

2 years has been spent developing a very detailed environmental impact statement which contains a number of studies, and I am told, although I have not had a chance to see it yet, it is about an inch and a half thick. The delay has already happened. We have basically got the studies that are out there. The only time that is necessary in order to allow that process to play on, is just review those documents, receive public comment on them, and finalize the documents. So I think that it would be a mistake not to examine that information before we took the action, and that is the basis for our position.

Mr. Barger: Let us go forward with the project.

The Chairman: The gentleman's time has expired.

I just had a couple of more questions, and then I will excuse the panel.

Chief Jones: It was brought up in Mr. Barger's testimony, a question about the appraisal, and I believe that--and correct me if I am wrong--I believe that he said that the property that you were trying to get for the school was worth 6 million and what you purchased to trade was worth 58,000. I believe that is what he said. That is contrary to information that the Committee has received. Can you clear that up?

Mr. Leon Jones: Yes, sir. In the first place, I am a real estate appraiser, sir. I let my license die, but I was a real estate appraiser before. We have certain standards that we had to meet, federal standards. We went to school and met those standards, and one of those standards was honesty and integrity. The appraisals were done. They were done by a person in the last several years. He did it the way that we were taught in school. He got comparables that were sold in the area to show what it was worth on both properties. I resent the fact that an appraiser's integrity has been questioned. If those appraisals in the past were made--and I am sure they were, he would not have said not--maybe that was before we had the Federal regulation of appraisers.

Today's market is not the same as yesterday's market. The appraisal was made recently, not in the past.

The Chairman: It is your testimony then that the appraisals on the two pieces of property are equal or close to each other?

Mr. Leon Jones: The Ravensford property was appraised at less value than the Yellow-Face property is, sir, and it is a larger piece of property.

The Chairman: So it was less value?

Mr. Leon Jones: The Ravensford is less than the piece we were proposing to give to the park.

The Chairman: Can you tell me, and you may have told me this before and I forgot, but how old are those appraisals that were done?

Mr. Leon Jones: They were updated within the last year, sir.

The Chairman: So they are current.

Mr. Leon Jones: Current by a competent appraiser.

The Chairman: Mr. Barger, I understand from your testimony, from reviewing your testimony, that your opposition to this is taking the land out of the park, and without going through the process, the EIR and all of that. Is that accurate? Is that the basis for the opposition?

Mr. Barger: I would say that it would probably be more accurately characterized that we are opposed to the development of the site.

The Chairman: No matter what?

Mr. Barger: Yes, sir. It is the proposed development that we have before us and the impacts that we believe that would have on the national park, not just the site itself but on the surrounding national park, that lead us to oppose the bill that we have in front of us.

The Chairman: So regardless of how the EIR or EIS, doctor's checkup, no matter how they all come out, you are going to oppose it anyway.

Mr. Barger. Not necessarily.

The Chairman. Well, wait a minute. You just said that you opposed the development of the site.

Mr. Barger. Right, and the reason is because we do believe--and this is from--I have also personally driven through the Gualle Boundary and the areas around and looked at the alternative sites. We do believe that there are in fact some alternatives that would and should be looked at thoroughly as part of the EIS examination process. I would tell you that as a result of that process we became convinced that the Havenford site is the only way to properly provide for the schools that the Cherokee need, we would reveal our position immediately.

The Chairman. Is it your position or the group that you represent's position to oppose this Committee taking legislative action?

Mr. Barger. It is our suggestion that the bill before you now is premature. We do believe that if a land exchange of some type is the appropriate action, is determined to be the appropriate action, that legislative action would be the appropriate way to go.

The Chairman. I am just trying to follow along with your position or your thinking on this, because it has been my experience that both in dealing with the Park Service and in dealing with the BIA, that we are not talking about months or a couple of years in order to get something done. It is multiple years that it takes.

Mr. Barger. Yes, sir, and those years are behind us. We have, apparently, as I say, I haven't had a chance to see it yet, but we have the draft environmental impact statement supposedly being published. The Federal Register notice is supposed to go in the day after tomorrow--I was informed.

