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NATURAL RESOURCES COMMITTEE REPUBLICANS
CONGRESSMAN DOC HASTINGS, RANKING MEMBER

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Hastings Floor Statement on the Claims Resolution Act of 2010

WASHINGTON D.C. – House Natural Resources Committee Ranking Member Doc Hastings (WA-04) delivered the following remarks on the House floor today regarding the Senate Amendments to HR 4783, Claims Resolution Act of 2010:

"The process by which Congress conducts the American people's business matters. For a long time, Beltway insiders claimed that Americans don't care about process. It was a self-comforting excuse to conduct business out of the public view and to shut-out debate. The message from voters in November's election was unmistakable – it's very clear the American people <u>do</u> care about Congress acting in a transparent, open, and fiscally responsible manner.

Unfortunately, not everyone in Congress has heeded this message. This is evidenced by the manner in which Democrats are seeking to pass this bill.

When it originally passed the House in March, H.R. 4783 was aimed at addressing income tax benefits to charitable contributions for the relief of victims of disasters in Haiti and Chile.

Two weeks ago, this bill emerged in the Senate and looked completely different. The Senate secretly rewrote the bill behind closed doors to create an over 270 page, $5.78 billion omnibus package of largely Indian settlement bills. And the House is now slated to debate this package without a single House Member – Republican or Democrat – having the opportunity to offer an amendment to improve it.

As I have stated several times to the full House, as well as in the Natural Resources Committee, I believe there is real merit in responsibly settling legitimate legal claims, especially when a settlement reduces the potential risk and costs posed to taxpayers by lengthy, uncertain litigation. It is with this view that I'd like to review two pieces of this omnibus package: the *Cobell versus Salazar* settlement, and the settlements of Indian water rights claims with four tribes.

In the *Cobell* case, I agree that the lawsuit has gone on far too long and that it is important for individual Indians to be treated fairly by the federal government. Yet, since the proposed terms of the settlement were first publicly revealed, the Congress has been petitioned by individual Indians and respected Indian organizations expressing real concern with the details. It is very disappointing that these very legitimate concerns by directly affected Indians are being dismissed by this Congress. In particular, the concerns

over the possible payment of over $100 million to lawyers and the handling of damages claims deserved a response by Congress. The Senate bill makes modifications in both areas, but to be bluntly honest, the new text is nothing more than window-dressing because it can be completely disregarded by a federal judge.

To address one of these concerns, I offered an amendment to the Rules Committee yesterday to cap *Cobell* attorney fees at $50 million. The Rules Committee blocked the House from voting on this simple amendment.

Under this bill, a literal handful of plaintiff attorneys may be paid over $100 million dollars. This equates to nearly one-third of the amount awarded in the settlement for the claims actually litigated by these attorneys. This is simply too high.

Some have argued the lawyer fees are just three percent of the settlement – but such a calculation would require proposing to pay lawyers a share of funds from cases they had zero involvement in actually representing.

It should also be noted that the $50 million cap on fees is not arbitrary. It reflects an amount plaintiff attorneys indicated they can live with under their signed agreement with the government.

This legislation should be about fairness to individual Indians, but those who control Congress are bending over backwards to protect a $100 million payout to a few lawyers.

Let's be clear: every dollar paid to attorneys is a dollar that comes out of the pocket of individual Indians in this settlement.

Congress has an obligation to ensure that individual Indians, not lawyers, receive the most money possible. But sadly, that is not happening.

In regard to the four Indian Water rights settlements included in the bill, three of these have previously passed the House. At that time, I expressed my sympathy with such settlements. However, at a time of record deficit spending and record federal debt, it is the duty of Congress to ask questions to ensure these settlements are in the best interest of taxpayers.

Over the past year, Tom McClintock, the Ranking Member of the Water and Power Subcommittee, has sent written inquiries to the Justice Department asking a basic question: 'Do these settlement amounts represent a net benefit to taxpayers as compared to the consequences and cost of litigation?'

To date, the Justice Department has regrettably not answered these questions, even though they answered similar questions with respect to the *Cobell* settlement.

It was for primarily this reason that I was compelled to oppose these settlements when they previously passed the pass. Now there are four such settlements and the price-tag for them is over $1.23 billion. If Congress is going to spend this much money, it has a duty to first know whether this is a fair deal. Without answers from the Justice Department,

informed decisions cannot be made and it isn't responsible to support this bill.

So, for all of these reasons, I must recommend to my colleagues that they oppose this bill until these reasonable questions are answered and the clear deficiencies in the settlements are answered.

I reserve the balance of my time."

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