

**Written Testimony of Vice President Rex Lee Jim
The Navajo Nation
To the U.S. Senate Committee on Indian Affairs
October 20, 2011**

Good Morning Chairman Akaka, Honorable Members of the Committee on Indian Affairs. I am Rex Lee Jim, Vice President of the Navajo Nation. I am here to provide testimony in regard to the future of the Utah Navajo Trust Fund (UNTF) and Senate Bill 1327 introduced by the Honorable Senator Orrin Hatch.

As the Committee knows, the State of Utah has declared its desire to withdraw as trustee of the UNTF. The State of Utah passed legislation in 2008 that effectively ends most disbursements from the UNTF, ends the trust fund administration, and moves the trust assets to a new fund pending selection of a new trustee. The Utah legislation specifically calls on Congress to appoint a new trustee for the UNTF. The Navajo Nation no longer has a role in the planning of expenditures from the UNTF, as is mandated under the 1933 Act. Consistent with federal policy toward Indian tribes, the Navajo Nation is requesting that Congress designate the Navajo Nation as the new trustee of the UNTF.

Please be aware that the Navajo Nation has many elected officials at various levels of government, all of whom have individual agendas that may or may not coincide with the broader goals and policies of the Navajo Nation. However, the Navajo Nation has its own law that governs who may speak on behalf of the Navajo Nation and our People. Pursuant to Navajo Nation law, only the testimony today is representative of the Navajo Nation in this matter. *See Exhibit A, Navajo Nation Position Statement.*

History of Utah Navajo Lands and UNTF

The Utah portion of the Navajo Nation has a complex history of additions, withdrawals, restorations and exchanges. The United States added the lands in the Utah Territory that lay south of the San Juan and Colorado rivers by Executive Order on May 17, 1884. Navajo People have a historic tie to this area and have continuously occupied this land since long before the captivity of Navajos in 1864. On November 19, 1892, four years before Utah was awarded statehood, then President Benjamin Harrison, by executive order, took back those lands in the Utah portion of the Navajo Nation which lay west of the 110° parallel (what is called “the Paiute Strip”), and placed those lands back in the public domain. Navajo lands in the Utah Territory which lay east of the 110° parallel remained part of the Navajo Nation. On May 15, 1905, by executive order, President Theodore Roosevelt added the Aneth area in Utah to the Navajo Nation. In 1908, the Department of the Interior made an administrative withdrawal of the Paiute Strip from the federal public domain, designating those lands again for exclusive use by the Navajo. In 1922, the Department of the Interior again took the Paiute Strip away from the Navajo, and put the lands back into the public domain. The Paiute Strip was again withdrawn from the public domain in 1929.

The federal legislation that created the UNTF was the result of negotiation and agreement between the Navajo Nation, the State of Utah, and the United States Government. In 1930 and 1931, the Navajo Tribal Council asked the Commissioner of Indian Affairs to negotiate on its behalf to permanently restore the Paiute Strip to the Navajo Nation, based on the previous set asides of this area by the federal government and on historic Navajo occupation. On July 7 and 8, 1932, at its annual meeting in Fort Wingate, the Navajo Nation Council gave its support to proposed federal legislation which would restore the Paiute Strip to the Navajo Nation and to add lands to the Aneth area of the Nation, between Montezuma Creek and the Colorado border (what is referred to as the Aneth Extension).

After Utah citizens voiced opposition to the proposed addition of the Aneth Extension and the Paiute Strip to the Navajo Nation, the Commissioner of Indian Affairs negotiated on behalf of the Navajo Nation with a Utah committee made up of San Juan County representatives to satisfy their concerns. In order to gain the Utah committees' support for the 1933 Act, the Commissioner of Indian Affairs made several concessions to the Utah committee. These concessions included prohibitions on further Native American homesteads or allotments in San Juan County, fencing of Native allotments outside the new Navajo Nation boundaries, fencing of the Aneth Extension's northern boundary, and agreement that state game laws would apply to Navajos hunting outside the Nation's boundaries. The proposed legislation also included an unusual provision that in the event oil and gas was discovered in the Aneth Extension and the Paiute Strip, instead of all net oil and gas royalties going to the federal government to administer on behalf of Navajo citizens, 37 ½ % of those royalties would instead go to the State of Utah to be administered for "the tuition of Indian children in white schools and/or in the building of roads across [the newly added lands], or for the benefit of the Indians residing therein." A final concession to Utah in the proposed legislation provided that Utah could exchange any state school trust lands inside the Aneth Extension and the Paiute Strip for equivalent federal lands, and that any fees or commissions for the exchange would be waived. Congress enacted the legislation Congress in 1933, as Pub. L. No. 403, 47 Stat. 1418 (1933) ("1933 Act").

