

**STATEMENT
OF
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ASSISTANT SECRETARY FOR INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
AT THE HEARING
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
ON
S. 958
A BILL TO PROVIDE FOR THE USE AND DISTRIBUTION OF THE FUNDS AWARDED
TO THE WESTERN SHOSHONE IDENTIFIABLE GROUP
UNDER INDIAN CLAIMS COMMISSION
DOCKET NUMBERS 326-A-1, 326-A-3, 326-K, AND FOR OTHER PURPOSES."**

August 2, 2002

Good morning, Mr. Chairman and Members of the Committee. Thank you for the opportunity to present the views of the Department of the Interior on S. 958, a bill entitled "The Western Shoshone Claims Distribution Act."

The distribution of the Western Shoshone judgment funds is a long-standing issue that needs to be settled. The judgment funds stem from two claims that were filed by the Te-Moak Bands of Western Shoshone in the Indian Claims Commission in 1951. One is an aboriginal land claim that was concluded in 1979 in Docket 326-K for \$26.1 million. The other is an accounting claim. Several issues in the accounting claim were handled separately and resulted in two awards. The first award in the accounting claim was for approximately \$823,000, and Congress appropriated funds to pay the claim in 1992. The second award was for \$29,000, and funds were appropriated in 1995 to pay the claim. The accounting claims were in Dockets 326-A-1 and 326-A-3.

Since 1980, numerous attempts have been made to reach agreement on the disposition of the Western Shoshone judgment funds. The most recent attempt began in March 1998, the Western Shoshone Steering Committee (WSSC), which is composed of individuals that are tribal members at various reservations in Nevada. With the approval of the Te-Moak Tribal Council, the WSSC has worked over the past four years investigating if the Western Shoshone people were in favor of a judgment fund distribution.

Since 1980, when the BIA held its first Hearing of Record on the distribution of the land claims judgment funds, a large segment of the Western Shoshone people have indicated

that they are in favor of the judgment fund distribution. In the meantime, it's important to note that the tribal councils of the four successor Western Shoshone tribes (Te-Moak, Ely, Duckwater and Yomba) have mostly opposed the distribution of the judgment funds because they wanted the Western Shoshone aboriginal lands returned. Although the tribal governments were unanimous in their opposition in the early 1990's, since 1997, three of the four tribal councils have modified their position to support the distribution of the judgment funds.

The Te-Moak Tribal Council enacted Resolution No. 97-TM-10 on March 6, 1997, adopting a plan for the distribution of these funds and requested the Department to support it. That resolution was rescinded by the next tribal council in the summer of 2000, but the current tribal council rescinded that action in January of this year and reinstated the 1997 resolution. The Duckwater Shoshone Tribal Council enacted Resolution No. 98-D-12 on March 18, 1998, supporting the Western Shoshone claims distribution proposal. On March 10, 1999, they enacted Resolution No. 99-D-07 reaffirming the earlier resolution supporting the Western Shoshone Claims distribution proposal. The Ely Tribal Council enacted Resolution No. 2001-EST-44 on October 9, 2001, supporting S. 958 and H.R. 2851. We have been advised that the Yomba Tribal Council continues to oppose the distribution. Several other tribes with enrolled tribal members that would be eligible to share in the judgment fund distribution under S. 958 have also enacted resolutions supporting the distribution. Those tribes are Duck Valley, Fallon and Fort McDermitt. The Shoshone-Paiute Tribal Business Council of Duck Valley withdrew its support of S. 958 by Resolution No. 2002-SPR-012, dated November 13, 2001. However, the Western Shoshones of Duck Valley continue to support the bill.

We support the enactment of S. 958 because we believe that it reflects the wishes of the vast majority of the Western Shoshone people. We are also pleased that three of the four successor tribes have expressed their support of the distribution, as well as two other tribes with a significant number of tribal members of Western Shoshone descent.

Section 2 of S. 958 proposes to distribute the Western Shoshone land claims funds that were awarded in Docket 326-K, one hundred percent (100%) per capita to approximately 6,500 individuals who have at least one-quarter (1/4) degree of Western Shoshone Blood. The current balance of this fund, including interest, is \$137,286,774. This section appears to be in accord with the wishes of the Western Shoshone people.

Section 3 proposes to use the principal portion of the Western Shoshone accounting claims funds awarded in Dockets 326-A-1 and 326-A-3 for a non-expendable Trust Fund. The interest and investment income will be available for educational grants and other forms of educational assistance to individual Western Shoshone members that are enrolled under Section 2 of this Act, and to their lineal descendants. The principal fund totals \$754,136. The interest fund totals \$591,845. This section appears to be in accord with the wishes of the Western Shoshone people.

We understand that many of the beneficiaries of this treaty continue to believe in their rights under the Treaty of Ruby Valley and this subsection acts as a savings clause for whatever rights remain in effect. We are concerned that some tribes or individuals may believe that Article 5 of the Treaty (land provisions) remains in effect. To be safe, the clause should read, "Receipt of a share of the funds under this subsection shall not alter any treaty rights, or the final decisions of the Federal Courts regarding those rights, pursuant to the "1863 Treaty of Ruby Valley," inclusive..."

This concludes my prepared statement. We are submitting a report to be included into the record that gives a detailed history of the Western Shoshone claims. I will be happy to answer any questions the Committee may have.