray the expenses of the said survey.

Reservations for said Indians.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized and required to set apart the tract or tracts of land aforesaid as a reservation for the confederated bands of Pimas and Maricopas: *Provided*, That the said reservations shall not exceed one hundred square miles in extent.

Proviso.

$10,000 for presents to those Indians.

SEC. 5. *And be it further enacted*, That the sum of ten thousand dollars is hereby appropriated to enable the Commissioner of Indian Affairs to make suitable presents to the Pimas and Maricopas, in acknowledgment of their loyalty to this government and the many kindnesses heretofore rendered by them to our citizens.

Claims of half-breed Indians. Vol. vii. p. 330.

SEC. 6. *And be it further enacted*, That in adjusting the claims of half-breed Indians under the tenth article of the treaty of Prairie du Chien, of the fifteenth of July, eighteen hundred and thirty, lying within the Nemohaw reservation therein described, as surveyed by McCoy, and confirmed by section thirteen of the act entitled "An act making appropriations for sundry civil expenses of the government for the year ending the thirtieth of June, eighteen hundred and fifty-nine," approved June twelfth, eighteen hundred and fifty-eight, there shall be found a deficiency in the quantity of land necessary to carry out the intentions of said treaty, then there shall be retained out of the proceeds of that portion of the public lands excluded from said reservation, as said half-breeds claimed its boundaries by the McCoy survey and the thirteenth section of the said act of July twelfth, eighteen hundred and fifty-eight, so much money as shall equal that deficiency, estimating the same at one dollar and twenty-five cents per acre; which said sum of money shall be paid to the Secretary of the Interior, to be held by him in trust for such of said half-breeds as shall be found entitled to it, and by him be paid to them or invested for their benefit, as he shall think most judicious and proper, after the said mixed bloods shall have relinquished to the United States all their interest in and to said deficiency in said reservation.

1858, ch. 154, § 13. *Ante*, p. 327.

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Rules, &c. for the Indian service &c. to be prepared and submitted to Congress.

SEC. 7. *And be it further enacted*, That the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, is hereby authorized and directed to prepare rules and regulations for the government of the Indian service, and for trade and intercourse with the Indian tribes and the regulations of their affairs; and when approved by the President shall be submitted to the Congress of the United States for its approval: *Provided*, That such laws, rules, and regulations proposed shall not be in force until enacted by Congress.

Proviso.

Repeal of part of act of 1834, ch. 161, § 17.

SEC. 8. *And be it further enacted*, That so much of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June thirtieth, eighteen hundred and thirty-four, as provides that the United States shall make indemnification out of the treasury for property taken or destroyed in certain cases, by Indians trespassing on white men as described in the said act, be, and the same is hereby, repealed: *Provided, however*, That nothing herein contained shall be so construed as to impair or destroy the

Vol. iv. p. 731.

Proviso.

PIMA AND MARICOPA OR GILA RIVER RESERVATION.

EXECUTIVE MANSION, *August 31, 1876.*

It is hereby ordered that the following-described lands in the Territory of Arizona, viz, township 4 south, range 7 east, sections 14, 15, 22, 23, 24, 25, 26, 27, north half of section 35 and section 36; township 5 south, range 7 east, northeast quarter of section 1; township 4 south, range 8 east, southwest quarter of section 19, west half and southeast quarter of section 29, sections 30, 31, 32, and southwest quarter of section 33; township 5 south, range 8 east, southwest quarter of section 3, section 4, north half of section 5, north half of northeast quarter and northwest quarter of section 6, and northwest quarter of section 10, be, and the same are hereby, withdrawn from the public domain and set apart as an addition to the Gila River Reservation in Arizona, for the use and occupancy of the Pima and Maricopa Indians.