In 1958, by Act of Congress, the Navajo Nation was further expanded within San Juan County. Under the 1958 Act, the Navajo Nation and the United States government exchanged Navajo Nation lands at Glen Canyon Dam and Page, Arizona for federal lands northwest of and adjacent to the Aneth Extension, including the McCracken Mesa area. In 1949 and 1998, with the Navajo Nation as party to the negotiations, state school trust lands within the Navajo Nation were made Navajo Trust Lands in exchange for other federal lands given to Utah. Currently, negotiations are under way to exchange school trust lands in the Aneth Extension with other federal lands under authority of the 1933 Act.

In 1968, Congress amended the 1933 Act, redefined the purposes of the UNTF, and expanded its class of beneficiaries to include all Navajos in San Juan County. The amended legislation provided that trust monies can be used "for the health, education and general welfare of the Navajo's residing in San Juan County." The 1968 Amendments also provided that trust funds could be used for projects off the Navajo Nation provided that the "benefits" were proportional to the expenditures from the trust. This vague term "proportional" provided one of the main vehicles for mismanagement of the trust monies.

The Navajo Nation Has Sovereignty over Its Lands, Resources and Citizens

The Navajo Nation is a sovereign Native Nation located in the southwestern United States with territory in the States of New Mexico, Arizona and Utah. Numerous Executive Orders, Acts of Congress and Treaties have guaranteed the rights of our Nation to the surface use, and the subsurface mineral resources, of much of our traditional lands. For over forty years, the Navajo Nation has enjoyed a government-to-government relationship with the United States, respectful of the Nation's sovereignty and self-determination in its own affairs, and free of the policies of paternalism which have blemished the past. It remains critical to the sovereignty and self-determination of the Navajo Nation that the United States respect our government-to-government relationship in deciding matters that uniquely concern and affect Navajo lands, resources and citizens. It is also crucial to the integrity of our Nation and its political institutions that passage of any federal legislation directly affecting our interests is done with the consent of the Navajo Nation government.

The Utah Navajo Trust Fund is capitalized completely by royalties from Navajo Nation mineral leases on Navajo Nation lands in Utah which were added to the Navajo reservation in 1933. Since the 1970s, the Navajo Nation has been the fiscal agent for all UNTF royalties, distributing money every year to the State of Utah out of the Nation's general funds, for investment in the UNTF. The beneficiaries of the UNTF are those Navajo citizens residing in San Juan County, Utah. Only members of the Navajo Nation are eligible beneficiaries of the UNTF. The future of the UNTF is clearly a Navajo Nation issue and Congress should respect our sovereignty in this matter.

The Navajo Nation Was Never Consulted and Is Adamantly Opposed to Senate Bill 1327

In spite of the Navajo Nation's considerable interest in the future of the Utah Navajo Trust Fund, including who will be designated as the new trustee, Senate Bill 1327 was introduced by the Honorable Senator Hatch without adequate consultation by the Senator or his staff with the Navajo Nation government or the beneficiaries. *See Exhibits A and B, Aneth Chapter and Red Mesa Resolutions.* In the previous 111th Congress, Senator Bennett from Utah also did not consult the Navajo Nation before submitting his bill.

The Navajo Nation is adamantly opposed to Senate Bill 1327. Senate Bill 1327 would give the federal trust responsibility for royalties from Navajo Nation mineral leases to a non-profit corporation, the Utah Dineh Corporation. Senate Bill 1327 would give control over approximately thirty (30) million dollars in trust funds and assets, as well as an additional 6 to 8 million dollars a year of royalties from Navajo mineral leases, to a corporation with zero experience as a trustee, and absolutely no outside capital. In the event of any breach of trust by the Utah Dineh Corporation, the beneficiaries would have no remedy against the corporation. Senate Bill 1327 fails to ensure any accountability or transparency in the use of trust fund monies and fails to ensure that the trust will exist into perpetuity for the benefit of future generations of Navajo beneficiaries. Senate Bill 1327 broadly expands the original purposes of the trust and

could lead to misuse and misappropriation of trust funds. Senate Bill 1327 would violate the common law of trusts by designating a handful of beneficiaries as the trustee and causing countless conflicts of interest.