The Chairman. But that doesn't end the process.

Mr. Barger. It does not end the process.

The Chairman. We go through the comment period and the threatened lawsuits and--mean you are looking at years before this thing gets done, and the Chief is concerned about his kids and his grandkids. I am more concerned about Mr. Blankenship's grandkids go on to school.

Mr. Barger. I think that concern is well placed. However, in this process we are close to the end of this process, and as I said, in fact--

The Chairman. We are not anywhere near the end of this process. You know that.

Mr. Barger. The process under NEPA, after a draft environmental impact statement is published, is to take public comment and then publish the final environmental impact statement and record of decision.

What we would be looking at is the examination of the information that we get to do during the draft environmental impact statement. Then at that point this Committee and Congress can make a decision based on the information that is there, and that is literally all we are asking for.

The Chairman. I thank you for your testimony. I thank the panel for their testimony, and I again apologize for the delay, and I appreciate your patience in sticking with us. Thank you all very much.

I am going to excuse this panel. I will remind you that there will be written questions that several members had that will be submitted to you, and if you could answer those in a timely manner so that they can be included in the Committee record, I would appreciate it.

Thank you.

The Chairman. I would like to call to our third panel to testify on H.R. 984, Mr. Felix Ike, Ms. Laura Sizzero, and Mr. Raymond Yowell.

If I could have you stand and I will administer the oath, and then we can start.

[Witnesses sworn.]

The Chairman. To begin with, I want to thank this panel for your patience. I know this has been a long time and you have all been patiently waiting for your opportunity to testify, so I want to thank you for doing that. We are going to begin with Chairman Ike, in front of you we have the lights. The green light is a go, the yellow light is to get up, and the red light is to stop. If you would try to keep your oral testimony at the 5 minutes, your entire written testimony or other material that you would like to submit to the Committee will be included in the Committee record, but if you would try to maintain your oral testimony to the 5 minutes.

Chairman Ike, we will begin with you.

STATEMENT OF FELIX IKE, CHAIRMAN, TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA

Mr. Ike. First of all, I want to thank the Committee for inviting me to do the testimony. This is an honor to come before the Resources Committee on a matter of great importance to the Western Shoshone people.

I am Felix Ike, Chairman of the Te-Moak Tribe of Western Shoshone Indians of Nevada. Te-Moak represents the four Te-Moak communities of E. Co., Battle Mountain, South Fork and West. Our tribal council represents over 2,500 enrolled members which is more than 65 percent of the nearly 3,700 identified people who are one-quarter or more Western Shoshone blood. Te-Moak is four bands, and under Federally recognized tribes at Fallon, Truckwater, Big, Yomba, Duckvalley. All have legitimately elected and recognized councils. The people overwhelmingly voted in favor of the distribution of the trust funds.

Te-Moak was the named movement before the Indian Claims Commission. Thus this will be different than what the Western Shoshone National Council will say before this Committee. The Western Shoshone Indians of Nevada want the Committee to know that group has no legitimate authority to speak on behalf of Western Shoshone Indians except for a few individuals involved in that organization. They have no formal existence as a Shoshone Government within the recognized Western Shoshone communities. Nor are they recognized by the Federal Government as an American Indian tribe.

The Western Shoshones once occupied a large area of the western part of the United States including parts of Nevada, Idaho, California and Utah. Our traditional way of life was closely connected with nature. Our land was abundant in resources including springs, streams and rivers, snow-covered mountains and valleys. Even the desert areas were full of plant and animal life.

When the non-Indians came into our land, they depleted our natural resources, destroyed our way of life, and forced us to adopt their ways. Of the vast territory that was once our homeland, only a few small colonies, ranches and reservations have been set aside for us. In the interest of our future generations we need to expand our land base to support our tribal population and provide a base for which we can develop greater self sufficiency. It is our understanding that this legislation will not prevent us from expanding our land base in the future. The Western Shoshones have always had a strong attachment to our land, which encompassed many millions of acres as described in Article V of the Treaty of Ruby Valley. Our people traditionally knew every valley and spring in our vast territory. Our land has always been at the center of our culture identity and way of life. Expanding our meager land base is essential for the health and vitality of our communities and for the survival of our culture.

