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**THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

GILA RIVER INDIAN COMMUNITY, a	)	No.
federally-recognized Indian tribe,	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
THE SKOUSEN FAMILY GRAVEL	)	<b>COMPLAINT</b>
OPERATIONS, L.L.C., THE SKOUSEN	)	
FAMILY TRUST, C.R. SKOUSEN, ELAINE	)	
SKOUSEN, F&L MATERIALS, L.L.C. f/k/a	)	
DIABLO SAND & GRAVEL, L.L.C., CPC	)	
SOUTHWEST MATERIALS, INC. d/b/a	)	
CALPORTLAND, and JOHN DOE	)	
CORPORATIONS 1 THROUGH 10,	)	
Defendants.	)	

This is an action brought by the Gila River Indian Community against defendants for their ongoing intentional and unlawful intrusion onto Community lands in the Blackwater area of the Gila River Indian Reservation near Coolidge, Arizona. Defendants' sand and gravel mining and related operations have been encroaching onto the Gila River Indian Reservation, causing damages to Community lands, cultural sites and the Gila River. The Community's Pima, who have occupied this area since time immemorial, are known as the

1 *Akimel O’otham*, or “River People,” and the Gila River is central to the Community’s culture  
2 and tradition. The Community seeks to recover damages against defendants, including  
3 appropriate remedial measures, as well as injunctive relief against any future intrusions or  
4 encroachments.

5  
6 **THE PARTIES**

7 1. Plaintiff, Gila River Indian Community (the “Community”), is a federally-  
8 recognized Indian tribe with its headquarters in Sacaton, Arizona, and occupies the Gila  
9 River Indian Reservation (“Reservation”) on lands located in Pinal and Maricopa Counties in  
10 Arizona.

11  
12 2. The portion of the Gila River Indian Reservation at issue in this lawsuit is  
13 lands held in trust by the United States of America for the benefit of the Community and are  
14 commonly referred to a “tribal trust lands.”

15  
16 3. Defendant The Skousen Family Gravel Operations, L.L.C. (“Skousen”), is an  
17 Arizona limited liability company with its principal place of business in Pinal County,  
18 Arizona, and may be served through C.R. Skousen, 15303 North Skousen Road, Coolidge,  
19 Arizona, 85228.

20  
21 4. Defendant Skousen Family Trust is a trust for whom the trustees are C.R.  
22 Skousen and Elaine Skousen.

23  
24 5. Defendants C.R. Skousen and Elaine Skousen are individuals and believed to  
25 be residents of Pinal County, Arizona.

1 6. Defendant F&L Materials, LLC (“F&L”), is an Arizona limited liability  
2 company with its principal place of business in Pinal County, Arizona, and may be served  
3 through Robert S. Porter, 1819 East Morten Avenue, Suite 160, Phoenix, Arizona 85020.

4 7. F&L was previously known as and operated as Diablo Sand & Gravel, L.L.C.,  
5 having changed its name to F&L Materials, LLC in 2015.  
6

7 8. Defendant CPC Southwest Materials, Inc. (“CalPortland”) does business as  
8 CalPortland and operates the Diablo Aggregate Plant at 15540 North Kenworthy Road in  
9 Coolidge, Arizona. CPC may be served through its registered agent, Registered Agent  
10 Solutions, Inc., 300 West Clarendon Avenue, Suite 230, Phoenix, Arizona 85013.  
11

12 9. Defendants John Doe Corporations 1 through 10 are entities and individuals  
13 conducting activities or previously conducting operations on the south half of Section 5,  
14 Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal  
15 County, Arizona and at a street address of 15540 North Kenworthy Road, Coolidge, Arizona,  
16 with those activities or operations encroaching onto the Reservation and causing damages to  
17 Community lands.  
18

19 **JURISDICTION AND VENUE**

20  
21 10. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331  
22 (federal question), 28 U.S.C. § 1362 (original jurisdiction over actions brought by Indian  
23 tribes under the Constitution, laws or treaties of the United States), and 28 U.S.C. § 1367  
24 (jurisdiction over supplemental claims). This Court has jurisdiction to grant a declaratory  
25 judgment pursuant to 28 U.S.C. § 2201 and injunctive relief pursuant to 28 U.S.C. § 2202.  
26

1 11. Venue is proper under 28 U.S.C. §§ 1391(b) because a substantial part of the  
2 events giving rise to the claim occurred in this District and also because the Community's  
3 tribal headquarters are located in this District.

