

**WRITTEN TESTIMONY of
MAYOR P. KIM HAMLIN
DUCHESNE CITY**

to the

**UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

on behalf of

DUCHESNE CITY, UTAH

May 2, 2000

As the mayor of Duchesne City, Utah, it is my intention to explain the significance of S. 2350/H.R. 3468 to our city. I have lived in Duchesne for approximately twenty-eight years. I am the owner of Hamlin Trucking, and in the past have served as the Director of Economic Development for the Association of Government and as a board member of the Utah League of Cities and Towns. For the last six and a half years, I have served as mayor of the city. Before my service as mayor, I served on the city council for eight years.

Duchesne City is a rural community, created in November 16, 1905, by Presidential Proclamation. Duchesne is located about two and a half hours east of Salt Lake City, Utah, set just beneath the Uintah Mountains. The city's population is approximately 1,700.

As with all communities, resources available to Duchesne are of paramount importance. Water is especially important, particularly in Utah, one of the most arid states in the United States. There can be no doubt that this is what motivated G.B. Hall, Captain 5th Calvary and Acting Indian Agent for the Uintah Indian Reservation to file two Applications to Appropriate Water with the Utah State Engineer: Application 43-180 and Application 43-203, after the townsite had been identified by the Commissioner of Indian Affairs as one open for settlement. In the Application, Hall explained the purpose for Application 43-180: "This application is intended for irrigation and domestic supply for townsite purposes in the lands herein described." The purpose for Application 43-203 was explained in the following way: "The water applied for is for the purpose of irrigating Indian allotments on the Uintah Indian Reservation, Utah, made under the Act of May 27, 1902, and for an irrigating and domestic water supply for townsite purposes in the lands herein described." Although application 43-203 was originally intended to benefit both Indian allottees and the townsite, in November 24, 1920, prior to the perfection of the water right, the U.S. Indian Service submitted a change application which provided that the entire appropriation was to be used for "municipal and domestic purposes in the town of Duchesne, Utah." This change is reflected in the final Certificate of Appropriation.

Since their appropriation, these water rights have been used for water supply for Duchesne City. Although the water rights have always been used by Duchesne City, apparently because an Indian agent applied for the water rights, they have been titled in the United States Indian Service ever since 1905. Duchesne City has had significant concerns about the title of these rights for some time. Duchesne City would feel much more secure when it actually holds the title to the water it uses and relies upon. Obviously, there is no one living who can relate the events of the first decade of the twentieth century. As the purpose of the appropriation of this water becomes more obscure, there is a greater risk of loss of these rights to Duchesne City.

In 1946, the Duchesne City Council began inquiring about the title of the water rights. Duchesne City believed that the issue had been resolved in 1947. However, since that time numerous attempts have been made to change the title to Duchesne City to alleviate any question of ownership of the water and to firmly establish Duchesne City's right to use the water. Prior to the present effort,

significant efforts to cause the records of the Utah State Engineer to reflect the true ownership of the water rights have occurred in 1966-70, 1976, and 1989-93. Despite all of these efforts, no change has occurred. Accordingly, following the suggestion of the Utah State Engineer we have appealed to this esteemed body to finally settle this matter by causing the water rights to be deeded to Duchesne City.

This is our latest effort to secure title to the water. I, along with other city officials, have engaged the services of the law firm of Nielsen & Senior, located in Salt Lake City, Utah, to assist us in securing the rights. We have met with members of the Department of the Interior and with member of the Ute Indian Tribe. In meetings with the Ute Tribe Business Committee, it was apparent that the tribe understood the importance of owning or controlling a valuable resource such as water. Further, it was clear that they understood that these particular water rights were always meant for and used by Duchesne City. After the tribe discussed the matter with their special water counsel, Tod J. Smith, the Ute Tribe decided to support our efforts.

The Ute tribe will be significantly benefited by S. 2350/H.R. 3468. In Utah, municipalities typically require a developer of land to pay an impact and connection fee to the city to defray the cost of accessing water to serve the development. The Ute Tribe has substantial holdings of undeveloped land in Duchesne City. The legislation provides for the use of this water in Duchesne City either by tribal members or on tribal property without the payment of an impact or connection fee.

S. 2350/H.R. 3468 is the culmination of our efforts to fully and finally resolve this matter. We have engaged in significant and prolonged negotiations with the United States Department of the Interior, the Ute Indian Tribe, and other entities having interest in these rights, which have all approved of the language in S. 2350/H.R. 3468. I respectfully urge this Committee to recommend the approval of S. 2350/H.R. 3468.