The American Indian Law Center, Inc., the UNM Centennial Library of Science and Engineering, and the Utton Transboundary Resources Center Ombudsman Program, together with the University of Idaho College of Law (collectively referred to as the “Organizers”), are currently working to create an e-repository of documents for all Indian water rights settlements in the United States. In 2008, the Utton Center organized and hosted a conference to celebrate the centennial of the U.S. Supreme Court decision in *Winters v. United States*. Participants from all over the United States gathered in Albuquerque to discuss the impact of that seminal decision, in 1908 and now, on Indian water rights. Conference attendees indicated the need for a centralized repository of information about all Indian water rights settlements, both existing and in progress. Professor Barbara Cosens followed up on the idea, and, with help from students in her Water Policy class at the University of Idaho College of Law, began gathering documents on the various existing settlements.

**Project Purpose**

To date, approximately thirty settlements have resulted in acts of Congress and another twenty-one settlements are in various stages of negotiation or pending legislation. The purpose of the e-repository is to provide online access to the various documents pertaining to each Indian water rights settlement, such as agreements between parties, legislation, court orders and decrees, public outreach and information regarding implementation. Due to the variety of creative approaches used to resolve water disputes, the project will be of value to anyone trying to address transboundary water issues. The Organizers are committed to designing the project and collecting materials in a manner respectful of the needs and desires of each Tribe, Nation or Pueblo.

In order to protect tribal privacy, the Organizers will obtain tribal permission for each document to be posted, except state and federal legislation. The e-repository will be hosted by the University of New Mexico libraries and will give the public ready access to the resources necessary to examine patterns and trends in Indian water rights settlements. Interested persons will be able to view national trends, compare regional similarities and differences, or focus on specific aspects of any particular settlement. The documents will be accessible through the web using either a map-based website or search engines such as Google or Bing.

**Project Status**

The Organizers’ first step is to collect information and to obtain permissions. This gathering phase is ongoing, following in the footsteps of the work already accomplished by Professor Cosens and her students. The second step will be to post online the documents for which permission has been obtained.

Certain types of documents are common to all Indian water rights settlements. The settlements generally involve some type of contract, compact or agreement between the Indian Tribe/Nation/Pueblo and other parties. Each settlement implicates some type of legislation, either state or federal, as well as some tribal resolution. In most cases, litigation is the impetus for conducting negotiations that lead to Indian water rights settlements. Often, this litigation is a water rights adjudication being conducted in State or Federal court. Court orders related
to a settlement will be available to users of the database. The database will eventually also include background and secondary materials, such as interviews of participants in the various settlements, federal laws of general applicability, and influential court decisions, treatises and other relevant studies.

The Organizers possess incomplete sets of documents for twenty-one settlements and they are still collecting information. Documents are evaluated and classified to identify the different categories to be included in the e-repository. As permissions are obtained from participants to each settlement, the documents will be analyzed for metadata and made available online. Completion of this phase depends on funding.

Once a web interface has been designed, the Organizers will make the documents available in PDF format through links. After the metadata has been prepared and the web design is completed, the project will be open to the public through the Utton Center website. If a user chooses to access project documents through the website, he or she will first see a map of the United States. This map, a Google Earth type of visual, will allow users to refine their search by geographic area, that is, by region, state, or individual tribal lands. The user will be able to search, from any of these views, for all documents related to that geographic area, or to select only specific types of documents.

Technical issues and funding shortages are the biggest challenges for the project right now. Lack of personnel is slowing the data collection and metadata coding processes. While obtaining documents is mostly just time-consuming, the larger vision, to create a comprehensive repository of a wide range of information related to Indian water rights settlements, is currently impeded by lack of funding. To address these challenges, the Utton Center has applied for a grant from the U.S. Bureau of Reclamation, which is currently pending. The Center is also pursuing other sources of funding.

**Benefits of the Project**

This project, as envisioned, has the potential to provide great assistance to many people around the United States. Its future usefulness justifies the expenses associated with setting up the repository. Given New Mexico’s diverse American Indian population, it is particularly appropriate that New Mexico entities have embraced this initiative. With adequate support, this project could be accessible within one year. Without support, it could take much longer.

The Organizers believe that Indian tribes will be the primary, but by no means the only, beneficiary of the project. The database will be a tool for research into previous settlements, thus providing guidance as to structures or actions most likely to result in a successful settlement that can pass Congress and that can be implemented.

Although getting an Indian water rights settlement through Congress feels like an end unto itself to the participants, it is, in many ways, only the first step of the process. Implementation of a settlement is the next true test. In a number of instances, parties have had to go back to Congress to modify an existing settlement to conform to actual needs on the ground. The Organizers intend to collect and post information that will allow Tribes to benefit from the settlement experience of others. In a time of financial stress nationwide, the Organizers envision that this tool will also allow current settlement participants to make better use of their limited resources to achieve successful implementation.

