

BEFORE THE INDIAN CLAIMS COMMISSION

GILA RIVER PIMA-MARICOPA INDIAN)	
COMMUNITY, <u>et al.</u> ,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 236-E
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 5 1976

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are in addition to findings of fact 1 through 17 previously entered herein:

18. Location and area of Gila River Indian Reservation. The Gila River Indian Reservation is located in central Arizona, south of Phoenix. It occupies the valley of the Gila River, extending approximately 50 miles upstream from the junction of the Salt and Gila Rivers. The reservation has an area of 372,022 acres, of which 97,605 are included in allotments to individuals and 274,417 are tribal land. (Def. Ex. 27, page 1).

19. Plaintiffs diverted water directly from the Gila River to their land prior to upstream depletion of the river flow by white people. The early irrigation of plaintiff's lands described in Finding 3 (33 Ind. Cl. Comm. at 30) was accomplished by the plaintiff's taking water directly from the Gila River within what is now the Gila River Indian Reservation. (Tr., Nov. 16, 1970, at 24, testimony of George A. Morrison; Pl. Ex. 39).

20. Gila River water now delivered to plaintiff's land by San Carlos Project. By the time the San Carlos Project was developed, the Gila River was for the most part dry at the plaintiff's reservation, due to upstream diversions by whites. Since construction of the San Carlos Project, water for irrigation of plaintiff's land has been delivered from the Gila River through the Project Works. (Tr., Nov. 16, 1970, at 22, 81-85, testimony of George A. Morrison).

21. Description of physical facilities of the San Carlos Project. The Project is composed of 50,000 acres of privately owned land and 50,000 acres of Indian-owned land, the latter being entirely within the boundaries of the Gila River Indian Reservation.

The principal storage feature of the San Carlos Project is the Coolidge Dam, which impounds water from the Gila, San Carlos, San Simon, and San Francisco Rivers, comprising a drainage area of 12,880 square miles. Built of reinforced concrete, the dam is 250 feet high and 920 feet long. A hydro-electric power plant, with rated capacity of 12,500 kilovolt amperes, is housed under the center dome of the dam.

Water released from the San Carlos reservoir for irrigation purposes is carried down the bed of the Gila River to the principal point of diversion, this being the Ashurst-Hayden Dam, near Florence. A secondary diversion point is provided by the Sacaton Dam.

The San Carlos Irrigation Project works are divided into two classifications: the irrigation system and the power system. In addition to

these two principal classifications, project facilities are further divided into three groups: Joint Works, serving both Indian and non-Indian lands, each of which is assessed one-half the cost of operation and maintenance; Indian Works, serving Indian lands; and District Works, serving non-Indian lands. Indian Works begin at points to which water is delivered from Joint Works canals. This system is operated and maintained by Government employees of the Bureau of Indian Affairs, and the cost is assessed against allotted and tribal lands of the Gila River Indian Reservation. District Works begin at the turnouts from Joint Works features and are operated and maintained by the San Carlos Irrigation and Drainage District at its own expense. (Def. Ex. 27, pages 4-6).

22. Irrigable Project acreage within Gila River Reservation. The subjugation of San Carlos Project lands on the Gila River Indian Reservation started in April 1929 and was completed in December 1936. The irrigable project acreage covered 28,793 acres of allotted land and 11,717 acres of tribal land, plus 640 acres of Government reserve. Although the authorized project acreage is 50,000, the full amount has not been subjugated and approximately 8,500 acres remain to be developed for irrigation to bring the project to its authorized size. (Def. Ex. 4-74, page 1).