U. S. GRANT.

EXECUTIVE MANSION, *January 10, 1879.*

It is hereby ordered that all the public lands embraced within the following boundaries lying within the Territory of Arizona, viz, commencing at the mouth of the Salt River, running thence up the Gila River to the south line of township No. 2 south, Gila and Salt River base line; thence east with said line to the southeast corner of township No. 2 south, range 6 east; thence north with said line to a point 2 miles south of the Salt River; thence following the course of said stream in an easterly direction, and 2 miles south of the same, to the west line of the White Mountain Reservation; thence north with the line of said reservation, or the extension of the same, to a point 2 miles north of said river; thence in a westerly direction, following the course of said river, and 2 miles north of the same, to the east line of range 6 east; thence north with said line to the northeast corner of township 2 north, range 6 east; thence west with the north line of said township to the Gila and Salt River meridian line; thence south with said line to the Gila River, and thence by said river to the place of beginning, be, and the same are hereby, withdrawn from sale and set apart for the use of the Pima and Maricopa Indians, in addition to their present reservation in said Territory.

R. B. HAYES.

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JAN 20 1987
DEPT. OF
WATER RESOURCES

EXECUTIVE MANSION, *June 14, 1879.*

In lieu of an Executive order dated January 10, 1879, setting apart certain lands in the Territory of Arizona as a reservation for the Pima and Maricopa Indians, which order is hereby canceled, it is hereby ordered that there be withdrawn from sale and settlement, and set apart for the use of said Pima and Maricopa Indians, as an addition to the reservation set apart for said Indians by act of Congress approved February 28, 1859 (11 Stat., 401), the several tracts of country in said Territory of Arizona lying within the following boundaries, viz:

Beginning at the point where the range line between ranges 4 and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river; thence northerly to the southeast corner of Camp McDowell Reservation; thence west along the southern boundary line of said Camp McDowell Reservation to the southwest corner thereof; thence up and along the west boundary line of said reservation until it intersects the north boundary of the southern tier of sections in township 3 north, range 6 east; thence west along the north boundary of the southern tier of sections in townships 3 north, ranges 5 and 6 east, to the northwest corner of section 31, township 3 north, range 5 east; thence south along the range line between ranges 4 and 5 east to the place of beginning.

Also all the land in said Territory bounded and described as follows, viz:

Beginning at the northwest corner of the old Gila Reservation; thence by a direct line running northwesterly until it strikes Salt River 4 miles east from the intersection of said river with the Gila River; thence down and along the middle of said Salt River to the mouth of the Gila River; thence up and along the middle of said Gila River to its intersection with the northwesterly boundary line of the old Gila Reservation; thence northwesterly along said last-described boundary line to the place of beginning.

It is hereby ordered that so much of townships 1 and 2 north, ranges 5 and 6 east, lying south of the Salt River, as are now occupied and improved by said Indians, be temporarily withdrawn from sale and settlement until such time as they may severally dispose of and receive payment for the improvements made by them on said lands.

R. B. HAYES.

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DEPT. OF
WATER RESOURCES

EXECUTIVE MANSION, *May 5, 1882.*

It is hereby ordered that the following described lands, situated in the Territory of Arizona, viz, beginning at a point where the south boundary of section 15, township 3 south, range 3 east, intersects the western boundary of the present reservation south of the Gila River; thence west along the south boundary of sections 15 and 16, township 3 south, range 3 east, to the southwest corner of section 16; thence north along the section line to the northwest corner of section 16; thence due west along the south boundary of sections 8 and 7, in township 3 south, range 3 east, and sections 12, 11, and 10, in township 3 south, range 2 east, to the southwest corner of section 10; thence north along the west boundary of sections 10 and 3, to the northwest corner of section 3, in township 3 south, range 2 east; thence west along the north boundary of said township to the southwest corner of section 33, in township 2 south, range 2 east; thence north along the west boundary of sections 33 and 28 to the northwest corner of section 28; thence northwest in a straight line to a point on the Gila River meridian 2 miles south of the initial point on the Gila River base line; thence north along the Gila River meridian to the middle of the Gila River; thence with the boundary of the present reservation along and up the middle of the Gila River to a point where the said boundary leaves the said river; thence continuing along said boundary south 18° 38′ east to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement, and set apart for the use of the Pima and Maricopa Indians, in addition to their present reservation in said Territory: *Provided, however*, That any tract or tracts of land included within the foregoing described boundaries the title to which has passed out of the United States Government, or to which valid homestead and preemption rights have attached under the laws of the United States, prior to the date of this order, are hereby excluded from the reservation hereby made.