4 **GENERAL ALLEGATIONS**

5  
6 12. In an Executive Order signed on August 31, 1876, President Ulysses S. Grant  
7 added certain lands to the Gila River Indian Reservation ("Reservation") for the use and  
8 occupancy of the Pima and Maricopa Indians, including the north half of section 5 of  
9 township 5 south, range 8 east of the Gila and Salt River Base and Meridian, located in Pinal  
10 County, Arizona.

11  
12 13. This lawsuit involves activities conducted by defendants on the *south* half of  
13 section 5, township 5 south, range 8 east (hereinafter referred to as the "Skousen Property"),  
14 which have encroached onto the Reservation to the north and east of the Skousen Property,  
15 and created an unlawful diversion of the low-flow channel of the Gila River.

16  
17 14. The Skousen Property is also known as 15540 North Kenworthy Road,  
18 Coolidge, County of Pinal, State of Arizona.

19  
20 15. Upon information and belief, defendant Skousen is the owner of the portion of  
21 the south half of section 5, township 5 south, range 8 east which borders the Reservation.

22  
23 16. Upon information and belief, defendants Skousen Family Trust, C.R. Skousen  
24 and Elaine Skousen are former owners of the Skousen Property and each owned an interest  
25 in the property when the encroachments and damages began.

26 17. Defendants CalPortland, F&L Materials and John Doe Corporations 1-10

1 conduct sand and gravel mining and other operations on the Skousen Property. These  
2 operations include creating and maintaining large sand and gravel mining pits and large  
3 mounds of sand and gravel.

4 18. These operations also include an old mining pit at the northeast corner of the  
5 Skousen Property that defendants use for dumping wastewater from operations conducted on  
6 the Skousen Property.  
7

8 19. Upon information and belief, the operations on the Skousen Property include,  
9 but are not limited to, manufacturing ready-mix concrete, operating an aggregate plant,  
10 mining sand and gravel, and hauling operations for products manufactured on the Skousen  
11 Property.  
12

13 20. In response to a concern that one or more of the defendants or their business  
14 invitees were driving haul trucks over Reservation lands on the north half of section 5, the  
15 Community learned that there were several areas in which operations at the Skousen  
16 Property had encroached, intruded upon and damaged the Reservation and the Gila River.  
17

18 21. In 2012, the Community met with Bob Skousen and Larry Farnsworth and  
19 explained that the activities on the Skousen property were encroaching onto the Community  
20 lands.  
21

22 22. Specifically, the matters discussed with Mr. Skousen and Mr. Farnsworth  
23 included the erosion on the Reservation caused by activities on the Skousen Property, the  
24 disturbance of fencing and fence posts, construction and use of roadways on the Reservation,  
25 maintaining mounds of gravel which extended onto the north half of section 5, and  
26

1 maintaining a small pond or lake on the Skousen Property which extended onto the north  
2 half of section 5.

3 23. Following the meeting in 2012, the activities on the Skousen property have  
4 *further* encroached onto the north half of section 5, damaging the Reservation and the Gila  
5 River, despite the fact that Mr. Skousen and Mr. Farnsworth knew of the encroachments.  
6

7 24. On October 21, 2014, at the Community's request, the Bureau of Land  
8 Management conducted a dependent resurvey of a portion of the Reservation boundary in  
9 Township 5 South, Range 8 East of the Gila and Salt River Meridian, State of Arizona.  
10

11 25. Consistent with the Community's assessment, the BLM survey confirmed  
12 numerous areas of encroachment and intrusion onto the Reservation, with the intrusions  
13 totaling approximately 2.415 acres.  
14

15 26. During its survey, the BLM set two posts on the Reservation near the  
16 boundary, which specify (on the posts) that the location of the center of section 5 is 33.0 feet  
17 away.  
18

19 27. The BLM was unable to set a post at the center of section 5 because of the  
20 proximity to a large open pit maintained on the Skousen Property.  
21

22 28. Lands immediately north of the center of section 5 are on the Reservation.