We ask Congress to consider the expansion of our land base to establish a permanent homeland for the Western Shoshone. We believe it was never the intent of Congress to leave the

Western Shoshone's homeless. Subsistence, hunting, fishing and gathering rights are of great importance to the Western Shoshone people. Our people hunt, fish and gather traditional food sources to supplement their diet. It is very important that Western Shoshones continue to have access to the traditional hunting, fishing and gathering areas, and that we continue to be able to hunt, fish and gather those traditional food sources which are part of our culture, our diet, a part of who we are.

Many tribal members rely on those traditional food sources or a subsistence basis. Traditional medicines are made from native plants, and plant sources gathered throughout our aboriginal territory. These are also important to our people for health, culture and religious reasons.

Our aboriginal lands were destroyed and poisoned by mining and toxic waste and other forms of abuse. The native animals and plants are disappearing from our lands that have suffered so much. Shoshones are the guardians of our environment. We traditionally practice a way of life that was in harmony with the earth. It is a part of our religion and a way of life to respect all forms of life. The land, the air, the water and animals, the birds and plants, are all interconnected and all depend upon each other for existence. We want our important hunting, fishing and gathering and spiritual areas to be set aside for us so that we can preserve them.

In accepting the claims money, we are not giving up any hunting, fishing and gathering rights. Northeastern Nevada's economy is in a period of decline. With unemployment rising in and near the To-Mod communities, economic development to increase our self sufficiency is very important to our communities. But our opportunities are very limited. Our need for Federally funded services will continue in the areas of education, health, housing, community development, social services, judicial services, law enforcement, environmental protection and other services necessary for a viable community. It is our understanding that this legislation to compensate the Western Shoshone for past wrong will in no way diminish the United States Government's obligation to continue to provide these services as needed for the health and well being of our people.

I now ask you to support the Western Shoshone Claims Distribution Act, to distribute the claims awarded through Public Law 95-608, 326 K, 326A-1 and 326A-3, with the same language contained in S. 958 referred to House submitted during the 107th Congress. That would maximize the chance of rapid passage by both houses of Congress.

The Western Shoshone voted on three questions: whether or not to accept the claims money from Public Law 95-608, whether tribal members of at least one-quarter degree Western Shoshone blood should be able to participate in the settlement, and whether or not 326A-1 and A-3 should be placed in an educational trust fund. The vote was 1,647 to 186 in favor of distribution; 1,691 to 196 in favor of tribal members with at least one-quarter degree of Western Shoshone blood participating; and 1,920 to 769 in favor of an educational trust fund. The majority of Western Shoshone voters clearly support distribution as described in the Western Shoshone Claims Distribution Act. It is the mandate of the people that we move forward in this process.

This money was awarded so many years ago in an attempt to compensate the people for some of the wrongs that had been done to us. Too many of our tribal members have passed away without benefiting from the money that was set aside for them. Although it cannot fully compensate us for the loss of our land and way of life, the claims money may help to make life better for the tribal members who receive a share. To-Mod and the other Western Shoshone communities overwhelmingly voted for the distribution claims dollars. I believe they have waited long

enough for this distribution.

I thank you.

(The prepared statement of Mr. Ike follows.)

Statement of Felix Ike, Chairman, Te-Mook Tribe of Western Shoshone
Indians of Nevada, on H.R. 884

This is an honor to come before the Resource Committee on a matter of great importance to the Western Shoshone people. I am Felix Ike, Chairman of the Te-Mook Tribe of Western Shoshone Indians of Nevada. Te-Mook represents the four Te-Mook Band communities of Elko, Battle Mountain, South Park, and Wells.

Our Tribal Council represents over 7500 enrolled members which is more than 80% of the nearly 3700 identified people who are 1/4 or more of Western Shoshone blood. Te-Mook, its four bands, and the other Federally recognized tribes at Duckwater, Ely, Yomba and Rock Valley all have legitimately elected and recognized councils. The people overwhelmingly voted in favor of distribution of the trust lands.