CHESTER A. ARTHUR.

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DEPT. OF
WATER RESOURCES

EXECUTIVE MANSION, *November 15, 1883.*

It is hereby ordered that the tract of country in the Territory of Arizona embraced within the following-described boundaries, which covers and adds to the present reservation as set apart by act of Congress approved February 28, 1859 (11 Stats., 401), and Executive orders dated August 31, 1876, June 14, 1879, and May 5, 1882, viz, beginning at a point in the middle of Salt River 4 miles east from the intersection of said river with the Gila River, being the northeast corner of the Executive addition of June 14, 1879; thence southeasterly along the boundary line of said Executive addition to the township line between townships 1 and 2 south, range 2 east of the Gila and Salt River meridian; thence east on the township lines between townships 1 and 2 south to the northeast corner of township 2 south, range 4 east; thence south on the range line between ranges 4 and 5 east to the southeast corner of township 2 south, range 4 east; thence east on the township lines between townships 2 and 3 south to the northeast corner of township 3 south, range 6 east; thence south on the range line between ranges 6 and 7 east to the southeast corner of township 3 south, range 6 east; thence east on the township lines between townships 3 and 4 south to the quarter-section corner on the north boundary of section 3, township 4 south, range 8 east; thence south through the middle of sections 3, 10, 15, 22, 27, and 34, in township 4 south, range 8 east, and section 3, in township 5 south, range 8 east, to the northeast corner of the present reservation as established by Executive order dated August 31, 1876, being the northeast corner of the southwest quarter of section 3, township 5 south, range 8 east; thence following the boundary line of said reservation southwest and north to the northeast corner of section 2, township 5 south, range 7 east; thence south on the section lines to the southeast corner of section 11, in township 5 south, range 7 east; thence west on the section lines through ranges 7, 6, and 5 east to the southwest corner of section 7, township 5 south, range 5 east; thence north on the range line between ranges 4 and 5 east to the northwest corner of section 18, township 4 south, range 5 east; thence west on the section lines through ranges 4, 3, and 2 east to the southwest corner of section 7, township 4 south, range 2 east; thence north on the range line between ranges 1 and 2 east to the northwest corner of section 19, in township 2 south, range 2 east; thence west on the section lines through range 1 east to the southwest corner of section 18, township 2 south, range 1 east on the Gila and Salt River meridian; thence north on the Gila and Salt River meridian to a point in the Gila River opposite the middle of the mouth of Salt River; thence up the middle of Salt River to the place of beginning, as approximately represented on the accompanying diagram, be, and the same is hereby, withdrawn from sale and settlement and set apart for the use and occupancy of the Pima and Maricopa Indians: *Provided, however*, That any tract or tracts of land included within the foregoing-described boundaries the title of which has passed out of the United States Government, or to which valid homestead or preemption rights have attached under the laws of the United States prior to the date of this order, are hereby excluded from the reservation hereby made.

CHESTER A. ARTHUR.

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DEPT. OF
WATER RESOURCES

THE WHITE HOUSE, *May 8, 1911.*

It is hereby ordered that Executive order of November 15, 1883, creating a reservation for use of the "Pima and Maricopa Indians" be, and the same is hereby, amended so as to make such reservation available for use of the Pima and Maricopa Indians, and such other Indians as the Secretary of the Interior may see fit to settle thereon.

WM. H. TAFT.

THE WHITE HOUSE, *July 31, 1911.*

It is hereby ordered that the following-described lands in Pinal County, Arizona, be, and they are hereby, reserved from settlement, entry, sale, or other disposal, and set aside as an addition to the Gila River Indian Reservation, Arizona, subject to any valid existing rights of any persons thereto:

Township 5 south, range 7 east, Gila and Salt River meridian: Section 1, lots 5, 6, 7, 8, 9, and 10, SW. ¼, S. ½ of NW. ¼, and the west 160 acres of the SE. ¼ of section 1. Section 12, E. ½ of NW. ¼, NW. ¼ of NW. ¼, W. ½ of NE. ¼, NW. ¼ of SE. ¼, and lots 2, 3, 4, and 9.