23 29. The BLM determined that the center of the section 5 is at latitude  
24 33°01'26.5785N and longitude 111°33'01.1921W.  
25

26 30. When plotted on an aerial map with Google Maps, the center of the section is  
currently on a large berm recently constructed by defendants and which clearly extends onto

1 the north half of section 5 and the Reservation:

2 Google Maps 33°01'26.6"N 111°33'01.2"W



14 31. While simple math suggests that the boundary line between the north and south  
15 halves of section 5 is well over 20 feet south of the two BLM survey posts, the berm  
16 defendants' recently constructed is less than 10 feet from the BLM posts.

17  
18 32. Defendants constructed the new berm without any notice to the Community.

19 33. The new berm was constructed on top of and destroyed what remained of an  
20 old barbed-wire fence that, while likely intended to be placed on the Reservation boundary  
21 when it was constructed, was actually located on the north half of section 5.

22  
23 34. Defendants also placed "no trespassing" signs on the new berm, but those signs  
24 are actually on the Reservation.

25 35. Operations conducted by defendants on the Skousen Property have encroached  
26

1 well beyond the north boundary of the property onto the Reservation and the encroachments  
2 include berms, piles of sand and gravel, waste, and roads.

3 36. The mining pit operations have altered the natural flow of surface water on the  
4 Reservation and have caused and are causing erosion damages on the Reservation.  
5

6 37. These encroachments, including the erosion caused by defendants, are also  
7 threatening and have damaged Hohokam cultural sites.

8 38. From time to time, defendants using the Skousen Property have also  
9 constructed and used roads on Reservation lands.  
10

11 39. Another large intrusion onto the Reservation is the “old pit” pond, which  
12 directly impedes the low-flow channel of the Gila River and is obstructing a planned  
13 managed aquifer recharge site on the Gila River.

14 40. In its survey, the BLM attempted to locate the northeast corner of the south  
15 half of section 5, which it determined to be at latitude 33°01’26.8255N and longitude  
16 111°32’30.2554”W.  
17

18 41. When plotted on an aerial map with Google Maps, the northeast corner of the  
19 south half of section 5 is, for lack of a better description, under water:  
20  
21  
22  
23  
24  
25  
26



1 Google Maps 33°01'26.8"N 111°32'30.3"W



13 42. The BLM was unable to set a permanent survey post at the northeast corner of  
14 the south half of section 5 because, according to the BLM, the point “falls within reservoir in  
15 Gila River flood plain.”

16 43. The old pit pond is very large, almost the size of a small lake, and encroaches  
17 well beyond the north and east boundaries of the Skousen Property and onto the Reservation.

18 44. The old pit pond diverts the waters of the Gila River on the east boundary of  
19 the Skousen Property and returns some of those waters on the north boundary, which is not  
20 the natural flow of the Gila River.  
21

22 45. Because the old pit pond is several feet lower than the low-flow channel of the  
23 Gila River, the natural flow of the Gila River is now artificially diverted into the old pit pond  
24 any time water flows in the Gila River.  
25  
26

1 46. Rights to the waters of the Gila River were determined under the 1935 decree  
2 entered in the *Globe Equity No. 59* proceedings (the “Gila Decree”), administered by this  
3 Court, which identifies those who have rights to divert and use Gila River water.

4 47. Although defendants are diverting the flows of the Gila River into the old pit  
5 pond, upon information and belief, none of the defendants possess Gila Decree rights to  
6 divert and use the waters of the Gila River on the south half of Section 5, Township 5 South,  
7 Range 8 East.

