



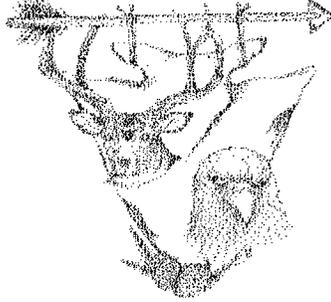
# ELY SHOSHONE TRIBE

16 SHOSHONE CIRCLE

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September 28, 2009

Allen Biaggi, Director  
Nevada Department of Conservation & Natural Resources  
901 S. Stewart Street, Ste. 5001  
Carson City, Nevada 89701

Dear Mr. Biaggi:

In reviewing the agreement/interstate compact between the States of Utah and Nevada regarding the management of interstate groundwater resources, Snake Valley, the Tribal Council submits the following:

1. Consultation with the Ely Shoshone Tribe, a Federally recognized sovereign nation, regarding this Interstate Compact was never established and in review of the proposed compact, the Tribe has been excluded from any meaningful oversight, management, mediation or technical review of the proposed action.
2. The Compact effects the Snake Valley groundwater basin located in both Nevada and Utah and that this basin includes our recognized sovereign nations ancestral homeland. The Ely Shoshone Tribe, now located in White Pine County, Nevada historically has a homeland encompassing a large area of Eastern and Northern Nevada, a substantial area of Southern Idaho, Western Utah and Southern California. The United States entered into a treaty on October 1, 1863, whereby creating a duty for the United States Government to entrust, protect and preserve the resources of the Ely Shoshone Indian territory for our benefit and use in perpetuity. This territory also encompasses Snake Valley in both Nevada and Utah.
3. It must be noted that we have standing to this issue. First established through comments the Tribe submitted on SNWA water applications 54022 through 54030 filed in October of 1989. The Tribe applied for and was denied cooperative agency status by the BLM in the related EIS process. The agreement/compact appears to facilitate SNWA's attempts to appropriate water from Snake Valley and pipe it to Las Vegas.
4. The Ely Shoshone Tribe has federally reserved water rights pursuant to the "Winters" doctrine as recognized in *Winters vs. United States*, 207 U.S. 564 (1908). See *Arizona v. California*, 373 U.S. 546 (1963). The Winters doctrine established that the creation of an Indian reservation impliedly reserves water rights to an Indian tribe sufficient for the present and future needs of the reservation. The reserved water of the Ely Shoshone Tribe, and other tribes who are located in or near Snake Valley, must be considered.

5. Our concerns are the cultural, hydrologic, biologic and air quality components of this action that we have been excluded from participation in. Our culture is derived from the characteristics of the environment for which we have lived for several millenniums. Our culture and language derives its existence from the food, shelter and oral history made possible from the water that nurtures our home. With the destruction of these flowing waters, all the things that made us a people will be destroyed. This obviously is a matter of grave "concern".
6. The springs found in this project area are the foundation of all life and define our culture. The Ely Shoshone Tribe, located in White Pine County, Nevada is a federally recognized Indian Tribe. The aboriginal territory of the Ely Tribe encompasses large areas of Eastern Nevada, and substantial portions of Southern Idaho and Southern California. The United States entered into a Treaty with the Ely Tribe on October 1, 1863, whereby creating a duty for the United States Government to entrust, protect and preserve the resources of the Ely Indian Reservation. The Ely Indian Reservation is located in the Steptoe Valley, which is adjacent to Snake Valley.
7. No provision exists to compensate the Ely Shoshone Tribe for any damages to the springs, plants or animals that inhabit or rely on these waters for their existence. These resources cannot be accurately valued because their loss will have cultural and environmental damages.
8. We have established a value for springs located in the Tier I and Tier II monitoring areas. They are as follows:

Tier I. A minimum of 50 million dollars per spring or riparian habitat.

Tier II. A minimum of 30 million dollars per spring or riparian habitat.

We recognize that these numbers are extremely low when the multiplier effect, an accounting of primary through tertiary and beyond economic multipliers including employment, urban growth, financial investment, taxation etc., is taken into consideration.

It is noted in the record that the Indian Claims Commission failed to include any financial compensation in the Western Shoshone Distribution Bill for any water rights within any of the hydrologic basins that SNWA has interest in that are included in territory addressed by the Ruby Valley Treaty.

9. We extend our concerns to the phreatophytes that exist surrounding the springs for they to provide food and shelter for the animals that inhabit the area. The proposed agreement cites the use of waters that are calculated to use the vegetative transpiration amount. If the capillary fringe, the soil region that provides water for transportation is lowered or in the agreements terms utilized, then the plants will die and all animal life that relies on the vegetation will also perish.

10. That by recognition of the above, the Ely Shoshone Tribe asks to participate in the oversight and administration of this Compact.
11. The Tribal Council has reviewed these concerns at a Council meeting held on September 28, 2009 and voted unanimously in support of this petition.

Sincerely,



Alvin S. Marques  
Chairman

cc: Michael R. Styler, Executive Director, Utah Department of Natural Resources  
Patricia Mulroy, General Manager, Southern Nevada Water Authority  
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