The e-repository can also be a tool to educate participants in adjudications in which Indian Tribes, Nations or Pueblos are involved. Such a tool could be particularly helpful in New Mexico, where four Indian water rights settlements have been approved by Congress. The oldest of these, the Jicarilla Apache Tribe’s water rights settlement, passed in 1992, has been successfully implemented, and benefits many New Mexicans, whether they are American Indian or not. The Navajo Nation water rights settlement is going through the processes required by its ratifying act (i.e., entry of a partial final decree in the San Juan River adjudication and building of the Navajo-Gallup Pipeline) in order for the settlement to become final. The two settlements most recently approved by Congress, the Aamodt settlement and the Taos settlement, which were both signed into law on December 8, 2010, must be reconciled with the 2010 Act and other necessary documents as a prerequisite to the partial final decree phase of the implementation process.

The e-repository could also assist other Pueblos in New Mexico that are in various stages of trying to obtain their own water rights settlements. These include the Pueblos of Jemez, Zia and Santa Ana on the Rio Jemez, and the Pueblos of Santa Clara and Ohkay Owingeh on the Santa Cruz/Truchas stream system. The Organizers hope that
the experience of other Indian groups throughout the
country can benefit participants at all stages of adjudica-
tion and settlement of Indian water rights.

Finally, there is a historical dimension to this project
that should not be understated. As time passes, many of
the principal figures involved in the settlements pass on,
leaving little or no detailed information about how each
specific settlement unfolded. Thus, as a separate, later
phase of the project, the Organizers plan to continue to
interview willing key players for each settlement to pre-
serve information that will otherwise be lost to future
generations. The Organizers also intend to interview rep-
resentatives for stakeholders such as the Indian Nation/
Tribe/Pueblo, the United States, the State, and other key
persons identified by the major participants. These key
persons may include mediators, judges, or any other per-
son who is identified has having played a decisive
role that the settlement could not have occurred with-
out them. While interviews may be conducted in writing
at first, the Organizers hope to eventually conduct live
interviews, to be kept in a special archive section of the
project.

Once the proposed American Indian Water Rights Settle-
ment Repository is available online, it will provide access
to comprehensive information, while at the same time al-
lowing users to tailor their research of Indian water rights
settlements to fit their particular need. The project is nec-
essary to fill a void. No one has ever attempted to gather
all information pertaining to all Indian water rights settle-
ments in the same place at the same time. As the climate
changes, water issues will increasingly be at the forefront
of national attention. This tool has the potential to help
users solve local problems by learning from experiences
that occurred thousands of miles away. The living library
portion of the project will preserve stories from partici-
pants who crafted settlements, and will hopefully provide
insight to future generations as to why certain things were
done the way they were. The Organizers should be com-
mented for undertaking this project, and they should also
be funded in order to bring the project to full fruition.

Endnotes
1 Dominique M. Work is a 2011 graduate from the UNM
   School of Law. She graduated cum laude, and received
   the school’s Natural Resources Certificate. Ms. Work cur-
   rently is a Staff Attorney for the New Mexico Interstate
   Stream Commission. The views expressed in this article
   are the personal views of the author and not the views of
   the Interstate Stream Commission.
2 The American Indian Law Center is the oldest Indian-
   operated legal and public policy organization in the coun-
try. Its mission is to provide assistance to tribal organiza-
tions. The UNM Centennial Library is a branch of the
University of New Mexico libraries. It is specialized in
sciences and houses a collection on water resources. The
Utton Center was created in 2001 to carry on the ideas
of the late Professor Albert E. Utton for transboundary
and international cooperation in water and other natural
resource matters. Both the Centennial Library and the
Utton Center are part of the University of New Mexico.
3 207 U.S. 564 (1908).
4 For instance, the McCarran Amendment, 43 U.S.C. §
   666.
5 Such as the Winters decision mentioned above, and the
   seminal decision in Arizona v. California, 373 U.S. 546
   (1963), which brought about the concept of Practically
   Irrigable Acreage (PIA) as the measure of Indian water
   rights.
6 http://uttoncenter.unm.edu.
7 The Jicarilla Indian Tribe Water Rights Settlement Act
   though the accurate name is now the Jicarilla Apache Na-
   tion, the Nation was called the Jicarilla Apache Tribe at
   the time the act was passed. Thus, although the name of
   the nation appears to be incorrect, the actual name of the
   act is correct.
8 The Northwestern New Mexico Rural Water Projects
   Act, Title X, Subtitle B of the Omnibus Public Land
   (2009).
9 The Claims Resettlement Act of 2010, Pub. L. 111-291,
10 Tim Vollmann died on December 2, 2010. Through
    his position as Regional Solicitor, his involvement in the
    Jicarilla Water Rights Settlement, and his personal wis-
    dom, Mr. Vollmann had a wealth of knowledge to share
    with the Indian water law community. Sadly, there are
    too many instances where important information about
    the development of Indian water rights settlement has
    been lost because of the untimely death of key partici-
    pants. The historic component of this project seeks to
    preserve this type of knowledge and wisdom for future
    generations.