8 48. Defendants’ interference with the low-flow channel of the Gila River is  
9 causing damages to the Community, including a delay in a planned managed aquifer  
10 recharge project upstream of the Skousen Property on the Gila River.

11 49. Because the old pit pond sits several feet lower than the low-flow channel of  
12 the Gila River, the natural surface flow of the Gila River is diverted into the pond when there  
13 are flows on the Gila River.

14 50. In addition to a certain amount of wastewater being dumped onto the Gila  
15 River, defendants have also dumped waste materials from their operations into the Gila  
16 River.

17 51. None of the defendants possess a license to conduct activities on the  
18 Reservation.

19 52. None of the defendants are parties to a lease agreement or other written  
20 authorization to use any lands within the Reservation.  
21  
22  
23  
24  
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26

**COUNT 1 – TRESPASS**

1  
2 53. The Community realleges each of the preceding paragraphs as if fully  
3 incorporated herein.

4 54. For an unknown time period and continuing through the present, defendants  
5 have willfully occupied and used, without any legal right or authorization, Reservation lands  
6 for their activities conducted on the Skousen Property.

7  
8 55. As a result, defendants have committed and are now committing a continuing  
9 trespass on the Reservation, which are lands subject to federal supervision, authority and  
10 restrictions against alienation.

11  
12 56. As a direct and proximate result of defendants' activities, the Community has  
13 suffered damages in amounts to be determined at trial, and will continue to do so until the  
14 trespass is remedied.

**COUNT II – EJECTMENT**

15  
16  
17 57. The Community realleges each of the preceding paragraphs as if fully  
18 incorporated herein.

19 58. Because of defendants' unlawful continuing occupancy of the Reservation, the  
20 Community seeks an order ejecting defendants from the Reservation and permanently  
21 enjoining them from occupying, encroaching upon, causing physical damages to or  
22 otherwise disturbing Reservation lands.  
23

**COUNT III – VIOLATION OF THE GILA DECREE**

24  
25  
26 59. The Community realleges each of the preceding paragraphs as if fully

1 incorporated herein.

2 60. Defendants are diverting and storing the waters of the Gila River without a  
3 right to do so under the 1935 Gila Decree.

4 61. The Skousen Property is not an authorized point of diversion on the Gila River  
5 under the Gila Decree.

6 62. Because of the unauthorized diversion of the Gila River, the Community seeks  
7 a declaration that defendants are violating the Gila Decree and injunctive relief prohibiting  
8 defendants from unlawfully diverting the Gila River and requiring defendants to restore the  
9 Gila River to its natural condition.  
10  
11

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff Gila River Indian Community prays for the following relief:

14 1. Judgment against defendants for money damages caused by defendants  
15 unauthorized and continuing use, occupancy, and disturbance of the Reservation including,  
16 but not limited to, expenses of restoring and remediating damaged and degraded property;

17 2. Because defendants have been on notice that their activities are trespassing and  
18 encroaching on the Reservation, judgment against defendants for punitive or exemplary  
19 damages.  
20

21 3. For pre- and post judgment interest on any judgment as permitted by law.

22 4. For an order ejecting defendants from the Reservation and permanently  
23 prohibiting defendants from occupying, using or encroaching upon the Reservation.  
24

25 5. For a permanent injunction prohibiting defendants from encroaching, intruding  
26

1 upon or damaging Reservation lands or interfering with the natural flows of the Gila River.

2 6. For injunctive relief requiring defendants to restore Reservation lands and the  
3 Gila River to their condition prior to the defendants' trespass and encroachment.

4 7. An award of all recoverable costs, together with such other and further relief as  
5 the interests of justice and equity may require.  
6

7 DATED this 5th day of May, 2017.

8 GILA RIVER INDIAN COMMUNITY

9 By s/ Thomas L. Murphy  
10 Linus Everling  
11 Thomas L. Murphy

12 *Attorneys for Plaintiff Gila River Indian*  
13 *Community*