

**TESTIMONY
of
SENATOR HARRY REID**

**Hearing on S. 462, the Shoshone-Paiute Tribes of Duck Valley
Water Settlement Act of 2007**

**Before the U.S. Senate Committee on Indian Affairs
United States Senate
Washington, DC**

April 26, 2007

Mr. Chairman, Vice Chairman, and Members of the Committee. Good morning.

It is a pleasure to be here, in this hearing room. As a former member of this distinguished committee, I've spent many hours here working on difficult problems.

Serving on this Committee with my good friend and the former Committee Chairman, Senator Inouye, was a special honor. And it allowed me to serve some of Nevada's most deserving and vulnerable residents, which is something I am pleased and proud to continue to do.

Thank you for inviting me to testify on this bill.

Senator John Ensign and I sponsored the Shoshone-Paiute Tribes of Duck Valley Water Settlement Act because we know it will benefit the Tribes of Duck Valley, the ranchers and upstream water users, and the residents of the northern Nevada and southern Idaho region.

Indeed, our bill to ratify the agreement reached by parties to Nevada's East Fork of the Owyhee River adjudication is supported by the Tribe, the State of Nevada and all of the affected individual water users.

The Elko County Board of Commissioners – where the Reservation is located – supports the bill. And the Nevada State legislators who represent this area in Elko County – Assemblyman John Carpenter and Senator Dean Rhoads – support the bill.

While our bill only addresses the Owyhee River litigation, both of my colleagues from the State of Idaho, Senators Craig and Crapo, support the agreement to be ratified by this bill and support the Tribe in resolving its claims against the United States. In a spirit of collaboration, Senator Ensign and I are working with our colleagues from Idaho on an amendment that would limit tribal water marketing. We expect to introduce the amendment during the Committee's mark-up of S. 462. The Nevada and Idaho delegations will continue to work closely to pass this legislation that helps our constituents.

Mr. Chairman, this legislation reflects years of hard work and compromise by Nevadans on matters that affect their livelihoods and cultures. They have worked closely with us to create a bill that resolves one of the last tribal water rights disputes in Nevada.

I strongly support this bill because

- It brings certainty to water rights held by the Tribes, the family farmers and ranchers, and the State;
- It resolves the tribal claims against the United States for its failure to fully protect the Tribe's water rights and natural resources;
- And it ends nearly 2 decades of litigation and negotiations.

Briefly, here is how these goals would be accomplished:

First, the bill would approve, ratify, and confirm the negotiated agreement that quantifies the various types of water rights held by the Tribe and the upstream water users. The State of Nevada and the Tribe will administer and enforce these rights.

It is important to resolve the water rights dispute because it will allow farmers and ranchers to determine how much surface water they can use for crops and grazing. They will know how much stored water they have and can use for irrigation and domestic use under drought conditions. The gauges, dam and irrigation canals will be rehabilitated or replaced to improve irrigation and increase irrigable acreage in one of Nevada's important agricultural areas.

Second, the bill will settle the Tribes' long-standing claims against the United States. As a result of the Bureau of Reclamation's Owyhee Irrigation Project in the 1930s and the Bureau of Indian Affairs' Duck Valley Irrigation Project during the same time, the Tribe's salmon and steelhead trout runs and fish stock were destroyed. The Tribe relied on these runs for food, their local economy, and cultural uses.

Further, because the United States failed to defend the Tribe's water rights when some of Nevada's early settlers arrived along the Owyhee River, the Tribe lost water rights to support their fishing economy, ranches, and farms.

All of the Tribe's claims against the United States in the Owyhee River litigation will be settled by this legislation. The bill would authorize a \$60 million settlement so the Tribe could develop their water rights.

The Tribe calculates the harm caused by the federal government at a much higher level than the bill's \$60 million figure that Senator Ensign and I propose. The Department of Interior, however, recently re-evaluated the federal liability for these tribal claims. While the Department proposed a \$40 million figure during negotiations, the Department most recently, and without explanation, valued the claims at less than \$10 million. Both proposals are significantly less than the Senate-proposed \$60 million

figure. Senator Ensign and I disagree with the Department's most recent assessment and stand by our original proposal of \$60 million.

While the United States can never fully compensate the Tribes for their loss, I appreciate the Tribes' willingness to accept the proposed settlement figure. Just as the Tribes have compromised, I hope that the Department of Interior and this Administration will work with me and Senator Ensign to address their concerns with the bill and gain their support. It is time to end to this painful part of our sovereign-to-sovereign relationship.

Mr. Chairman, I appreciate this Committee's timely consideration of this bill.

Without Congressional action, the Tribe, the State and the affected individuals would have to resume costly litigation. The Tribe, farmers and ranchers would not be able to manage their businesses efficiently without knowing their surface and storage water rights. The Wild Horse Reservoir, frequented by outdoor enthusiasts and fishermen, would not be guaranteed sufficient water for their use and enjoyment. And the Tribe would not be able to address their housing and economic development needs without a settlement that provides funds for water and irrigation infrastructure development.

This bill brings certainty to those individuals and communities with water rights and finality to the parties of a nearly 20-year adjudication. Senator Ensign and I are proud to support the efforts of our constituents in concluding the Owyhee River adjudication.

Thank you for the opportunity to join you again today. I look forward to working with the members of this Committee to facilitate the bill's approval and passage in the U.S. Senate.