Te-Mook was the named claimant before the Indian Claims Commission, thus this will be different than what the Western Shoshone National Council (says or said) before this Committee. The Western Shoshone Indians of Nevada want the Commission to know that group has no legitimate authority to speak on behalf of Western Shoshone Indians except for the few individuals involved in that organization. They have no formal existence as a Shoshone Government within the recognized Western Shoshone communities, nor are they recognized by the Federal government as an American Indian Tribe.

The Western Shoshone Nation once occupied a large area of the western part of the United States, including parts of Nevada, Idaho, California and Utah. Our traditional way of life was closely connected with nature. Our land was abundant in resources, including springs, streams and rivers, snow-covered mountains and rich valleys, and even the desert areas which were full of plant and animal life. When the non-Indians came into our land, they depleted the natural resources, destroyed our way of life, and forced us to adopt their ways. Of the vast territory that was once our homeland, only a few small colonies, ranches and reservations have been set aside for our use. In the interests of our future generations, we need to expand our land base to support our tribal population and provide a base from which we can develop greater self-sufficiency. It is our understanding that this legislation will not prevent us from expanding our land base in the future.

The Western Shoshone have always had a strong attachment to our land, which encompassed many millions of acres as described in Article V of the Treaty of Ruby Valley. Our people traditionally knew every valley and spring in our vast territory, and our land has always been at the center of our cultural identity and way of life. Expanding our legal land base is essential for the health and vitality of our communities and for the survival of our culture. We ask Congress to consider the expansion of our land base to establish a permanent homeland for the Western Shoshone. We believe it was never the intent of Congress to leave the Western Shoshones homeless.

Subsistence hunting, fishing and gathering rights are of great importance to the Western Shoshone people. Our people hunt, fish and gather traditional food sources to supplement their diet. It is very important that Western Shoshones continue to have access to traditional hunting, fishing, and gathering areas, and that we continue to be able to hunt, fish and gather those traditional food sources which are part of our culture and our diet, a part of who we are. Many tribal members rely on these traditional food sources on a subsistence basis. Traditional medicines are made from native plant sources gathered throughout our aboriginal territory, and these are also important to our people for health, cultural, and religious reasons.

Our aboriginal lands were destroyed and poisoned by mining, toxic waste, and other forms of abuse. The native animals and plants are disappearing from lands that have suffered from so much abuse. Shoshones are the guardians of our environment. We traditionally practiced a way of life that was in harmony with the earth. It is a

part of our religion and way of life to respect all forms of life. The land, the air, the water, the animals, the skies and plants are all interconnected and all depend upon each other for existence. We want our important hunting, fishing, gathering, and spiritual areas to be set aside for us so that we can preserve them. In accepting the claims money, we are not giving up any hunting, fishing or gathering rights.

Northeastern Nevada's economy is in a period of decline, with unemployment rising in and near the To-Modak Tribal communities. Economic development to increase our self-sufficiency is very important for our communities, but our opportunities are very limited. Our need for Federally funded services will continue in the areas of education, health, housing, community development, social services, judicial services, law enforcement, environmental protection, and other services necessary for a viable community. It is our understanding that this legislation to compensate the Western Shoshone for past wrongs will in no way diminish the United States government's obligation to continue to provide all these services as needed for the health and well-being of our people.

I now ask you to support the Western Shoshone Claims Distribution Act to distribute the claims awarded through Docket 326 K, 326 A-1 and 326 A-3 with the same language contained in S955 RFH submitted during the 107th Congress. That would maximize the chance of rapid passage by both houses of the Congress.

The Western Shoshone voted on three questions- whether or not to accept the claims money from docket 326K, whether tribal members of at least 1/4 degree of Western Shoshone blood should be able to participate in the settlement, and whether or not 326A-1 and A-3 should be placed in an educational trust fund. The vote was 1647 to 156 in favor of distribution, 1801 to 196 in favor of tribal members with at least 1/4 degree of Western Shoshone blood participating, and 1020 to 769 in favor of the educational trust fund. The majority of Western Shoshone voters clearly support distribution as described in Western Shoshone claims distribution Act. It is the mandate of the people that we move forward on this process.