23. Plaintiff's entitlement to Gila River Water not fulfilled by San Carlos Project. The San Carlos Project has not delivered the plaintiff's full entitlement of 210,000 acre-feet of water annually from the Gila River

during any year for which there is evidence in this record. (For entitlement, see Finding 3, 33 Ind. Cl. Comm. at 30). The following table shows the acres irrigated and cropped, water delivered, natural flow, apportionment, and market value of crops, San Carlos Project, Indian Works, for the calendar years 1935 through 1972, with partial information for 1973. The foregoing years are all of those covered by the evidence of record:

<u>Year</u>	<u>Acres Irrigated & Cropped</u>	<u>Water Delivered to Land</u>	<u>Natural Flow</u>	<u>Per Acre Apportionment</u>	<u>Total Market Value</u>
1935	24,813			3.50	\$ 306,064
1936	33,873	117,282	96,472	3.50	449,185
1937	33,888	126,397	128,050	4.10	367,254
1938	31,475	86,486	72,160	2.15	313,025
1939	31,191	87,692	80,280	1.60	254,456
1940	31,137	92,071	102,278	2.00	328,216
1941	28,217	104,926	199,270	3.60	271,038
1942	31,139	133,544	137,915	4.20	857,443
1943	35,322	122,340	97,397	4.00	1,133,253
1944	27,238	109,010	79,386	3.35	977,814
1945	28,230	70,300	99,068	2.05	526,894
1946	20,631	49,235	57,610	1.00	525,162
1947	17,688	54,805	45,699	1.00	676,626
1948	19,474	56,743	57,770	1.00	624,816
1949	29,283	97,934	118,163	3.30	1,697,850
1950	27,719	72,555	35,256	1.65	1,071,531
1951	12,861	41,464	34,065	1.00	855,071
1952	20,680	79,650	80,926	2.25	3,309,867
1953	19,830	55,939	33,960	1.00	1,294,125
1954	17,808	56,322	56,782	1.50	1,775,925
1955	20,322	56,281	42,776	1.50	1,820,766
1956	16,557	57,598	15,273	1.30	1,472,858
1957	12,204	33,824	43,944	1.00	1,529,669
1958	22,560	54,231	138,096	2.00	1,695,614
1959	17,724	49,896	55,916	1.50	1,797,191
1960	15,032	60,171	67,172	2.00	1,815,568
1961	15,118	38,828	48,351	.65	1,561,718
1962	16,995	68,488	91,638	1.55	2,338,729

<u>Year</u>	<u>Acres Irrigated & Cropped</u>	<u>Water Delivered to Land</u>	<u>Natural Flow</u>	<u>Per Acre Apportionment</u>	<u>Total Market Value</u>
1963	17,185	64,942	96,279	1.30	\$1,998,870
1964	13,745	54,161	65,150	.95	1,776,048
1965	11,819	51,430	81,111	.90	1,524,272
1966	23,693	79,940	160,645	3.00	1,344,017
1967	20,571	66,845	102,109	2.25	1,801,763
1968	20,101	72,580	153,987	3.00	1,836,440
1969	20,514	76,663	65,702	3.00	1,984,703
1970	17,320	63,615	55,682	1.75	2,744,641
1971	12,332	40,193	56,954	0.70	2,355,453
1972	13,216	59,313	65,035	2.00	3,366.938
1973		76,188	63,453	3.00	

Note: Water delivered to project acreage is measured in acre-feet. The apportionment is the amount of water authorized for delivery from stored and pumped water. Water delivered to land is the apportioned water, plus a portion of the natural flow. Distribution of natural flow for the San Carlos Project lands is approximately 60 per cent to Indian lands and 40 per cent to non-Indian lands and is delivered as available when requested. Natural flow is the flow of the stream unaffected by storage. (Def. Ex. 27, included Exhibit #3; Def. Ex. 7-74).

Approximately 4 acre-feet per acre per year are required to mature a crop (Def. ex. 4-74, page 3).

24. Sources of the tribal income used for payment of operation and maintenance charges on Indian lands within the San Carlos Project. That portion of Finding 13 which appears on page 41 of volume 33, Reports of the Indian Claims Commission, is hereby vacated, and in lieu thereof, and in addition thereto, the Commission finds as follows:

a. Government Cropping

On June 10, 1937, notice was given by the defendant to all Indian water users under the San Carlos Project that water would not be delivered to Indian landowners after July 1, 1937, unless arrangements had been made prior to that date for the payment of operation and maintenance charges either in cash or labor.

