TESTIMONY OF THOMAS MOTSINGER,
PRESIDENT AND FOUNDER,

PALEOWEST ARCHAEOLOGY

BEFORE THE
HOUSE SUBCOMMITTEE ON WATER, POWER AND OCEANS
ON

H.R. 1406
NEW MEXICO NAVAJO WATER SETTLEMENT TECHNICAL CORRECTIONS ACT

June 25, 2015

Chairman Fleming, Ranking Member Huffman and Members of the Subcommittee, my name is Thomas Motsinger. I am the President and Founder of PaleoWest Archaeology, based in Phoenix, Arizona. Thank you for the opportunity to present PaleoWest's views on H.R. 1406, the New Mexico Navajo Water Settlement Technical Corrections Act, a bill to make technical corrections to the Navajo water rights settlement in the State of New Mexico, and for other purposes.

Background

PaleoWest is contractor to Bureau of Reclamation for the first phase of cultural resources compliance work for the Navajo-Gallup Water Supply Project, which will affect nearly 1,000 archaeological sites and disturb 12,000 acres in New Mexico of some of the most archaeologically sensitive land in the United States. PaleoWest's cultural resources work is projected to take approximately 15 years at a total cost of $40 million. Approximately 280 miles of large diameter pipeline (48-70") will be laid, with a 400-foot right-of-way and at least 100 additional miles of roads, power lines, and other necessary apparatus. The Omnibus Public Land Management Act of 2009, Title X Part III (Public Law 111-11) signed on March 30, 2009 (the "Act"), provided the authorization to construct this important project as a major component of the Navajo Nation San Juan River Basin Water Rights Settlement in New Mexico.

Drafting Error

When the Act was passed, it contained a drafting error resulting in 2% of project costs allocated to cultural resources compliance and 4% to environmental compliance, instead of 4% to cultural and 2% to environmental, as intended by Congress and the parties. This drafting error is causing funding constraints that are affecting Reclamation's progress on the project, as guided by PaleoWest's approved research design. We cannot adequately survey for, or mitigate impacts to, human remains and other areas of cultural sensitivity

regulated by the National Historic Preservation Act in advance of pipeline construction; when construction crews encounter unexpected remains, it will result in costly delays. With the funding constraints, Reclamation has been forced to curtail our progress in securing clearance ahead of pipeline construction, hindering progress and imperiling the work required under the water settlement. The bill, when passed, will help ensure the respectful handling of ancient burials located along the pipeline, as required by the Native American Graves Protection and Repatriation Act, and the identification and protection of archaeological sites, as mandated by the National Historic Preservation Act.

To date, the project's archaeologists and ethnographers have been finding prehistoric and historic-era archaeological and ethnographic sites in much greater numbers than anticipated. Most sites will require additional investigation to carry out mitigative treatment in compliance with Federal and Tribal historic preservation laws. The age of the sites spans 10,000 years, but many of the sites represent extensive, centuries-long activities and contain many human burials; these sites are particularly sensitive to Native Americans and are afforded special protection. As expected, Navajo archaeological sites and traditional cultural properties – which date from the 1500s to recent times – are plentiful, but have been encountered across a much larger area than expected.

We understand that the Administration is fully in favor of the technical amendments to the Navajo-Gallup settlement in H.R. 1406 because they change the Act back to the way it should have been written and thus improves it. Keeping the project on schedule is a top priority of the Department of the Interior.[1] Also, the Navajo Nation supports the technical correction because 70% of the project's land is Navajo Nation Trust Land, and the Navajo are concerned that archaeological sites and ancient burials be handled respectfully. Finally, the Senate passed an identical version of the bill on unanimous consent on May 21, 2015 (S. 501). If the 4% technical correction is made, PaleoWest will be able to do a thorough and respectful job at the Navajo-Gallup project, and ensure the proper handling of remains.

Conclusion

PaleoWest would like to thank you, Chairman Fleming, and all the members of the House Subcommittee on Water, Power and Oceans for the opportunity to submit testimony. I would be happy to answer any questions the Subcommittee may have.

Thomas Motsinger
PaleoWest Archaeology
319 E. Palm Lane
Phoenix, AZ 85004
602.980.6687
tmotsinger@paleowest.com

[1] "Obama Administration Announces Selection of 14 Infrastructure Projects to be Expedited through Permitting and Environmental Review Process," Oct. 11, 2011, available at http://www.whitehouse.gov/the-press-office/2011/10/11/obama-administration-announces-selection-14-infrastructure-projects-be-e.