This money was awarded so many years ago in an attempt to compensate the people for some of the wrongs that have been done to us. Too many of our tribal members have passed away without benefiting from money that was set aside for them. Although it cannot fully compensate us for the loss of our land and way of life, the claims money may help to make life better for the tribal members who receive a share. The To-Modak Tribe and other Western Shoshone communities overwhelmingly voted to support the distribution of the claims money. I believe they have waited long enough for it to be distributed.

Thank you.

(GRAPHIC [TEXT OMITTED] 1772.015

The Chairman: Thank you.

Ms. Piffero?

STATEMENT OF LAURA L. PIFFERO, LEAD CO CHAIRMAN,
WESTERN SHOSHONE CLAIMS DISTRIBUTION STEERING COMMITTEE

Ms. Piffero: Good afternoon. I am grateful to the Resource Committee for authorizing this hearing and for the support of our Nevada Congressman, Mr. Gibbons and Mr. Porter. Thank you.

I am Laura Piffero, Lead Co-Chairman of the Western Shoshone Claims Steering Committee. We support H.R. 884 and represent the majority opinion. 91 percent of the Shoshones voted on 7 reservations to distribute their 1977 court award, the last of 3 Shoshone Treaty claims in the United States and the last major tribe in Nevada to be compensated for losses sustained.

The Senate, after markup of a companion bill passed in the 107th, created differences. We would like to propose minor amendments as specified in the written testimony Section 7.13).

certain individuals ineligible, to add the words, "Based upon aboriginal land claim." Section 3 on the Administrative Committee, (2)(A) and (2)(B) and (2)(B)(iv) to be comprised exclusively of Western Shoshone's, due to its tribes, and to add Section 5 on regulations.

I will speak about the factors that have led to the majority support of this bill, the good, the bad and the ugly. It is a brief overview about the Shoshones, their years of involvement in the federal courts, their political and cultural distinctiveness, and how they were impacted by the 1863 Treaty of Ruby Valley.

Despite a period of suffering during U.S. land expansion, the Shoshones are loyal to this country and fought for America in foreign wars. Culturally the Shoshones were a peaceful people and struggled to adapt to a changing world and to cooperate with their new neighbors. Western Shoshone aboriginal territories covered two-thirds of Nevada. They became a captive tribe due to no major battle with encroaching immigrants. The Shoshones feel the 1863 Treaty had too many concessions and placed the people in a downward spiral of poverty. In 1863 the Shoshones group in the west signed treaties of peace, of friendship, giving the U.S. the right to engage in multiple uses of Shoshone land. The Shoshone Treaty signed in Ruby Valley was two pages in length.

It has been argued there were treaties of succession, as Article IV through IV gave the land for military post, telegraph, railways, mining, agricultural settlement and lumbering. Article VI changed the Shoshone's historical use of the land. The reservations, whenever the President of the United States deemed it expedient, reservations were to be established within the country above described. One was the Carbon Burns, later moved to Duckvalley outside of the country designated. Severe hardship and starvation fell upon Shoshones during this period of displacement and adaptation. Article VII provided as full compensation \$5,000 for 20 years for the inconvenience resulting from the occupation of others, privileges conceded and adherence to the treaty.

Article VIII acknowledged the receipt of provisions and clothing upon signing. Although the Supreme Court determined the award had been accepted by the Secretary of the Interior on behalf of the western Shoshone over 26 years ago, payment has never been distributed.

Sixty-seven years ago, 1951, Article V became the vehicle of injustice by which the Shoshones entered 26 years of litigation under the 1946 Indian Claims Commission Act. Final judgment was reached in 1977 and determined the Shoshones lost their land by gradual encroachment.