Township 5 south, range 8 east, Gila and Salt River meridian: Section 6, lots 6 and 7, E. ½ of SW. ¼, S. ½ of SE. ¼. Section 7, lot 1, NE. ¼ of NW. ¼ and N. ½ of NE. ¼.

WM. H. TAFT.

THE WHITE HOUSE, *December 16, 1911.*

Under authority of the act of Congress approved June 25, 1910 (36 Stat., 847), and on the recommendation of the Secretary of the Interior, it is hereby ordered that all of township 5 south, range 7 east, Gila and Salt River meridian, Arizona, except such portions thereof as have been heretofore reserved and set aside as an addition to the Gila River Indian Reservation, be temporarily withdrawn from settlement, location, sale, or entry, except as provided in said act, and be reserved for classification.

WM. H. TAFT.

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THE WHITE HOUSE, *September 28, 1911.*

Executive order of June 14, 1879, temporarily withdrawing from sale and settlement for Indian uses so much of townships 1 and 2 north, ranges 5 and 6 east, in Arizona, lying south of the Salt River, is hereby amended so as to permanently withdraw from settlement, entry, sale, or other disposition all those tracts lying south of the Salt River in sections 25, 26, 34, and 36, except the SE. ¼ of the SE. ¼ of section 34, in township 2 north, range 5 east, of the Gila and Salt River meridian, for the use of the Pima and Maricopa Indians, and such other Indians as the Secretary of the Interior may see fit to settle thereon, subject to any existing valid rights of any persons thereto.

WM. H. TAFT.

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GILA RIVER.

It is hereby ordered that the following-described lands in Arizona be, and they are hereby, withdrawn from settlement, entry, sale, or other disposition, and set aside as an addition to the Gila River Indian Reservation in Arizona: *Provided*, That the withdrawal hereby made shall be subject to any existing valid rights of any persons to the lands described.

Township 4, range 4.—Sections 13, 14, 15, 23, 24, 25, 26, and 35; E. ½ of section 17; NE. ¼ of section 20; N. ½ of section 21; and N. ½ of section 22.

Township 5, range 4.—Sections 1 and 2. All south and east of the Gila and Salt River base and meridian.

WOODROW WILSON.

THE WHITE HOUSE, *June 2, 1913.*

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DEPT. OF
WATER RESOURCES

It is hereby ordered that Executive order of August 31, 1876, setting apart certain lands of the public domain as an addition to the Gila River Reservation in Arizona, be, and the same is hereby, amended so as to eliminate from the said addition the S. ½ of the NW. ¼ of section 10, township 5 south, range 8 east of the Gila and Salt River meridian.

WOODROW WILSON.

