

Policy Analysis: Tribal Groundwater Rights

The Case of Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District

Introduction

This paper examines the controversy over tribal groundwater rights through the landmark case of Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District. In this paper I will analyze the issue within broader social, legal, and political contexts, and recommend how to move toward a future with more equitable management of shared natural resources.

Context: Water in the West

Navigating water rights and ensuring equitable water management in the American West has long been a politically complex and contentious issue. It requires ongoing negotiation and compromise among a diverse array of stakeholders, including the governments of the United States and Mexico, Tribal nations, western states, private companies, and landowners. In Southern California, water management is especially critical due to the region's high overall demand for water to support its large urban populations and extensive agricultural operations. As the climate crisis deepens, the region faces mounting challenges: prolonged droughts, diminished snowpack in the Rocky Mountains, and growing communities have all intensified political tensions and placed additional strain on the lower Colorado River Basin system.

The Agua Caliente case takes place in the Central District of California, within the arid Coachella Valley, nestled among the San Bernardino, San Jacinto, and Santa Rosa Mountains. This desert climate receives minimal rainfall and has limited access to surface water, making reliable access to groundwater a major concern for everyone in the valley.

Prior Appropriation

Prior appropriation is a legal principle used across many western states in the US to allocate water rights based on a "first in time, first in right" system. Under this doctrine, the first person to divert water from a source and put it to "beneficial use" has the first "senior" right to continue using that amount of water. Senior rights are maintained as long as the water is continuously being used for a recognized beneficial purpose. Later "junior" users can only access water after the needs of senior rights holders are fully met.

Winters v. United States

The 1908 Supreme Court case *Winters v. United States* involved a dispute between settlers and the Gros Ventre and Assiniboine Indian Tribes, who lived on the Fort Belknap Reservation. Claiming prior appropriation, settlers built dams and reservoirs upstream of the reservation, diverting water from the Milk River and impeding the Tribes' agricultural practices.

In its decision, the Court held that when the government establishes a reservation, it does so with the intent of enabling indigenous communities to become self-sufficient - an objective which inherently requires access to water. Recognizing that land without water has no value, the Court concluded that water rights are implicitly reserved for tribes by the federal government through the creation of reservations, to the extent necessary to fulfill the reservation's purpose. This "Winters Doctrine" establishes the legal framework for Native American water rights. Under this doctrine, tribal water rights are considered senior to those of other users (meaning they have priority in times of shortage), cannot be lost through non-use (unlike rights governed by state prior appropriation laws), and are intended to meet both present and future needs of the reservation. Together, these principles affirm and protect tribal access to vital water resources.

Regional Water Management

In 2002, California enacted the Integrated Regional Water Management (IRWM) Planning Act, which encouraged local stakeholders to form regional water management groups to enhance water quality and reliable water supply across the state. However, tribal governments were largely excluded from the creation of these early plans, as their participation was not mandated. This lack of inclusion meant that tribal water needs were often overlooked in regional planning efforts. More recent state initiatives introduced tribal involvement grants and encouraged more inclusive planning, but meaningful tribal engagement has remained inconsistent.

Parties to the Agua Caliente Case

Agua Caliente Band of Cahuilla Indians

The Agua Caliente Band of Cahuilla Indians is a federally recognized tribe in Palm Springs, California with more than 500 members who steward more than 30,000 acres of ancestral land in the Agua Caliente Indian Reservation (Agua Caliente Band of Cahuilla Indians, 2018). The Tribe has lived in the Coachella Valley and relied on its groundwater sources for thousands of years. According to Cahuilla history, their ancestors developed walk-in groundwater wells, ditches, dams, and reservoirs to create reliable and accessible water reserves (Native American Rights Fund. n.d.). They see water as a sacred resource, with cultural and spiritual practices centered around the area's natural springs. Today, the Tribe is a customer of the local water agencies, dependent on their services to meet Tribal members' water needs.

Water Districts

Two water agencies operate within the Coachella Valley: the Coachella Valley Water District (CVWD) and the Desert Water Agency (DWA). These government agencies are tasked with

meeting the water-related needs of the people in the valley and managing the area's water resources. Both agencies draw water from the region's groundwater source, the Coachella Valley Aquifer, for distribution to nearly 400,000 people living in surrounding communities (Wallum, 2022). These agencies also manage wastewater and water recycling services for the area. In 1973, CVWD and DWA began artificially replenishing the aquifer, supplementing natural replenishment from rain and snowmelt with diverted water from the Colorado River via aqueducts and canals (Coachella Valley Water District, n.d.).

Summary of the Agua Caliente Case

In 2013, the Agua Caliente Band of Cahuilla Indians filed a lawsuit against CVWD and DWA. In its suit, the Tribe argued that it holds a federally reserved right to the groundwater beneath its reservation, and it sought to prevent local water agencies from infringing on that right through poor management practices. The central legal question in this case was whether Winters rights extend to groundwater and, if so, how such rights interact with state water law.

Tribal Perspective

The Tribe argued that current groundwater management practices are not adequately protecting this shared resource, causing decreased quality and quantity of aquifer reserves as well as soil sinks and ground collapse due to insufficient water. They stated that the aquifer is consistently overdrafted, and that artificial replenishment practices of pumping untreated water from the Colorado River into the aquifer is introducing unhealthy levels of nutrients into the water. Despite years of advocating for increased protections and repeated attempts to address these concerns directly with local water agencies, the Tribe felt that the area's water resources continued to be mismanaged and degraded, which led them to file the lawsuit. From the Tribe's perspective, asserting their federally reserved groundwater rights is not only a legal necessity but

also step toward tribal sovereignty and improved community and environmental health. They view the lawsuit as a means to ensure long-term water stewardship in line with their cultural values and treaty rights (Native American Rights Fund. n.d.).