Had the Shoshones not filed this case in 1951, there would be no court award today. 21 years after the claim was filed, minority dissidents attempted to halt the proceedings. Unsuccessful, they tried to stop the 1979 appropriation. Due to political instability no common distribution plan was developed in 1981 as required under the 1973 Indian Judgment Funds Act.

In 1974 the dissidents supported Dana's cattle trespass case as the defense project to the Supreme Court. It lasted 15 years. Minority gentlemen and supporters established nonprofit corporations, including Internet donations. Preposterous misleading newspaper remarks said they represented the Shoshone Nation. The public thought they were an elected body. Their unpaid trespass fees amounted to over a million dollars. Their press touted it is still Shoshone land as the people do not want the money. They want the land, or refuse to take the money. In truth, the majority wanted their award restored. In 1980 the United States Supreme Court in Cattlemen Bank case concluded that payment of the claims to trust for the Shoshones effectuated full settlement of all claims against the United States.

The minority received over a million dollars in ANA and BIA

grants to resolve land issues. Federal land negotiations at the highest level failed in 1994. A promised plan for the WSNM in Yucanovich's 1990 House hearing never materialized. The Shoshone people felt their leaders did not negotiate in good faith and discussed the beneficiaries of the award via the Steering Committee. Given their civil right to band together and take action or to submit a bill, a 1998 referendum revealed the true collective interest. 96 percent favor distribution in 2002. Senator Reid requested another vote. 65 percent of the eligible enrolled Shoshones participated. 91 percent favored distribution.

At two meetings when a division of the House was called, where only 3 people stood in opposition to the bill, they were loudly booed when speaking. The minority's pursuit to claim two-thirds of Nevada is unrealistic. The International report for the Danna case before a United Nations Commission since 1997, was rejected by the United States in its entirety. The report noted that the Danna's be afforded resort to the courts for the protection of their property rights. Apparently the commission viewed their 15 years of litigation to the Supreme Court as insufficient, and that subsequently, 1991 case abandonment to pursue allowable individual aboriginal title as unimportant.

This endless legal debate is a delaying tactic that benefits a small minority culturally as more elders pass on, their hopes never realized. It angers many. The manipulation of some tribal chairman to suppress the majority opinion, illegal council meetings and resolutions, minority promotion of non-Shoshone interference in the claims, has ruined the credibility of some elected leaders and destroyed faith in their ability to act in a fair and forthright manner in representing the majority's mandate.

Most Shoshones do not want the monetary award held hostage any longer. Needed lands should be handled by individual tribes with the relevant stakeholders and separated from the distribution.

Finally, the Shoshones have endured much in their quest for justice. It was the intent of Congress, when it passed the Indian Claims Commission Act in 1946 to bring finality to Indian claims, not to leave claims hanging in limbo for over 25 years. As Congress said, no one should be allowed to litigate a claim forever. It is time to effectuate this distribution to the Western Shoshone. We now rely on Congress to resolve this long-standing court award and distribute it to the beneficiaries as intended under the law.

In conclusion, the matter here before us today is not whether an award is due to Western Shoshone. The issue is to determine the procedure means by which Dockets 326 K, 326A-1 and 326A-2 will be distributed. It is a matter of process. This bill lays out that process. The Steering Committee on behalf of the majority respectfully requests that the Resource Committee pass H.R. 884 back to the full floor of the House for consideration in the interest of the long-sought closure of my people.

Thank you.

[The prepared statement of Ms. Piffaro followed.]

Statement of Laura P. Piffaro, Lead Co-Chairman, Western Shoshone Claims Distribution Steering Committee, on H.R. 884

Mr. Chairman, Committee Members, I am Laura Piffaro, Lead Co-Chairman of the Western Shoshone Claims Distribution Steering Committee. Our group is a grass roots volunteer Committee. We represent the 1998 and 2002 referendum where 91% of the Shoshone people voted on seven reservations to have their court award distributed. The Western Shoshone Claims is the last of five Shoshone treaty claims to be paid in the United States and the last of the major tribes in Nevada to be disbursed. We are grateful to the Resource Committee for authorizing