THE WHITE HOUSE, *August 27, 1914.*

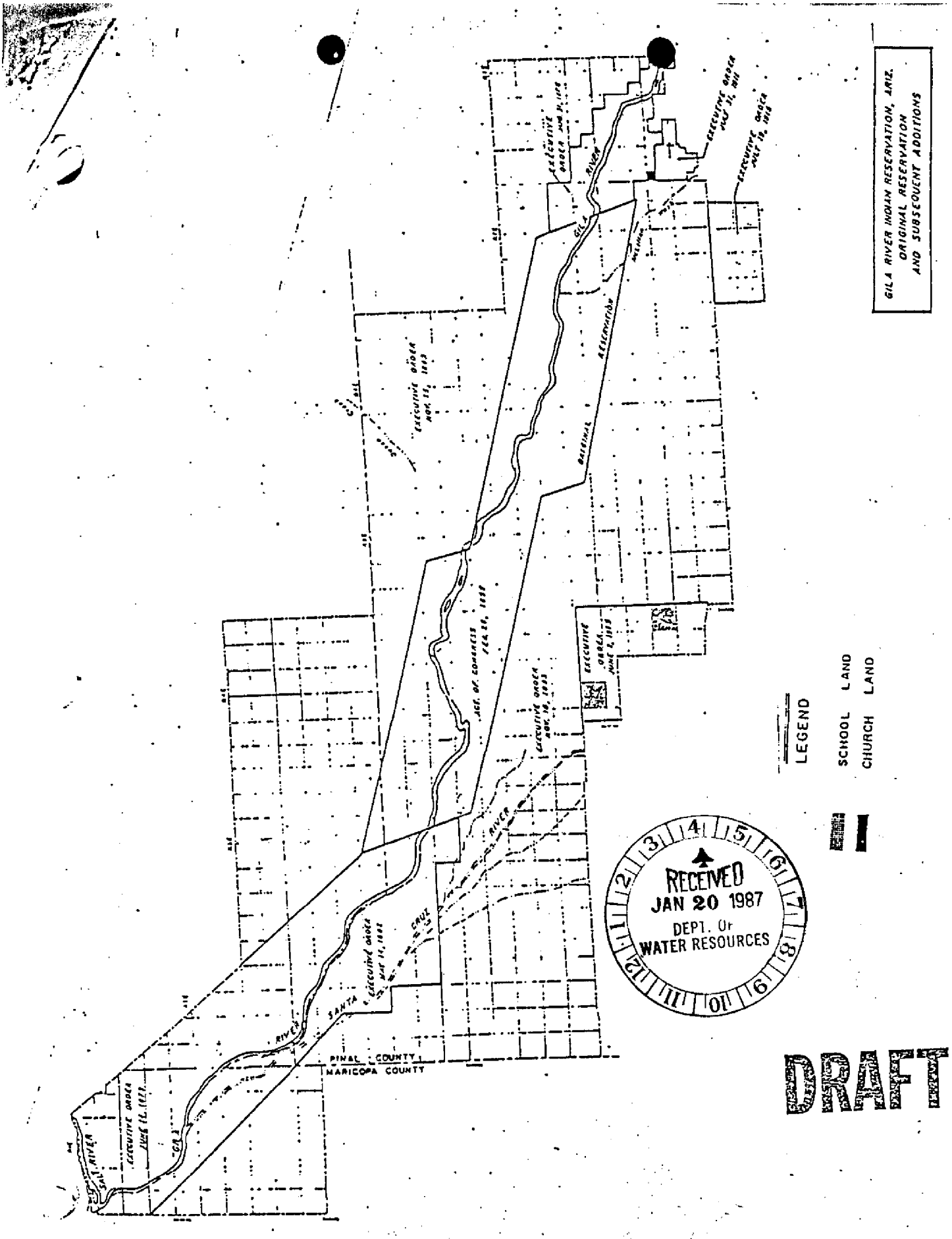
It is hereby ordered that the following-described lands in the State of Arizona be, and they are hereby, withdrawn from settlement, entry, sale, or other disposition, for use in connection with the proposed San Carlos dam and irrigation project:

T. 4 S., R. 11 E., G. & S. R. M.—Lots 1, 2, 3, 4, and 7; SE. ¼ of SW. ¼ and S. ½ of SE. ¼ of sec. 7; secs. 8, 9, and 10; W. ½ of NE. ¼ and W. ½ of sec. 11; W. ½ of sec. 14; and sec. 15.

This withdrawal is subject to all prior valid existing rights.

WOODROW WILSON.

THE WHITE HOUSE,
18 March, 1915.


