

by: Jerry Reynolds / Washington D.C. correspondent / Indian Country Today
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WASHINGTON - One of the largest ongoing seizures of Indian land in modern times will move forward following President George W. Bush's signing of the Western Shoshone Distribution Bill on July 7 2004.

Under provisions of the bill, Western Shoshone claims to 24 million acres of land in Nevada, Utah, California and Idaho, based on the Ruby Valley Treaty of 1863, are officially subsumed through payment by the U.S. government. The bill will forcibly distribute approximately \$145 million in funds awarded the tribe by the Indian Land Claims Commission. Most of it will go to 6,000 or so eligible tribal members, with a separate revenue stream set aside for educational purposes.

The commission acted on findings that following the Ruby Valley Treaty, which permitted non-Indian miners access to the tribal lands, a "gradual encroachment" took place that supposedly nullified the treaty. According to the government the "gradual encroachment" theory obviated any need for official cession of land by sovereign Western Shoshone governments, a sticking point to this day with foes of the funds distribution.

The commission based its original \$27 million award (enacted by its successor organization, U.S. Court of Federal Claims) on land valuation in effect in 1872 - 15 cents an acre, with no interest on the loss over time.

Because acceptance of the award would create the perception that any claims to their land have been relinquished, the majority of Western Shoshone governments have steadfastly refused the money. Despite the July 7 signing, several Western Shoshone tribes and tribal members said they will continue to rely on the Ruby Valley Treaty to press their land claims.

This has never been easy for them. Another sticking point in the process of seizure has been a court ruling that the tribe could not litigate the award once its trustee, the Interior Department, accepted receipt of it.

Although tribal sovereignty is not vested in individuals but in tribes, Congress has relied on individual votes, cast in rather stage-managed proceedings, to determine that a "majority" of Western Shoshone tribal members favor distribution of funds and the resulting extinction of their land claims. Sen. Harry Reid, D-Nev., and his Republican ally in the House of Representatives, fellow Nevadan James Gibbons, persuaded their colleagues to pass the embattled bill mainly on the strength of vote tallies in proceedings that had no official sanctioning process across all the Western Shoshone tribes, but concentrated on Nevada tribes.

The Ruby Valley Treaty lands are rich in resources, including gold, water and geothermal energy. Multinational mining companies are standing by to operate within the Ruby

Valley lands through "privatization" bills brought forward by Gibbons. Gibbons and Reid are among Congress' leading recipients of mining company contributions.

In addition, President Bush has designated Yucca Mountain, a site within the Ruby Valley lands, as the nation's nuclear waste repository.

In a statement of dissenting views attached to the distribution bill, signed by six members of the House, the claim continues to be made that no proof has been provided of Bush administration claims that a "vast majority" of Western Shoshone favor distribution of funds.

In any case, sovereignty is vested in tribal government, not individuals. According to the bill's more vocal Western Shoshone opponents, the one former Western Shoshone tribal governmental leader who had testified in behalf of distribution did so over the opposition of a majority of his council, which passed a resolution refuting his testimony. A "Western Shoshone Claims Steering Committee," heavily relied on by Reid and Gibbons in producing a show of tribal support for distribution, has all the appearance of a shadow government, having been declared null and void by a resolution of the recognized government - all this again now part of recent historical record.

Western Shoshone governing bodies have passed at least eight resolutions against distribution: the Te-Moak Tribe of Western Shoshone in 2004, Battle Mountain Indian Colony in 2002, South Fork Band Indian Reservation in 2003, Wells Band Council Te-Moak Tribe of Western Shoshone in 2002, Yomba Shoshone Tribe in 2003, Winnemucca Indian Colony in 2003, and Elko Band Council, which passed two in 2004.

The distribution will take place in defiance of at least these eight resolutions among the Western Shoshone. The National Congress of American Indians, the Organization of American States, and the United Nations have also weighed in against the distribution.

Western Shoshone resistance will clearly continue. "It's not over," said Mary Gibson, a tribal member. "We still exist and we still have our rights to our land. It makes me sad and angry that myths continue to cloud the truth in this country. This struggle isn't a Shoshone versus Shoshone battle, the underlying issue here is the U.S. responsibility and accountability for a treaty with the Western Shoshone Nation. As long as the people in the U.S. allow this to happen it will continue to happen."

Raymond Yowell, of the Western Shoshone National Council, described himself as "utterly disappointed. It's unbelievable that the U.S. body that makes the laws has acted in this manner. The fight is not over. A fraud is a fraud - individuals cannot sell out a nation and the bill, although a threat politically, does nothing to change our inherent rights or our treaty rights. Congress and the President were informed of all the facts that touch upon this issue. We will use the Treaty of Ruby Valley to stop Yucca Mountain and to protect our lands. Our title is still intact.

"The self-described, private group who pushed for this money are not members of any federally recognized council and have no authority to speak on behalf of our tribe or the Western Shoshone Nation. The Nevada legislators and the Bush administration have been well-advised of this fact. The way this legislation was handled makes an absolute sham of the stated government-to-government relationship and responsibility of the U.S. government."

Hugh Stevens, chairman of the Te-Moak Tribe of the Western Shoshone Nation, added, "Senator Reid has made numerous public commitments regarding resolving land issues for our communities. We will be looking for him to stand by that commitment in an expeditious fashion."

However, a press officer in Reid's office, Tessa Hafen, said the senator struck no "deal" in the distribution bill that would permit tribes to retain or regain parcels of land for themselves within the Ruby Valley Treaty regions. Proposals to that effect have come from Rep. Nick Rahall, D-W.Va., in the House. Hafen said the senator has always hoped to work realistically with Western Shoshone tribes on their land claims. "It's always been part of his long-term strategy," she added, then noted that "strategy" is perhaps too strong a word for it.

He has always hoped to work with Western Shoshone tribes on land issues, she concluded. "The problem is no one has ever come to him."