Indian Affairs - Office of Public Affairs

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Secretary of the Interior Cecil D. Andrus announced today approval an agreement between the Gila River Pima-Maricopa Indian Community and the Kennecott Copper Corp. to settle a long-standing dispute over water rights in Arizona's Gila River watershed.

Under the agreement, the Indians consent to Kennecott's continued use of water from Mineral Creek, a tributary of the Gila River, in its mining operation upstream from the Indian Reservation.

In return, Kennecott agrees to pay the Indians $1.5 million for past use of the water and to replace or pay for water it uses from that source in the future. The mining firm has committed itself to seeking an allocation of Central Arizona Project (CAP) water to exchange with the tribe for Gila River water. Until that is available, Kennecott will pay the Indians $70 per acre foot of water used.

The provision for payment for Mineral Creek water expires when the CAP is completed or in 1990 with the possibility of a 10-year extension. Kennecott agrees to relinquish its claims to Mineral Creek water in 1990. The settlement also resolves a dispute over water Kennecott pumps from four deep wells in the area and the effect of that pumping on Gila River flows. Under the agreement, the Indians consent to the pumping until the year 2075; Kennecott agrees to pay $70 an acre foot for a portion of the water it pumps.

''Anyone who has followed Western water disputes--particularly in the desert southwest--can only view this agreement as a major achievement," said Andrus. "I certainly commend both parties for reaching a sensible, mutually beneficial resolution without costly, time-consuming court suits which might also have seriously disrupted the state's economy.

"While both sides were willing to litigate their claims if necessary, they agreed that would work to everyone's disadvantage. The Indians' prime concern is water, but they were reluctant to disrupt Kennecott's mining operations, a major force in Arizona's economy. Under the agreement, Kennecott will have the water so critical to its mining operations. The Indians have taken steps to ensure future water supplies to the reservation."

Although the parties pledge in the agreement not to sue each other over the disputed water rights, neither party abandons its claims, Andrus said.

Kennecott claims it is using water it is entitled to under the 1935 Gila Decree or water from tributaries which were expressly excluded from the scope of that decree. The Indians counter that they were not a party to the decree, that it is not binding upon them and that, in any case, it does not settle the water rights to which they are entitled under the Winters Doctrine. The doctrine, developed by the courts over the years, holds that Indians are entitled to enough water to serve the purposes for which their reservations were created. The doctrine establishes a priority water right dated no later than the creation of the reservation.

The Gila River Indians have the longest history of irrigated farming in the nation through their

Hohokam ancestors who used an extensive system of canals to irrigate the Gila River Valley lands. The reservation was established in 1859 and has been expanded since to its present 372,000 acres.

While Kennecott and the Indian Community are considered to be the major claimants in the watershed, they are not the only ones. Andrus said his approval of the agreement as trustee for Indian water rights implies no position on any water rights within the Gila River drainage, including those of the San Carlos Irrigation and Drainage Dist., a major agricultural user downstream of the water sources involved in the agreement.

In a letter to the Secretary, Alexander Lewis, Sr., Governor of the Indian Community, termed the approval of the agreement "a historic occasion.

"The agreement recognizes that we have always befriended non-Indians within the area, and we wish to regain the use of our water with as little adverse effect: on others as possible," Governor Lewis wrote. "This agreement allows a major industry in our nation to continue its operations in Arizona and assures return of some of our water to our reservation. We believe that with trust and cooperation other non-Indians can also agree with us for our mutual benefit."

Because of illness, Governor Lewis was unable to attend the brief ceremony December 20 in the Secretary's office. Representing the tribe were Lt. Governor Donald R. Antone, Sr., and Council Member Arnold Juan. Herman H. Kremer, President of Kennecott's Metal Mining Division, represented the corporation.