

# RESEARCH REPORT

Federal Grant Number 01-HQ -GR-0113

3/1/01- 2/28/02

1. Title: New Approaches To Addressing Tribal Water Rights
2. Principal investigator: Bonnie G. Colby, Professor, Department of Agricultural and Resource Economics, The University of Arizona
3. Second congressional district of Arizona
4. Descriptive Information

Problem: Large amounts of time and resources are expended addressing issues associated with Indian water rights in Arizona and other western states. Litigation and negotiations over tribal water rights are a primary concern among cities, rural communities, irrigators, tribes, environmental advocates and public agencies. There have been a number of new developments in seeking to reconcile tribal claims and the needs of other water users over the past ten years. The primary objective of the proposed project is to undertake the research necessary for an updated and substantially revised edition of the 1993 publication “Indian Water Rights: Negotiating the Future”.

Methodology: The proposed publication is designed to update policy makers, water users, public agency staff and the general public on current approaches to addressing Indian water rights. Such information, gathered from recent developments across the western U.S., will help those private and public sector stakeholders currently embroiled in water conflicts to resolve them more effectively, and to craft more durable, cost-effective and implementable solutions. The book provides a current and user-friendly resource to transfer knowledge from experts in many different disciplines to a largely non-technical audience.

The primary research tools used were document analysis, including review of negotiated agreements and court rulings, interviews with parties involved in tribal water issues, and economic analysis of costs, benefits and financial obligations associated with different approaches used to resolve conflicts over tribal rights. Essays from contributing authors in law, environmental science, hydrology, conflict resolution and other fields assure high quality coverage of relevant expertise from differing disciplines.

Principal Findings and Significance: The book manuscript analyzes the details of negotiated settlements and litigated outcomes involving tribal water rights, highlighting the advantages and disadvantages of different means to resolve specific economic, legal, technical and political issues. It incorporates the latest thinking regarding agricultural and urban water conservation, water pricing, voluntary water transactions, intergovernmental agreements, endangered species protection, compliance with water quality regulations, environmental restoration and other matters that have played an increasingly important role in water negotiations over the last ten years

The new book includes the following, newly researched sections:

- 1) the use of alternative dispute resolution (with considerably more experience to draw upon now as compared to the early 1990s),
- 2) the implications of new developments involving the Endangered Species Act and the Clean Water Act for negotiations and for inter-jurisdictional water management,
- 3) the emerging role of watershed initiatives and local problem-solving approaches,
- 4) implementation of negotiated settlements: what problems have arisen, how have they been addressed, and how can implementation be more effectively managed in the future?
- 5) an overview of the federal bureaucracy and the different arms of the federal government that interact with tribal water issues,
- 6) a listing of new federal appointees and new chairs of congressional committees relevant to the subject, and a description (if available) of policy directions of the new administration
- 7) a compendium of web sites and internet resources related to tribal and western U.S. water issues.

## 5. Publication Information

Colby, B. G., and T. P. d'Estrée, *Braving the Currents: Resolving Conflicts Over the Water of The American West*, book manuscript under review, 207 pages, 2001.

Colby, B. G., "Resolving Interjurisdictional Disputes over Water and Environmental Quality," *Water Resources Update* 36: 20-29, 2001.

Colby, B. G., "Economic Characteristics of Successful Dispute Resolution Outcomes", chapter in *Evaluating Environmental and Public Policy Dispute Resolution Programs and Policies*, R. O'Leary and L. Bingham, editors, Syracuse University Press, forthcoming in 2002.

Colby, B.G. and John Thorson, *Smoke on the Water: One Hundred Years of Litigation and Negotiations Over Tribal Water Rights*, book manuscript under review, 189 pages, 2002.

D'Estrée, T.P. and B.G. Colby, *Guidebook for Evaluating Success in Environmental Conflict Resolution*, Institute for Conflict Assessment and Resolution, George Mason University , 2001, 97 pages.

## 6. Student Support

Two College of Law graduate students were directly supported by the 104b program funding.

## 7. Notable Achievements and Awards:

Colby was the only faculty member from University of Arizona appointed to serve as technical advisor to Arizona's Water Commission, and one of only two academics in the state appointed to serve in the two year Commission process.

Colby (the PI) and the book's co-author, John Thorson, have each given a number of invited presentations on the subject matter of the book over the grant period. Examples for Colby include:

Keynote Speaker, University of Colorado Natural Resources Law Center Conference *Two Decades of Water Law and Policy Reform; A Retrospective and Agenda for the Future*, Boulder Colorado

Invited Speaker, Governor's Water Management Commission, 2001

Invited Speaker, University of Nebraska, annual *Williams Endowment Lecture on Water Resources*, 2001

Invited Speaker, NSF Science and Technology Center conference on "Sustainability of Semi-Arid Hydrology and Riparian Areas", "Economic Aspects of Tribal Water Negotiations", 2001.

Invited Panelist, Arizona Dept, of Water Resources/ Department of Agricultural Economics Workshop on Water Research and Economic Policy Issues, 2001