As a result, the following resolution was adopted at a meeting of the Gila River Pima-Maricopa Indian Council on June 16, 1937:

R E S O L U T I O N

WHEREAS, it is the desire of this council and of this community which it represents, to avoid the shutting off of the water on our reservation and the loss of our crops which may result therefrom, and also to avoid binding our community to payments which may not be required by law, or which may be excessive; and

WHEREAS to determine the legality of the operation and maintenance assessment for our irrigation water and the equity of the amount so assessed if such assessment be proved to us to be legal, the services of an attorney and an accountant are necessary; therefore, be it

Resolved, First, that the sum not to exceed \$2,000 for fees, expenses, and account, etc., be and is hereby appropriated from the tribal funds of this community for the immediate investigation of all matters directly or indirectly connected with the operation and maintenance assessment, such investigation to be conducted by an attorney to be selected as soon as this resolution shall be approved by the Secretary of the Interior, and by an accountant to be selected by such attorney; second, be it further

RESOLVED, That we appropriate, as an emergency measure, from the proceeds of the cropping operation from tribal lands so much money as may be necessary to keep the water flowing upon our lands for this season, provided that such an appropriation and the payment thereof can be made in such way as in no way to bind this community as to future action or payments, until all matters connected with the operation and maintenance assessment shall have been fully investigated, determined, and understood by the Gila River Pima-Maricopa Indian Community.

The provisions of this resolution insofar as they apply to the operation of tribal lands to develop an income for the payment of operation and maintenance charges on tribal and allotted Indian lands have been reinstated from year to year, with a clause in the one last passed providing that it would remain in effect until rescinded.

In accordance with the resolution of June 16, 1937, quoted above, the Government farming operations, commonly known as Cropping Operations, utilizing tribal land, assumed the responsibility of paying operation and maintenance charges on tribal and allotted lands to the extent profits on farming operations would permit. Government farming operations were continued until November 9, 1951, when the tribe took over the farming operations in the name of the Pima Community Farm. While under Government operation, the income from such operation was not sufficient to pay all of the operation and maintenance charges and it was necessary to secure Government reimbursable appropriations to supplement such payments. (Def. ex. 5-74, p. 3; def. ex. 1; def. ex. 27, p. 12).

b. The Saylor Permit

By resolution of January 21, 1942, plaintiff's Council, as a war measure, authorized the permitting of tribal land for the growing of long staple cotton.

On February 20, 1942, Roy Saylor contacted the superintendent of the Pima Agency and asked for a permit to plant 1,000 to 1,500 acres on a share-crop basis, the plaintiff to furnish the land and water and stand one-half the cost of the seed, the picking and marketing expense, and in return to receive one-half of the crop delivered at the gin. Mr. Saylor was to stand one half the cost of the seed, picking and marketing expense, but would stand all the expense of plowing, planting, cultivating, and irrigating, and in turn was to receive the other half of the crop delivered to the gin.

Saylor's proposal was approved by the Bureau of Indian Affairs on February 21, 1942. Saylor was given the "Go" signal; and on the following day, February 22, started plowing land to be seeded. Although work was carried forward on a two-shift basis, time would not permit the planting of the full acreage contemplated, and 770 acres was the amount seeded.

The permit was prepared and dated March 1, 1942, but was not accepted by the plaintiff's council until August 19, 1942, and then only after considerable wrangling and agitation on the part of the council to take over the crop as a tribal operation.

A crop was harvested in 1942; and 348 bales of cotton and 438,384 lbs. of cotton seed were sold. The cotton stalks were sold for pasture.

Mr. Saylor asked for a renewal of his permit for one year, which the council readily agreed to, provided Mr. Saylor would pay the water assessment. A new permit was issued which required Saylor to pay the water charges, for which he was to receive an additional 10 percent of the crop, making the division 60-40. The cotton was "stubbed", that is "volunteered", not planted, on 610 acres. The stand in the remaining 160 acres was so poor Mr. Saylor seeded 80 acres to guar and 80 acres to hegarí. 283 bales of cotton (net) were harvested in 1943, and seed and stalks were sold. 66,904 pounds of guar seed were sold. 122,652 pounds of hegarí were sold, and the stubble was sold for pasture.

