

**Testimony of Utah Lt. Governor Spencer Cox before the Senate  
Committee on Indian Affairs regarding Senate Bill 664**

**December 6, 2017**

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Mr. Chairman and members of the Committee, thank you for the opportunity to testify today and to highlight an important example of two groups with sometimes differing interests coming together to find a solution to a critical challenge.

Utah is one of the driest states in the Nation. Water is our lifeblood. Generally, water rights in Utah may only be created under state law. We recognize, however, that properly-established, federally-reserved water rights, particularly tribal rights, are an important exception to that rule. We have committed to use negotiation rather than litigation as our preferred method of resolving reserved right claims. Such negotiations require commitment, patience, and trust.

We have developed a high level of trust with the Navajo Nation as we have worked together for nearly 15 years to develop a reasonable and equitable resolution of water right claims for the portion of the Nation located within Utah's borders. This settlement is tremendously important to Utah because it fits within the structure of the Colorado River compacts, protects state-based water rights, and improves life for Utah Navajos.

**With these facts in mind, we wholeheartedly support Senator Hatch's Senate Bill 664 which embodies the Utah/Navajo Settlement and we ask you to quickly pass the bill.**

The following principles guided Utah in its settlement discussions with the Navajo Nation:

- Protecting existing water right commitments, including those dictated by the structure and language of the Colorado River compacts, the Law of the Colorado River generally, and water rights established under Utah law;

- Providing finality with respect to the amount of Utah's Colorado River allocation available for appropriation under Utah law;
- Improving economic opportunities and quality of life for citizens of the Nation who live in Utah, many of whom lack basic necessities; including safe drinking water and water for agriculture and industry,
- Respecting neighboring sovereigns; both the Nation and sister states; and
- Promoting positive outcomes from negotiation which would be unattainable through litigation;

The agreement Senate Bill 664 embodies was initially negotiated between Utah and the Nation. Confident a settlement could be achieved, in 2007 the sovereigns petitioned the Department of Interior for the appointment of a federal negotiating team. The Department appointed a team in 2013. Review of the settlement by members of that team has resulted in helpful input.

The Utah Legislature expressed support for the settlement by passing legislation in 2012 which established a water right settlement fund for Utah's monetary contribution toward the settlement. The State legislature has put \$2 million in that fund with the understanding that additional, necessary funds will come from the State's "rainy-day" fund.

We recognize funding for this settlement must compete for limited federal resources with other pressing needs. Nevertheless, we believe the settlement is essential for success of the Navajo Nation in Utah. The State and the Nation agree that the contemplated expenditure of about \$200M of federal funds to achieve the settlement is both justified and appropriate. Both parties also agree that the appropriate State share for the settlement is \$8M and Utah proposes to contribute that amount.

The settlement fits within the structure of the Colorado River compacts and protects existing Utah water right commitments. It also ensures the United States' compliance with its trust obligation to the Navajo Nation and provides important, related waivers of liability regarding water rights and past water resource development. The settlement is fair, reasonable, and equitable to all parties. It benefits Utah, the Navajo Nation, and all states in the Colorado River Basin.

**This bill, and the process that led to it, is the essence of cooperative federalism. The state and tribal governments, with input and assistance from the federal government, have worked together to find an equitable solution to pressing challenges. This is the kind of agreement we should celebrate and try to do more often. Again, we recommend the Committee act favorably on this bill.**

And with that Mr. Chairman, I'm happy to answer any questions.

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