

KT Client Success

Big Win in Water Rights Fight

The [Kilpatrick Townsend Native American Team](#) achieved a significant victory for longtime firm client the [Ak-Chin Indian Community](#) (Community), resulting in a judgment protecting Ak-Chin's federal water rights. After off-reservation groundwater pumping imperiled the water supply that Ak-Chin used for farming and to meet other water needs, Ak-Chin — one of the largest U.S. farming communities — became the first Indian tribe to achieve a congressionally approved settlement of its water rights. Under that settlement, as modified through subsequent legislation in 1984, Ak-Chin has a permanent right to receive 75,000 acre-feet (AF) of water from the Central Arizona Project (CAP) every year, and an additional 10,000 AF in any year when sufficient surface water is available. Ak-Chin's understanding of this agreement was that whenever any other entity in Arizona with rights to Colorado River/CAP water failed to fully exercise its rights, the unused water would be available to Ak-Chin.

For many years, Ak-Chin routinely ordered and received the full 85,000 AF of water provided under its settlement legislation and a related water delivery contract with the U.S. But in recent years, the Central Arizona Water Conservation Districts (CAWCD), the operator of the CAP and the entity responsible for delivering water on behalf of the U.S., began to argue that it, not Ak-Chin, had paramount rights to water that went unused by the entity with first rights to it. The situation came to a head in 2016, when CAWCD publicly declared that it would no longer deliver more than 75,000 AF of water to Ak-Chin.

Ak-Chin immediately reached out to D.C. Partner [Catherine Munson](#) for help. Catherine enlisted Augusta Partner [Mark Reeves](#) to help assess the Community's rights, formulate a strategy for ensuring continued water deliveries, and to work alongside the United States. When it became clear that the dispute would not be resolved without litigation, the Community filed suit in federal court in Arizona in March 2017. Catherine and Mark, with the help of D.C. Partner [Charlie Galbraith](#), Seattle Associate [Rachel Saimons](#), and D.C. Paralegal **Shawn Chick**, filed a motion for preliminary injunction that resulted in CAWCD agreeing to continue full water deliveries to Ak-Chin while the lawsuit was pending. The United States also took an active role in the litigation by filing claims against CAWCD in support of Ak-Chin.

Following a summary judgment hearing, the district court issued an order resolving all issues in the case in Ak-Chin's favor. The court rejected CAWCD's efforts to limit the potential sources of Ak-Chin's water and to cut in line to make its own rights superior to the Community's. This order should ensure that Ak-Chin continues to receive its full water rights now and in the future.

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