(Def. ex. 5-74, pp. 5-7).

c. The War Relocation Authority Permits

The Memorandum of Understanding between the Director of the War Relocation Authority and the Secretary of the Interior, approved August 26, 1942, by Abe Fortas, Acting Secretary of the Interior, and August 31, 1942, by Dillon Myer, Director, War Relocation Authority, provided for the availability to the War Relocation Authority of certain lands administered by the Secretary of the Interior in the Gila River Indian Reservation, to be used by the War Relocation Authority for the relocation of approximately ten thousand evacuees evacuated from west coast military zones pursuant to the provisions of Executive Order No. 9066, dated February 19, 1942.

As a result of the aforementioned Memorandum of Understanding the Gila River Pima-Maricopa Indian Community granted the War Relocation Authority a land-use permit, approved October 8, 1942, for three years to October 7, 1945, to use for agricultural purposes 6,977 acres of tribal land under irrigation located in the South Side area, at an annual rental of \$20.00 per acre. Camp sites composed of both tribal and allotted lands were also provided, the tribal portions of which were 446.2 acres in camp site No. 1 and 850.2 acres in camp site No. 2, at an annual rental of \$1.00 per acre.

(Def. ex. 5-74, p. 8).

Findings 3 through 11 in Gila River Indian Community v. United States, Dockets 236-A and 236-B, 25 Ind. Cl. Comm. 250, 261-273, another case before this Commission between the same parties here present,

contain more detailed information about the War Relocation Authority, its permits to use plaintiff's lands, and the surrounding circumstances. They are here adopted by reference.

The permit for the approximately 6,977 acres of irrigated land on plaintiff's reservation used and occupied by the War Relocation Authority was designated Contract No. I-72-Ind-5849 and dated October 7, 1942.

Among other language it contained the following:

8. The War Relocation Authority shall pay the Superintendent of the Gila River Indian Reservation for the credit of the Gila River Pima-Maricopa Indian Community at the rate of \$20 per full calendar year for each acre of land subject to this agreement that is now irrigated. (Parcel A on the attached map.) This rental shall be paid quarterly at the end of each three-month period (September 30, December 31, March 31 and June 30).

In addition, the War Relocation Authority shall pay to the San Carlos Irrigation Project \$3.60 per acre per annum in advance for operation, maintenance, and water chartes [charges] for each acre in Parcel A.

9. The Secretary of the Interior shall furnish during each crop-year, four acre feet of water per acre for all lands now irrigated, if that amount of water is available for apportionment and distribution from the San Carlos project system. For this purpose such lands will share equally with all other irrigated Indian lands in the San Carlos Irrigation Project. Water in excess of four acre feet, if available, will be delivered in accordance with project regulations and at rates fixed annually by the Secretary of the Interior. In the event there should be a shortage in any year in the basic water supply contemplated by this memorandum, an equitable adjustment will be made in the rent for the land and water charges to be charged for that year.

* * * * *

The Superintendent of the Gila River Indian Reservation shall place the funds received from the War Relocation Authority under this permit in the Individual Indian Account to the Credit of the Gila River Pima-Maricopa Indian Community. From this account shall be paid, in behalf of all Indian lands both tribal and allotted within the San Carlos Irrigation Project, all operation, maintenance, and other water charges not covered by collections from water users or by reimbursable appropriations.

Of the remaining funds not to exceed \$6,000 per annum shall be available to the Council for the payment of the salaries of community officials and for other expenses of public business under applicable provisions of the community's constitution and charter. Said \$6,000 may be retained in the special I.I.M. account and disbursed by the superintendent upon the direction of the Treasurer and in accordance with resolutions adopted by the Council; or the Council by appropriate resolution may direct the superintendent from time to time to transfer to the bonded treasurer of the tribe for deposit in a national or state bank any or all of the said \$6,000, under applicable provisions of the constitution and charter.

