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MAJOR 9TH CIRCUIT COURT RULING AFFIRMING GILA RIVER INDIAN COMMUNITY'S WATER RIGHTS IN UPPER VALLEY OF THE GILA RIVER

SACATON, AZ. – In a June 13th court decision, the United States Court of Appeals for the Ninth Circuit in San Francisco sweepingly affirmed the Gila River Indian Community's positions regarding numerous water policy issues in the Upper Valley of the Gila River. Of particular importance is the principle that water rights which go unused for a consecutive period of five years are permanently forfeited, no matter when the water was originally appropriated.

This decision by the Ninth Circuit reverses a 2010 lower federal court ruling which held that pre-1919 water rights could not be forfeited through continuous non-use. The 2010 decision would have allowed pre-1919 water rights to be tied up indefinitely, even without the water being put to a beneficial use. The lower court decision also would have allowed rights-holders to revive their rights after decades of non-use, transferring the rights to other lands, thus taking water away from established water users. In overturning the lower court ruling, the Ninth Circuit applied the Arizona Supreme Court's interpretation of the forfeiture statute, which maintains that that pre-1919 rights have been forfeited wherever a five-year period of non-use has occurred after 1919.

The winning parties in the appeal were the Gila River Indian Community, the San Carlos Apache Tribe and the United States, which each raised issues related to Gila River water rights, commonly called Globe Equity Decree rights. The Globe Equity Decree is a consent decree originally entered in 1935 to allocate water rights on the main portion of the Gila River.

Stephen Roe Lewis, the Governor of the Gila River Indian Community, praised Tuesday's decision as an important milestone for sound water management.

"In a state like Arizona, where careful, common sense water management is an absolute necessity, today's court ruling is a victory for all water rights owners, Indian and non-Indian alike, who consistently work to put their water rights to productive uses," said Lewis. "This decision will prevent the hoarding of unused water rights on unirrigated lands. And it will help ensure that those who have failed to use water rights productively on the lands to which the rights were attached will not be able to continue to tie up those unused rights. We expect this ruling will provide a new basis for the Community to ensure that its rights to water from the Gila River are respected and enforced, and we will be proceeding forward with a vigorous effort in that regard in the weeks and months ahead."

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The Gila River Indian Community, located on 372,000 acres in south-central Arizona, is home to the indigenous people of the O'odham (Pima) and Pee Posh (Maricopa). The people are known for their farms, deep traditions, basket weaving and pottery. The Tribe comprises seven districts with its administrative offices and departments located in Sacaton. All the profits from the Community's gaming and 17 other business enterprises are utilized to provide services and opportunities to Community members to help them achieve the highest possible quality of life.