On the other hand, the Navajo Nation would be an accountable, responsible and transparent trustee of the Utah Navajo Trust Fund. The Navajo Nation has been the fiscal agent for royalties of the UNTF for over 30 years. The Navajo Nation has a successful record of managing, investing, and increasing the value of multiple Navajo Nation trust accounts, including many multi-million dollar accounts. The Navajo Nation has a well established budgeting and auditing process for the appropriation of funds. Importantly, unlike the Utah Dineh Corporation, the Navajo Nation has sufficient outside assets to be accountable to the beneficiaries and can be sued in Navajo Nation Court with consent of the Navajo Nation Council. Our vision includes further consultation with the local Navajo Chapters and Utah Navajo communities in developing the parameters of the trust.

The Oil and gas revenue for the trust will not last forever. The trust must be grown and managed successfully not only to pay for needed expenditures in the short term, but for the benefit of future generations of Navajos in San Juan County as well. The trust also should be managed to ensure its survival in perpetuity. The Navajo Nation is committed to ensuring that the UNTF continues to grow and benefit current and future generations of Utah Navajos and the Navajo Nation should be made the new trustee. Senate Bill 1327 does not ensure a trust corpus in perpetuity.

Conclusion

Designating the Navajo Nation as trustee of the UNTF is the only position consistent with the policy established by the United States Congress to recognize the sovereignty of the Navajo Nation and the right of the Navajo Nation to self-determination in matters which concern the Nation's lands, resources and citizens. Senate Bill 1327 was introduced without adequate consultation with the Navajo Nation government or the beneficiaries and would give the important federal trust responsibility over the Nation's resources and citizens to a non-profit corporation. Senate Bill 1327 does not respect the Navajo Nation's sovereignty and right to self-determination and this Committee should oppose it.

I appreciate this opportunity to provide testimony to the Senate Committee on Indian Affairs. The Navajo Nation looks forward to working with the Committee and the Utah delegation in a government-to-government relationship as reasonable legislation is introduced to secure the future of the Utah Navajo Trust Fund. Thank you.

RESOLUTION OF THE
INTERGOVERNMENTAL RELATIONS COMMITTEE

21st NAVAJO NATION COUNCIL - Second Year, 2008

AN ACTION

RELATING TO INTERGOVERNMENTAL RELATIONS; APPROVING THE 2008
POSITION STATEMENT OF THE NAVAJO NATION ON THE FUTURE OF THE
UTAH NAVAJO TRUST FUND

BE IT ENACTED:

1. The Navajo Nation hereby approves the 2008 Position Statement of the Navajo Nation on the Future of the Utah Navajo Trust Fund, attached hereto as Exhibit A, upon the recommendation of the Navajo Utah Commission set forth within their Resolution NUCMAY-445-08.
2. The Navajo Nation hereby authorizes the President of the Navajo Nation, the Speaker of the Navajo Nation, the Navajo Utah Commission, and their designee, to advocate with the United States Congress, the Federal Government, the State of Utah, and the sundry states, in accord with the 2008 Position Statement of the Navajo Nation on the Future of the Utah Navajo Trust Fund.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 7 in favor and 0 opposed, this 19th day of May, 2008.



LoRenzo Bates, Chairperson Pro Tem
Intergovernmental Relations Committee

Motion: Francis Redhouse
Second: Sampson Begay

2008 Position Statement of the Navajo Nation on the Future of the Utah Navajo Trust Fund

History of Utah Navajo Trust Fund.

Executive Order of May 17, 1884, "withheld from sale and settlement and set apart as a reservation for Indian purposes" land in the Utah Territory that lay south of the San Juan and Colorado rivers. This land has been historically and continuously occupied by Navajo people since long before the captivity of Navajos in 1864. Four years before Utah was awarded statehood, Executive Order of November 19, 1892, put Navajo lands in the Utah Territory west of the 110° parallel ("the Paiute Strip") back in the public domain. Lands in the Utah Territory east of the 110° parallel remained part of the Navajo Reservation. Executive Order of May 15, 1905, added the Aneth area in Utah to the Navajo Reservation. In 1908, the Department of the Interior withdrew the Paiute Strip from the public domain for use of the Navajo. In 1922, the Department of the Interior again put the Paiute Strip back into the public domain.

In 1930 and 1931, the Navajo Nation Council asked the Commissioner of Indian Affairs to negotiate on behalf of Navajo Nation to permanently restore the Paiute Strip to the Navajo Reservation, based on the previous set aside in the Executive Order of 1884 and historic Navajo occupation of the area. On July 7 and 8, 1932, at its annual meeting in Fort Wingate, the Navajo Tribal Council gave its support to proposed federal legislation which would restore the Paiute Strip and add land between Montezuma Creek and the Colorado border to the Aneth area of the Reservation. This legislation was passed by the United States Congress in 1933, as Pub. L. No. 403, 47 Stat. 1418 (1933) (hereafter "1933 Act").

