

1-1-2017

**Film Presentation of Paya: The Water Story of the Paiute, Followed by a Question and Answer Session with: Jenna Cavelle, Director; Harry Williams, Bishop Paiute Tribunal Member & Activist; Jacklyn Velasquez, Big Pine Paiute Tribunal Member & Vermont Law School; and Chris Morrow, Viterbi Graduate School of Engineering.**

Matthew Kilby

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>



Part of the [Law Commons](#)

---

## Custom Citation

Matthew Kilby, Conference Report, Film Presentation of Paya: The Water Story of the Paiute, Followed by a Question and Answer Session with: Jenna Cavelle, Director; Harry Williams, Bishop Paiute Tribunal Member & Activist; Jacklyn Velasquez, Big Pine Paiute Tribunal Member & Vermont Law School; and Chris Morrow, Viterbi Graduate School of Engineering., 20 U. Denv. Water L. Rev. 437 (2017).

This Conference Report is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

---

Film Presentation of *Paya: The Water Story of the Paiute*, Followed by a Question and Answer Session with: Jenna Cavelle, Director; Harry Williams, Bishop Paiute Tribunal Member & Activist; Jacklyn Velasquez, Big Pine Paiute Tribunal Member & Vermont Law School; and Chris Morrow, Viterbi Graduate School of Engineering.

crevice between hills, but it's our lifeline." Yet, from 2003–2014, timber companies removed eighty-two percent of the trees around Jetty Creek. Overall, timber companies have removed ninety percent of the trees from Jetty Creek. Often, these companies performed aerial sprays of "chemical cocktails" over the trees before and after clearcutting. The State of Oregon does not require timber companies to release information about what chemicals these sprays contain, nor does the state provide notice to locals before sprays occur. The Oregon Forestry Practices Act contains almost no requirements for watershed protection. Furthermore, the City of Rockaway Beach, the municipality with regulatory authority of Jetty Creek, does not require any notification or information on the contents of chemicals.

The combination of a lack of regulatory oversight and an acquiescence to the timber industry has effectively ruined Jetty Creek. Since clearcutting began, levels of trihalomethanes in Jetty Creek have rapidly increased and are far beyond the EPA's suggested levels. Panelists spoke about how logging practices have, among other things, increased turbidity of the creek, harmed local animal populations, left the town with no reliable source of drinking water, and negatively impacted the local water-tourism industry. When trying to seek the help of the local and state official on these issues, panelists said they were met with defensiveness, inaction, and industry protectionism.

Frustrated with the state and city, the citizens performed "citizen science" to prove to regulators that the logging industry has been negatively affecting watersheds. Through citizen action, the panelists and other members of the public have created a series of legislative proposals to limit aerial spraying in the timber industry. Oregon Democratic State Senator Michael E. Dembrow recently sponsored Senate Bill 892, or "The Timber Aerial Spray Right to Know" bill. This bill was accompanied by Senate Bill 500, which provides agriculturalists with a cause of action for damages resulting from timber companies that conduct aerial sprays.

Overall, any short-term gains in the legislature will prove insufficient. The panelists warned that other parts of the Oregon coast, notably Short Sands Beach, are in imminent danger of succumbing to the same fate as Jetty Creek. The only true way to prevent watershed destruction in Oregon, the panelists contended, is to fundamentally reshape the state's approach to the timber industry.

FILM PRESENTATION OF *PAYA: THE WATER STORY OF THE PAIUTE*, FOLLOWED BY A QUESTION AND ANSWER SESSION WITH: JENNA CAVELLE, DIRECTOR; HARRY WILLIAMS, BISHOP PAIUTE TRIBAL MEMBER & ACTIVIST; JACKLYN VELASQUEZ, BIG PINE PAIUTE TRIBAL MEMBER & VERMONT LAW SCHOOL; AND CHRIS MORROW, VITERBI GRADUATE SCHOOL OF ENGINEERING.

The landscape in Owens Valley—in arid Inyo County—contains evidence of long-standing irrigation practices predating the American West's colonial era. These dried up channels and diversions come from the people who traditionally inhabited Owens Valley. Today, the descendants of those people belong to the Bishop Paiute, the Big Pine Paiute, and a number of other tribes in the area. The film *Paya: The Water Story of the Paiute* explores a series of extensive pre-historic irrigation systems in the Owens Valley and how evidence of

early beneficial use may help establish a substantial water right for the region's present Indian tribes. The film frames the exploration by discussing intervening historical injustices that prevented local tribes from conducting irrigation.

In order to establish a substantial water right, the local tribal members must first establish evidence proving the existence and the scope of historical water use. To this end, it has been relatively easy to show that pre-historic irrigation channels actually existed. Based on various historical sources, the film estimates that native people constructed over sixty distinct networks of ditch systems in the Owens Valley. But it is much more difficult to show the water quantity used. The more difficult task for people like Harry Williams, a Bishop Paiute tribal member, and others is to prove the quantity of water that flowed through these irrigation systems, but the film estimates tribes might be able show use of up to tens of thousands of acre-feet each year if they successfully applied for water rights.

History has not been kind to the tribes. The indigenous people of Owens Valley were forcibly removed in the 1860s. Even after being allowed to return home, Indians could not purchase land. As a result, the Bishop Paiute and other tribes experienced a "forced, sudden amnesia," and lost their irrigation practices. Then in response to rapid population growth in the early 1900s, the City of Los Angeles began building the Los Angeles Aqueduct and purchasing water rights and land in Owens Valley. Since then, the City of Los Angeles has pumped hundreds of thousands of acre-feet per year from Owens Valley, radically altering the valley.

Unlike many tribes, the Big Pine Paiute and others in the Owens Valley never received a federal Winters right to water, but if tribes can establish beneficial use predating the aqueduct, they could prevent the Los Angeles from diverting massive amounts from the Owens Valley. However, Los Angeles has long been militant in its Owens Valley litigation and owns vast quantities of the area's land. For local Indian tribes to establish a water right, they must create a compelling package of evidence that can accurately describe the prehistoric beneficial use of people in the area.

The film's director, Jenna Cavelle, and others spoke about the film saying it has created a movement within the local community to establish a water right, but tribal communities face an uphill battle because they lack the funding needed to hire experts and accumulate the necessary evidence.

TRANSBOUNDARY WATER ISSUES: CHALLENGES AND OPPORTUNITIES,  
PRESENTED BY: ERIC BENJAMINSON, FORMER UNITED STATES  
AMBASSADOR; TODD JARVIS, OREGON STATE UNIVERSITY; AUSTEN  
PARRISH, INDIANA UNIVERSITY SCHOOL OF LAW; FATIMA TAHA, OREGON  
STATE UNIVERSITY.

This panel consisted of four panelists who discussed separate challenges that attorneys and other professionals face when solving transboundary water issues.

Todd Jarvis, a hydrologist and professor at Oregon State University, began the discussion by outlining six issues anyone working in transboundary water agreements should be ready to face. Jarvis began by outlining the advantages and disadvantages of using conceptual models, which can be important—espe-