The Council agrees that all balances remaining shall be utilized under applicable provisions of the constitution and charter for the conduct of community business such as the financing of tribal and cooperative economic enterprises, the enlargement of the revolving loan funds and the operation of other constructive programs to be developed by the Council in cooperation with officials of the Indian Service.

(Commission ex. 1, pp. 2, 4, 5).

d. Tribal Farming

On November 9, 1951, the Pima Community Farm, an enterprise of plaintiff, began its operations of the land formerly farmed by the Government on plaintiff's reservation.

The Pima Community Farm operated with considerable success when water was available in sufficient quantities to irrigate the full acreage farmed. In years of water shortage it was necessary to reduce the acreage farmed in order to have sufficient water to mature growing crops. During

the 17 years, 1952 through 1968, there were only 7 years when the apportionment of water exceeded 1.5 acre-feet (see Finding 23, above).

Notwithstanding the acute shortage of water during many of the years of operations, the Pima Community Farm made cash advances to the Gila River Pima-Maricopa Community Council of \$1,251,077.96 through April 1969; and the Tribal Council in turn paid \$1,395,710.03 on operation and maintenance costs, including the calendar year 1969. Since operation and maintenance payments by the tribe were made under protest, it was common practice for the Pima Community Farm to advance money to the Gila River Pima-Maricopa Community Council for such payments, who in turn paid them under protest. (Def. Ex. 27, page 14; cf. Finding 26, below, and see opinion for adjustment of 1952 figure).

All payments of operation and maintenance charges made from plaintiff's funds have been under plaintiff's protest, and in response to threats from defendant that it would refuse to deliver water to plaintiff's land if the payment were not made. In two cases of claimed delinquent payments, in 1937 and 1964, defendant did actually cut off water delivery to plaintiff's land. (Tr. 1970, pp. 28-29; pl. exs. 33, 35).

25. Indian lands in San Carlos Project assessed for operation and maintenance in bulk without regard to individual tracts. Assessments of operation and maintenance charges were made on the total allotted acreage and the total tribal acreage within the San Carlos Project from the time

Government cropping operations began until the Indian Works records were transferred from the San Carlos Irrigation Project Office in Coolidge, Arizona, in July of 1944, to the Pima Agency of the Bureau of Indian Affairs at Sacaton, Arizona. Thereafter, and until the Tribal Community farm took over the farming operation, in 1951, two bills were issued annually to the Government's "Cropping Operation," one for the acreage farmed, and one for all other project acreage. After the Tribal Community Farm took the farming operation over from the Government, only one bill was issued annually, to the tribe, for the total project acreage assessed. In 1959 records were first set up by tract, showing assessments and payments on allotted land and tribal land separately. (Def. Ex. 4-74, pp. 1-2).

26. Assessments and payments of Operation and Maintenance charges.

The assessments of operation and maintenance costs on plaintiff's lands under the San Carlos Project and the payments from various sources applied against said assessments are set out in the following table. The column "Payments Government Farming" includes the application of income from the War Relocation Authority permits and the Saylor sharecrop lease (Def. Ex. 3-74, adopted in part in Pl. Ex. 52; Tr. 1970, p. 77; def. ex. 5-74, pp. 4, 5, 8; pl. exs. 71, 73).

**Abstract Showing Acreage Assessed, Amount of Assessments, and Payments
Joint Works and Indian Works - San Carlos Irrigation Project - 1937 - 1973**