GILA RIVER INDIAN RESERVATION, ARIZ.
ORIGINAL RESERVATION
AND SUBSEQUENT ADDITIONS
LEGEND
SCHOOL LAND
CHURCH LAND
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WATER RESOURCES
PINAL COUNTY
MARICOPA COUNTY
GILA RIVER
SALT RIVER
SANTA CRUZ RIVER
DRAFT

RECEIVED
JAN 20 1987
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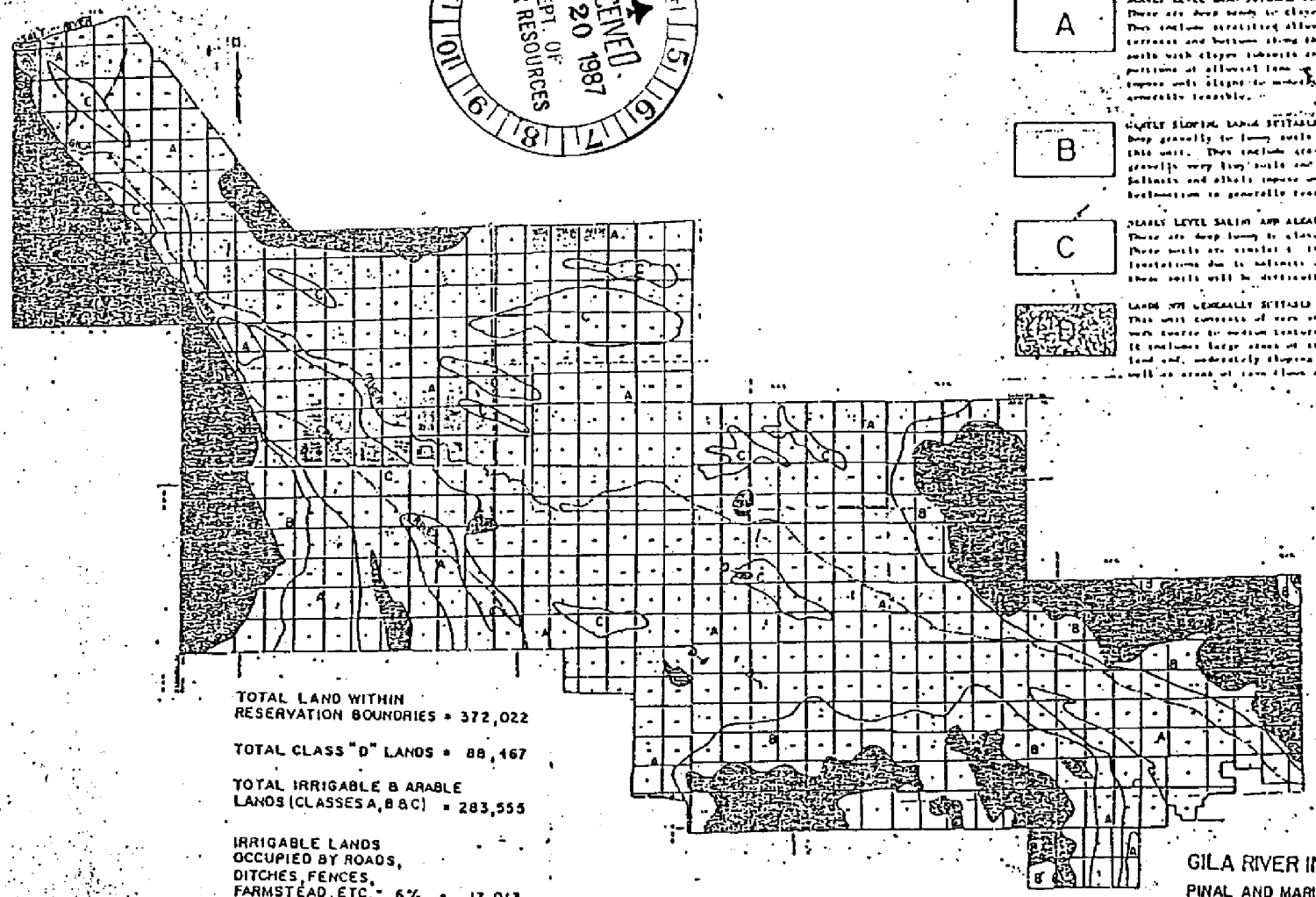
WATER RESOURCES