The 1933 Act was the result of an agreement between three parties: the Navajo Nation, the State of Utah, and the United States Government. After Utah citizens voiced opposition to the proposed addition to the Navajo Reservation, the Commissioner of Indian Affairs negotiated on behalf of the Navajo Nation with a Utah committee made up of San Juan County representatives. Several concessions were made to the Utah committee in order to gain its support for the 1933 Act, including prohibitions on further Indian homesteads or Indian allotments in San Juan County, fencing of Indian allotments outside the new reservation boundaries, fencing of the Aneth extension's northern boundary, and agreement that state game laws would apply to off reservation hunting by Navajos.

The 1933 Act provided that "should oil or gas be produced in paying quantities," the State of Utah would receive 37 ½ % of net oil and gas royalties derived from Navajo Tribal Leases on the newly added Navajo Trust Lands. In return, the State of Utah would act as trustee of the funds, and expend the funds "in the tuition of Indian children in white schools and/or in the building of roads across [the newly added lands], or for the benefit of the Indians residing therein." The 1933 Act also provided that Utah could exchange state school trust lands inside

the new Reservation boundaries for equivalent federal lands and that any fees or commissions for the exchange would be waived.

In 1968, Congress amended the 1933 Act, redefining the purposes of the trust and expanding the class of beneficiaries. The amended legislation provided that the trust be used "for the health, education and general welfare of the Navajo Indians residing in San Juan County." The 1968 Amendments also provided that trust funds be used for projects and facilities in San Juan County that were not of exclusive benefit to the designated beneficiaries provided that the benefits to the beneficiaries were in proportion to the amount of trust funds used for the projects and facilities.

Over the course of the last 75 years, through legislation, executive acts and other governmental conduct, the State of Utah accepted its federally appointed role as trustee of the Utah Navajo Trust Fund (UNTF). During Utah's tenure as trustee, funds from UNTF have been used to create and/or acquire significant fixed assets on state lands. These assets include two medical buildings, a government services building, two housing subdivisions, and fairgrounds.

Substantial evidence exists that Utah failed to properly administer Utah Navajo Trust Funds over many decades, and Utah has yet to make a full and complete accounting of its administration and use of trust funds, as required by law. Utah, as UNTF trustee, has been the defendant in several lawsuits. In 1991, serious allegations of mismanagement and misappropriation of trust funds by Utah and other entities using trust monies were made in a 1991 report by the State of Utah, Legislative Auditor General. In Pelt v. Utah, the State of Utah is the defendant in a class action lawsuit brought on behalf of UNTF beneficiaries over these issues.

In 2007, the State of Utah announced that it wished to resign as trustee of UNTF. On March 17, 2008, Bills HCR4 and HB352 ("Sunset Act") were signed into law. This legislation purports to cause the resignation of Utah from its role as federally appointed trustee of UNTF effective June 30, 2008. The Sunset Act provides that from March 17 until May 5, 2008, the UNTF administrator can only commit to new projects capped at \$100,000, and only to projects that will be completed by January 1, 2010. From May 5 until June 30, the UNTF administrator cannot commit any monies to new projects. After July 1, 2008, all assets of the trust after liabilities are paid will be placed in a New Fund created by the Utah Division of Finance. The New Fund will be managed according to the Utah State Money Management Act. No disbursements will be made from this fund except to pay for maintenance of the fixed assets of the expired UNTF and to continue any educational scholarships awarded through June 30, 2010. The Sunset Act also provides that the State of Utah shall purchase the fixed assets of the Navajo Trust Fund, existing as of May 5, 2008, consistent with the trust obligations of the state in "arms length" transactions and providing "fair market compensation" to the trust. Based on provisions in the Sunset Act and Utah Code 63-55-104 and 63-55-263, the UNTF Administrator probably can continue to function until January 1, 2010. It is expected that the UNTF will maintain a small staff to administer existing UNTF projects until they are completed.

The Fiscal Year 2008 budget for UNTF is \$3,879,300.00. Administrative costs are approximately 14.5% of the entire budget at \$551,800.00. \$650,000.00 is earmarked for chapter projects. Nearly \$595,000.00 is budgeted for higher education, primarily scholarships. The remainder of the 2008 budget goes to a variety of specific projects, as well as providing matching grants for housing construction.

The Navajo Nation is an Independent Sovereign Nation.

The Navajo Nation is an independent sovereign nation. The Navajo Nation has the right to self-determination, to freely determine its own political status and to freely pursue its economic, social and cultural development. In exercising its right to self-determination, the Navajo Nation has the right to autonomy and self-government in matters relating to its internal and local affairs, as well as a right to the ways and means for financing its autonomous functions.