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Year	Joint Works			Indian Works			Payments Government Farming	Payments Tribal Farming	Payments Non-Indian Lessees	Payments Government Reimbursable
	Per acre Assessment	Acreage Assessed	Amount of Assessment	Per acre Assessment	Acreage Assessed	Amount of Assessment				
1937	\$ 0.60	50,000	\$ 30,000	\$ 1.80	32,192	\$ 57,945.60	\$ 21,947.40			\$ 35,998.20
1938	0.60	50,000	30,000	1.65	33,564	55,380.60	35,998.20			19,382.40
1939	0.60	50,000	30,000	2.10	35,260	74,048.10	48,856.80			25,191.30
1940	0.60	50,000	30,000	2.10	36,384	76,406.40	39,756.60			36,649.80
1941	0.60	50,000	30,000	2.10	36,384	76,406.40	40,815.30			35,591.10
1942	0.60	50,000	30,000	2.10	38,000	79,800.00	45,572.10			32,610.90
1943	0.60	50,000	30,000	2.10	40,147	84,308.70	68,182.70			60,727.80
1944	0.60	50,000	30,000	2.10	40,147	84,308.70	152,869.70			25,000.00
1945	0.60	50,000	30,000	2.10	40,147	84,308.70	91,235.30			0
1946	0.60	50,000	30,000	2.50	40,147	100,367.50	168,430.36			0
1947	0.60	50,000	30,000	2.50	40,147	100,367.50	9,011.10			0
1948	0.80	50,000	40,000	3.50	40,147	140,514.50	140,514.50			0
1949	0.80	50,000	40,000	3.50	40,147	140,514.50	134,505.00		\$ 1,161.83	0
1950	0.80	50,000	40,000	3.50	40,147	140,514.50	138,784.83		1,729.67	0
1951	0.80	50,000	40,000	3.50	40,147	140,514.50	138,784.83		1,729.67	0
1952	1.15	50,000	57,500	3.85	40,147	154,565.95	55,129.75	\$ 154,181.91	1,149.80	0
1953	1.15	50,000	57,500	3.85	41,224	158,712.40		158,712.40	1,754.91	0
1954	1.20	50,000	60,000	3.85	41,089	158,192.65		158,192.65	3,439.59	0
1955	1.20	50,000	60,000	3.85	41,089	158,192.65		158,192.65	3,111.80	0
1956	1.20	50,000	60,000	3.85	41,089	158,192.65		132,000.00	4,070.23	16,664.59
1957	1.20	50,000	60,000	3.85	40,793	157,053.05			4,014.09	153,038.96
1958	1.35	50,000	67,500	3.85	40,793	157,053.05			5,677.33	151,375.72
1959	1.35	50,000	67,500	3.85	40,793	157,053.05		50,000.00	8,288.74	98,764.31
1960	1.35	50,000	67,500	4.25	40,793	173,370.25			11,424.29	161,945.96
1961	1.45	50,000	72,500	4.25	40,982	174,173.50		60,813.00	13,453.33	99,907.17
1962	1.45	50,000	72,500	4.35	40,982	174,173.50		47,935.75	14,500.81	111,736.94
1963	1.45	50,000	72,500	4.35	40,982	174,173.50		49,068.98	16,466.88	110,637.64
1964	1.70	50,000	85,000	5.70	40,982	233,597.40		64,586.13	23,293.80	145,717.47
1965	1.70	50,000	85,000	5.70	40,982	233,597.40		64,586.13	27,672.62	141,338.65
1966	1.70	50,000	85,000	5.70	40,982	233,597.40		64,058.31	35,467.99	134,071.10
1967	1.80	50,000	90,000	5.70	40,982	233,597.40		64,058.31	39,811.14	129,727.95
1968	1.50	50,000	90,000	7.20	40,982	295,070.40		80,915.76	44,661.67	169,492.97
1969	2.10	50,000	105,000	7.50	40,982	307,365.00		88,408.05	48,078.15	170,878.00
1970	2.30	50,000	115,000	8.50	41,887	356,036.35		103,878.68	60,337.73	191,779.94
1971	2.30	50,000	115,000	8.50	41,887	356,036.35		13,682.28	48,108.21	294,245.86
1972	2.30	50,000	115,000	8.50	41,927	356,376.35		10,370.00	44,456.82	301,547.53
1973	3.00	50,000	150,000	11.00	41,987	461,852.93		76,303.37	131,164.77	254,354.79
Totals			<u>\$2,300,000</u>			<u>\$6,457,739.38</u>	<u>\$1,330,394.47</u>	<u>\$1,599,944.36</u>	<u>\$595,067.87</u>	<u>\$3,163,407.05</u>

Note: Joint work assessments included in Indian Work Assessment column.