A

B

C

D

TOTAL LAND WITHIN
RESERVATION BOUNDRIES = 372,022

TOTAL CLASS "D" LANDS = 88,467

TOTAL IRRIGABLE & ARABLE
LANDS (CLASSES A, B & C) = 283,555

IRRIGABLE LANDS
OCCUPIED BY ROADS,
DITCHES, FENCES,
FARMSTEAD, ETC. - 6% = 17,013

NET IRRIGABLE = 266,542

(THIS LAND SUITABILITY CLASSIFICATION IS BASED ON OLD STANDARDS WHICH LIMIT IRRIGABLE LAND TO A 6% SLOPE - MODERN STANDARDS LIMIT LAND TO A 20% SLOPE)

GILA RIVER INDIAN RESERVATION

PINAL AND MARICOPA COUNTIES, ARIZONA

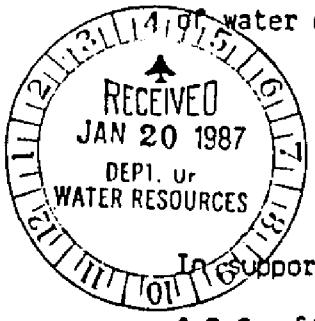
LAND SUITABILITY

FROM THE U.S. DEPARTMENT OF AGRICULTURE
CONSERVATION SERVICE MAP, JULY 1969.

Sole Source Justification

The filing of a completed Statement of Claimant form serves as an official claim of a water right. Receipt by the Department of Water Resources of the notarized form along with the appropriate filing fee officially enters the claim in the court adjudication proceeding.

The filing fee for an individual is twenty dollars ($20.00) for each Statement of Claimant form filed except when more than one use is served from a common source of supply and two or more types of use forms are required. The filing fee for a corporation, municipal corporation, the State or any potitical subdivision, or an association or partnership is two cents for every acre-foot of water claimed per annum, or twenty dollars ($20.00), whichever is greater.



Payment of Fees

In support of this claim the United States is tendering the fees required by A.R.S. §45-254(F). However, this suit was not instituted by the United States. Rather, the United States was required to participate in order to protect its rights to use water against the interests of other parties. Jurisdiction over the United States in this case is governed by the McCarran Amendment, 43 U.S.C. §666 (1952). United States v. Superior Court, 144 Az 265, 679 p.2d 658 (1985). The McCarran Amendment provides in part that "no judgment for costs shall be entered against the United States in any such suit." This proviso restates and reinforces the common law rule that, in absence of a statute directly authorizing it, courts could not give judgment against the United States for costs and expenses.[1/]

1/In 1966, Congress, by enactment of Public Law 89-507, waived the government's sovereign immunity from a judgment of costs and expenses insofar as that immunity was based on common law principles rather than on a statutory prohibition. Act of July 18, 1966, 80 Stat. 308, as amended 28 U.S.C.§2412. However, the 1966 waiver does not apply to cases, such as this case, where the immunity from a judgment for costs is "specifically provided for by statute." 28 U.S.C. §2412(a).

The United States intends to seek recovery of all filing fees tendered in this case as well as other ligitimate costs associated with this litigation after final judgment has been rendered.

The McCarran Amendment constitutes a waiver of the sovereign immunity of the United States by permitting it to be joined as a defendant in a suit quantifying water rights. Colorado River Water Conservation District v. United States 424 U.S. 800 (1976); Arizona v. San Carlos Apache Tribe, 463 U.S. 545 (1983). In Block v. North Dakota, 461 U.S. 273 (1983), the Supreme Court repeated the familiar rule of construction of statutes which waive federal sovereign immunity:

> The basic rule of federal sovereign immunity is that the United States cannot be sued at all without the consent of Congress. A necessary corollary of this rule is that when Congress attaches conditions to legislation waiving the sovereign immunity of the United States, those conditions must be strictly observed, and exceptions thereto are not to be lightly implied. (Citations omitted). Id. at 287.

The Court went on to hold that there is no reason why the federal sovereignty rule should not be applied to states. Id. at 288-289. And in Aycrigg v. United States, 124 F. Supp. 416, 418 (N.D. Cal. 1954) the Court held that the rule of strict construction of the sovereign immunity waiver was applied to costs "with especial rigor."

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