

Clement Frost
Chairman of the Southern Ute Indian Tribe
Before the
Senate Committee on Indian Affairs
Senate Committee on Energy & Natural Resources
Subcommittee on Water & Power

June 24, 1998

My name is Clement Frost. I am the Chairman of the Southern Ute Indian Tribe. I am here today to testify in support of S. 1771, the Colorado Ute Settlement Act Amendments of 1998. Senator Campbell, we appreciate the strong leadership that you have provided over the years for the Colorado Ute Indian Water Rights Settlement. You know how hard the Tribes, their neighbors, and the State of Colorado have worked to put together a settlement that avoids the cost and hard feelings of years and years of litigation. Our approach is to try to provide everyone in southwest Colorado and northwest New Mexico with a reliable supply of water.

On behalf of the Southern Ute Indian Tribe and its Tribal Council, I ask that Congress carry out the promises that the United States has made to the Southern Ute Indian Tribe to provide the water which the Tribe needs now and in the future. During the years of negotiations in the 1980's that resulted in the Colorado Ute Indian Water Rights Final Settlement Agreement, I was a member of the Tribal Council. All of the members of the Tribal Council signed the Agreement in 1986, along with representatives of the United States, the Governor of Colorado and the Chairman of the Ute Mountain Ute Indian Tribe. With your strong leadership, Senator Campbell, we worked together to get Congress to pass the Colorado Ute Indian Water Rights Settlement Act of 1988. When President Reagan signed the Settlement Act nearly ten years ago, the Tribal Council thought it had finally won its long battle to acquire a firm water supply to meet the present and future needs of the Southern Ute people. We did not understand the many obstacles that would be placed in front of us as we tried to carry out the most important part of the settlement -- the construction of the Animas-La Plata Project.

You understand the history of the Ute Tribes, Senator. It is too bad that everyone does not understand that history and the promises that have been made to the Tribes by the United States. In 1868, when the Ute Bands signed the treaty establishing the Ute Reservation, the United States promised the Ute people that the Reservation would be a permanent home that would support our people forever. As you know, the key to carrying out that promise is water -- a fact that the Tribal leadership has always known but which the United States has sometimes forgotten.

Long before the tribal water rights litigation started in the 1970's, the Southern Ute Indian Tribal Council recognized that storage of water from the Animas River was needed to provide a source of water to meet the needs of future generations of the Southern Ute Tribe. While the opponents to the Project say that the Tribes did not become involved with the Project until the settlement discussions in the 1980's, both Ute Tribes supported the authorization of the Project in 1968. Afterwards, the Ute Tribes worked with the ALP District and the Bureau of Reclamation to

develop a Project that would serve the needs of the Tribes. Former Chairman Burch and former Chairman Baker worked hard to have the Animas-La Plata Project built. They knew that the Project is the best way for the Tribe to get the water it needs for its future. I also know that the future of my Tribe depends on making sure that the Tribe has a reliable water supply that can be used for the development of our Reservation.

Under the 1988 Settlement Act, the Project would have provided the two Colorado Ute Tribes with 60,000 acre feet of stored water. It is important to understand how much work had been done on the Project when the settlement agreement was signed in 1986. A definite plan report for the Project had been completed; an Environmental Impact Statement had been finished and construction of the Project had been approved under the Endangered Species Act. In other words, when the Settlement Agreement was signed, all environmental compliance work was done.

In 1988, when Congress agreed that the Project should be part of the Settlement, it knew what it was talking about. The Project had been studied and studied, and its advantages and disadvantages were well known. Based on that information, Congress decided a tribal water rights settlement that provided the Ute Tribes with water from ALP was the right way to go.

The parties to the settlement are here today to support changes to the 1988 Settlement Act. We have agreed to those changes in order to make the Tribal settlement work. No one is happy about the compromises that have been made but we believe that they are necessary if the settlement is to go forward. The foundation for the settlement is still the Animas-La Plata Project but only a small portion of the project is required to complete the settlement. No longer will water have to be taken to the La Plata Basin. No irrigation facilities are included. These are major changes.

The modifications will greatly reduce the cost of the Settlement. They will also answer any question over the environmental impact of the Project. In the current political climate, such changes are required for the Settlement to move forward. As a result of those changes, the Tribe will not receive all of the benefits that it was promised in 1988. But the Tribe will get a reliable supply of stored water that it can control for its own use -- that is what we have always needed and always wanted. That is what the United States promised us in 1988. We know that construction of a storage reservoir is only the first step in putting water to use for the benefit of our people. But it is a very important first step in building a successful economy on our reservation. We are confident that with that supply we can move forward into the next century. Certainly, the successes of the Southern Ute Indian Tribe -- and there are many -- all relate to the Tribe taking control of its resources and using them for the benefit of tribal members

In closing, I want to make three points. First, despite the magnitude of the modifications to the Settlement that have been proposed, we do not expect that these compromises will satisfy all of our opponents, many of whom simply object to any water development no matter who benefits and no matter how small its impact. I hope that you understand the substantial benefits of this Settlement to the Southern Ute Tribe and also recognize that it provides water to the two Ute Tribes without taking water away from our non-Indian neighbors. Second, I want to recognize the honor and integrity of our non-Indian neighbors who are the Tribe's partners in the Project.

The negotiations that resulted in the modified Settlement were long and difficult. We appreciate the sacrifices that they have made to make this settlement work. Finally, we ask Congress not to forget the promises that were made in 1868 and confirmed in 1988 to provide the Southern Ute Indian Tribe with the water which it needs now and in the future.