27. Funds and accounts from which plaintiff's payments on operation and maintenance assessments were made.

a. Government Cropping

Proceeds of Government farming operations from 1935, when they commenced, to June 30, 1937, were placed in a Special Deposits account; and the \$21,947.40 shown in Finding 26 as paid on the operation and maintenance assessment for 1937 were disbursed from this account. The balance in the account, amounting to \$27,794.88 after payment of other expenses, was deposited in treasury account 14x7273.

Proceeds of Government farming from July 1, 1937, until the operation was terminated in 1951, except for \$2,604.08 disbursed in 1945, were deposited in account 14x7273, a "Proceeds of Labor" (IMPL) account in the U.S. Treasury; and the payments on operation and maintenance assessments were made therefrom.

A payment of \$2,604.08 was made in 1945 from proceeds of Government cropping operations that had been held in an account identified as "Special Deposits - West End Collections."

The following tabulation shows the defendant's gross collections from farming plaintiff's land, total expenditures, and expenditures for payment of operation and maintenance charges during the period 1936-1947. The record does not show collections, or expenditures other than those for San Carlos Project operation and maintenance, for the years 1948 and after.

<u>Year</u>	<u>Collections</u>	<u>Expenditures</u>	<u>O & M San Carlos Project</u>
** 1936-37	\$ 126,901.61	\$ 99,104.73	\$ 21,947.40
1938	151,134.12	172,513.21	35,998.20
1939	89,912.87	76,595.93	48,856.80
1940	126,114.84	131,163.27	39,756.60
1941	94,049.85	91,517.81	40,815.30
1942	119,206.10	124,446.41	47,189.10
1943	90,566.18	62,705.18	23,580.90
1944	106,520.19	104,821.30	
1945	(a) 90,482.57	(a) 73,172.03	(a) 2,604.08
* 1946	* 157,211.10	* 53,974.78	
1947	126,288.97	112,443.56	9,011.10
Totals	\$1,278,388.40	\$1,107,244.57	\$269,759.48

** Collections for 1936-37 placed in Special Deposits and disbursed therefrom.

(a) Includes \$2,604.08 disbursed from Special Deposits - West End collections.

* Expenditures for fiscal year 1946 do not include \$5,000 interest from Crop-ping funds allotted and spent. Collections include \$55,587.07 trans-ferred from Special Deposits - West End collections.

(Def. ex. 5-74, p. 4).

The fund "Special Deposits - West End Collections", from which the 1945 San Carlos Project operation and maintenance payment shown in the foregoing table was made, was established in 1935. (Def. ex. 5-74, p. 10).

b. Saylor Permit

The following table shows collections representing the tribal shares received under the Saylor sharecrop permit and expenditures therefrom for operation and maintenance charges of the San Carlos Project. These funds were deposited in a tribal "Individual Indian Money" account and disbursed therefrom. Mr. Saylor paid the amount assessed against the acres actually embraced in his lease for operation and maintenance charges

of the San Carlos Project for the year 1943, in the amount of \$1,617.00; this amount does not figure in the following table.

<u>Year</u>	<u>Collections</u>	<u>O & M San Carlos Project</u>
1943	\$29,319.14	\$14,295.10
1944	<u>23,028.21</u>	<u>37,549.81</u>
Totals	\$52,247.35	\$51,844.91

(Def. ex. 5-74, pp. 5-6. Amount of assessment by computation).

c. War Relocation Authority Permits

The table following shows the collections and disbursements from funds accruing to the tribe from the aforementioned permits. These funds were deposited in a tribal I.I.M. account and disbursed therefrom.