Water Agency Perspective

CVWD and DWA denied that the Tribe has reserved rights to groundwater and argued that the Tribe lacked a history of groundwater use which should disqualify their current claim to the resource. They defended the practice of replenishing the aquifer with water from the Colorado River, saying that this practice is used by other water agencies throughout California and denied that this process results in poor water quality. CVWD and DWA argued that if the Tribe gained senior groundwater rights, the agencies would face major operational and economic impediments to delivering water to their customers. They warned of potentially sweeping rate increases and service disruptions for thousands of residents and businesses. The agencies further claimed that the Tribe does not have the infrastructure necessary to access and distribute water in the aquifer and critiqued the Tribe for asking for rights to an unspecified quantity of the groundwater (Coachella Valley Water District, 2013; Desert Water Authority, 2017).

Third Party Perspectives

Several other parties were invested in the outcome of the Agua Caliente case due to its potential to set a national precedent. For tribes across the US, a ruling affirming groundwater rights under the Winters Doctrine would strengthen their own claims to water resources critical for their communities' survival and sovereignty. Environmental groups saw the case as an opportunity to promote more sustainable and equitable management practices in overdrawn aquifers. State and local water agencies, on the other hand, were concerned that a decision in favor of tribal

groundwater rights would disrupt existing water allocations, reduce their control over regional water supplies, and increase legal and operational uncertainty. Several states and water agencies filed amicus briefs in support of CVWD and DWA (Coachella Valley Water District, 2018).

Litigation Process

In 2015, the U.S. District Court ruled in favor of the Tribe, and in 2017, the Ninth Circuit affirmed that federal reserved water rights include groundwater, emphasizing that access to water is essential to the reservation's purpose. The court rejected arguments based on the Tribe's lack of historical groundwater use and ruled that federal rights preempt state law; the Supreme Court declined to review the decision later that year. In the second phase of litigation, the court examined issues like "pore space" (aquifer storage space) ownership and water quality standards, but in 2019 ruled that the Tribe lacked standing to quantify its rights because it had not demonstrated harm due to the water agencies' groundwater pumping. Most of the remaining claims were dismissed in 2020, although the pore space issue remains unresolved. As of 2022, litigation is stayed while the parties explore settlement (Native American Rights Fund. n.d.).

Analysis: Agua Caliente Ruling and the Future of Tribal Groundwater Rights

The 2017 federal court decision was the first to affirm that tribal reserved water rights extend to groundwater, setting an important precedent for other tribes, especially those in arid regions. These rights affirm that tribes have a legal and moral claim to the water beneath their lands, which is essential for meeting their basic needs as well as supporting tribal wellbeing, sovereignty, and long-term resilience. The decision reinforced the federal government's trust responsibility to ensure that tribes have the resources they need to sustain their communities.

In 2019, the Agua Caliente Band of Cahuilla Indians enacted a Water Authority Ordinance, codified in its Tribal Code, and established the Agua Caliente Water Authority to monitor and manage its federally reserved groundwater. Other tribes have cited this case in legal efforts to assert or clarify groundwater rights. This case has also prompted state and federal agencies to more seriously consider tribal claims in water planning and settlement negotiations (Bass, 2020).

Although the rulings clearly confirmed a federally reserved tribal right to groundwater, they also emphasized that enforcement of the right requires demonstrating harm, making subsequent policy action unclear. Many tribes have not had their groundwater rights formally quantified, and without quantification, enforcement remains difficult. State and local water agencies may resist tribal claims, fearing loss of control or reduced allocations, and litigation over this issue can be costly and time-consuming. Despite the existence of these rights, tribes may lack the infrastructure to access, transport, or store groundwater. Federal funding for improving infrastructure is often insufficient or delayed. Frequently, tribes are excluded from regional water planning bodies, limiting their influence over groundwater management decisions (Bass, 2020).

To overcome these barriers to implementation and to promote more inclusive governance, federal and state governments should require the creation of regional management plans for shared natural resources. Throughout the development and implementation of such plans, tribal consultation should be mandated. This will lead to more robust, cooperative co-management agreements between tribes and local agencies for the resources upon which we all depend. Given the federal government's trust responsibility, Congress and federal agencies should provide funding and legal support to assist tribes in asserting their water rights and avoid prolonged litigation. Federal programs to fund tribal water infrastructure such as groundwater wells, pumps, pipes, and treatment systems should also be expanded.

Policy Alternatives and Recommendations

To address the unresolved questions in the Agua Caliente case and, more broadly, the controversy over tribal groundwater rights, three policy paths can be considered. Option one maintains the status quo with agency control over all groundwater resources and continued tribal exclusion from groundwater ownership and management. This risks perpetuating environmental degradation, inequity, and legal uncertainty. Option two involves transferring full control of the region's groundwater resources to the Tribe immediately. While this would reinforce tribal sovereignty, it may overlook certain practical questions such as how to build sufficient water infrastructure and how to maintain consistent, affordable water service during the transfer.

I propose a third option that affirms tribal groundwater rights while addressing the practical challenges of implementation. This phased approach begins by strengthening tribal participation in regional collaborative management frameworks like IRWM and renegotiating management terms to recognize federally reserved tribal groundwater rights. This negotiation process will take time, during which tribes can build infrastructure and establish tribal water agencies while non-tribal water agencies make preparations for water allocation changes. Ultimately, local agencies would transfer a fair share of groundwater ownership to tribes, fostering strong regional partnerships and resource co-management.

Conclusion

The case of Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District highlights the importance of recognizing tribal water rights as well as ongoing challenges to enforcing those rights amid legal, infrastructural, and political barriers. A phased, cooperative regional approach offers a practical path forward to support tribal sovereignty and equitable access to water, an increasingly scarce and essential shared resource.

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