<u>Year</u>	<u>Collections</u>	<u>Expenditures</u>	<u>Expenditures Applicable to Payment of O & M Charges and other Tribal Obligations</u>			
			<u>O & M San Carlos Project</u>	<u>O & M Maricopa & Gila Xing</u>	<u>Cleaning Canals & Stk Tanks</u>	<u>All Other</u>
1943	\$ 36,672.96	\$ 31,640.70	\$ 30,306.70			\$1,334.00
1944	211,565.82	128,318.52	115,319.89		\$3,998.63	9,000.00
1945 (1)	142,415.96	95,979.60	88,631.22	\$2,476.82	486.38	6,000.00
						848.77
1946	38,678.46	172,773.27	168,430.36			1,500.00
						291.67
Totals	\$429,333.20	\$ 428,712.09	\$402,688.17	\$2,476.82	\$4,485.01	\$18,974.44

- (1) Includes \$2,011.80 transferred from Special Deposits - West End collections.
 (2) Miscellaneous, (4) Payments to Council for approving W.R.A. contract, (5) Well drilled west boundary of reservation.

(Def. ex. 5-74, p. 8).

The War Relocation Authority paid direct to the San Carlos Irrigation Project the operation and maintenance charges upon those irrigable lands of plaintiff which it held under permit. Such charges amounted to \$69,157.43. They were paid over and above the rentals payable to the plaintiff and do not figure in the foregoing table. (Commission ex. 1, pp. 6-7).

d. Tribal Farming

Revenues of the Pima Community Farm were deposited in the Individual Indian Money account G-24 from the time this enterprise took over the farming operations from the Government until 1956. Payments on operation and maintenance assessments against plaintiff's land were made from this account starting in 1952 and ending on March 2, 1956. Following the latter date, the Pima Community Farm revenues were deposited by plaintiff in its own commercial bank account and payments were made therefrom. (Pl. exs. 71-76; cf. Tr. 1970, pp. 27-29).

28. Plaintiff invests its money so as to receive highest available rate of interest. The practice of the plaintiff in managing its money since 1951 has been to deposit it in the Treasury of the United States in an "Individual Indian Money" account or in commercial banks, depending on where it can obtain the highest rate of interest. When deposited in the treasury, daily interest is paid on such money at the rate of 4 percent. Higher rates are paid by banks. When depositing its money in a commercial bank, plaintiff usually chooses

the one that pays the highest rate of interest. (Tr., April 18, 1974, pp. 24, 25, testimony of George A. Morrison).

29. Amounts of plaintiff's money applied by defendant to payment of San Carlos Project operation and maintenance assessments on Indian land not under lease and simple interest thereon at four percent to January 1, 1976.

The following table shows the payments of plaintiff's money applied against assessments as of the year in which the money was taken into Government custody for payment purposes, and interest on each such payment from July 1 of each year indicated until and including December 31, 1975.

YEAR	PAYMENTS	INTEREST AT 4%
1937	\$ 21,947.40	\$ 33,799.00
1938	35,998.20	53,997.30
1939	48,856.80	71,330.93
1940	39,756.60	56,454.37
1941	40,815.30	56,325.11
1942	45,572.10	61,066.61
1943	68,182.70	88,637.51
1944	152,869.70	192,615.82
1945	91,235.30	111,307.07
1946	168,430.36	198,747.82
1947	9,011.10	10,272.65
1948	140,514.50	154,565.95
1949	134,505.00	142,575.30
1950	138,784.83	141,560.53
1951	138,784.83	136,009.13
1952	209,311.66	196,752.96
1953	158,712.40	142,841.16
1954	158,192.65	136,045.68
1955	158,192.65	129,717.97
1956	132,000.00	102,960.00
1959	50,000.00	33,000.00
1961	60,813.00	35,271.54
1962	47,935.75	25,885.31
1963	49,068.98	24,534.49
1964	64,586.13	29,709.62
1965	64,586.13	27,126.17
1966	64,058.31	24,342.16
1967	64,058.31	21,779.83
1968	80,915.76	24,274.73
1969	88,408.05	22,986.09
1970	103,878.68	22,853.31
1971	13,682.28	2,462.81
1972	10,370.00	1,451.80
1973	76,303.37	7,630.34
Total	\$2,930,338.83	\$2,520,891.07


Margaret H. Pierce, Commissioner


John T. Vance, Commissioner


Brantley Blue, Commissioner