In 1933, when the Navajo Utah Trust Fund was created, the Navajo Nation tribal government was only 10 years old. Today, the Navajo Nation is the largest and most sophisticated American Indian government. The Navajo Nation has developed a substantial body of both statutory and decisional law to complement the fundamental laws of the Diné. The Navajo Nation has a well-developed annual comprehensive budgeting process for appropriation of all Navajo Nation funds which should be followed in utilization of all Navajo Nation generated funds, including the proceeds from the Utah Navajo Trust Fund.

1. New Federal Legislation Affecting the Utah Navajo Trust Fund Should Be the Result of Government to Government Negotiations Between Navajo Nation, United States Government, and State of Utah and Should Require Consent of Navajo Nation.

Federal legislation amending or repealing the 1933 Act and designating a new trustee for the Utah Navajo Trust Fund should be the result of good faith government to government negotiations between the Navajo Nation, the State of Utah, and the United States Government. Consistent with the Navajo Nation's status as an independent sovereign nation, any federal legislation that affects royalties generated by Navajo Nation Trust Lands must be made with the consent of the Navajo Nation.

2. Beneficiaries Should Remain "Navajos in San Juan County" Subject to Certain Conditions.

The beneficiaries of the Utah Navajo Trust Fund should remain Navajos in San Juan County, through the Navajo Nation annual budget process. Provided; that special consideration should be made in the annual budget process to use Utah Navajo Trust Fund proceeds for the benefit of Navajos residing within the Aneth Extension for mitigation of environmental impacts and other

negative impacts associated with the development and production processes of oil and gas resources located within the Aneth Extension, and for development of needed infrastructure. Navajos living outside of Navajo Indian Country shall be eligible for educational assistance from Utah Navajo Trust Fund proceeds. Capital outlay funding and housing assistance shall not be provided from Utah Navajo Trust Fund proceeds for projects located outside of Navajo Indian Country. Provided; that all existing and future health facilities funded by Utah Navajo Trust Fund proceeds and any other facilities funded by Utah Navajo Trust Fund proceeds located outside of Navajo Indian Country shall continue to be operated for the benefit of all Navajos.

3. Consultation of Beneficiaries.

Negotiations to designate a new trustee shall be in close consultation with the existing beneficiaries through the chapters, keeping the best interests of the beneficiaries in mind at all times.

4. New Federal Legislation for Allocation of Royalties Shall Maintain the Status Quo.

The beneficiaries of the Utah Navajo Trust shall continue to receive the benefit of 37 ½% of all royalties generated by oil and gas production from leases on Reservation lands added in 1933. 62 ½% of all royalties generated by oil and gas production from leases on Reservation lands added in 1933 shall continue to go to the Navajo Nation.

5. Disposition of Trust Assets on State Lands.

Negotiations must address UNTF assets on state lands and provide either for fair market value purchase of the assets by Utah, or for acquisition of the state lands in question by Navajo Nation. The Sunset Act provides that the State of Utah Division of Facilities Construction and Management can purchase UNTF assets on state land. Because acquisition of state lands by Navajo Nation could implicate a land exchange involving the federal government, all three governments should be involved in negotiations to dispose of these assets and/or convey, exchange, or purchase lands. In addition, negotiations currently under way to exchange Utah School Trust Lands in the Aneth extension with BLM lands outside the reservation, pursuant to Section 2 of the 1933 Act, should be coordinated with the disposition of UNTF assets.

6. Navajo Nation Would Be Best Trustee.

As a sophisticated tribal government, the Navajo Nation has the resources and expertise to administer the UNTF on behalf of Utah Navajo beneficiaries. The UNTF is generated by royalties from leases entered into by the Navajo Nation on Navajo Nation Trust Lands. Trusteeship of these funds by the Navajo Nation on behalf of the Utah beneficiaries would be consistent with principles of sovereignty and self-determination. The Navajo Nation, through management of its own trust funds, has proved its fiduciary capabilities. The Controller of the

Navajo Nation is the general fiduciary of Navajo Nation funds, and trust funds should be invested consistent with the recommendations of the Investment Committee. A Trust Fund Administrator should be centrally located in San Juan County and trust fund administration should provide for local decision making in how funds are spent.

7. State of Utah Navajo Trust Fund Administrator Should Remain in Existence Until It Winds Up Its Affairs.

The UNTF Administrator has the legal authority under Utah law to continue to administer existing projects until January 1, 2010. The UNTF Administrator should continue to administer existing projects and programs to prevent any gaps in existing services until an interim administrator is designated or a new trustee has been selected.

8. Where Aneth Chapter Suffers Environmental Harms Disproportionate to Its Receipt of Trust Funds, Special Monies Should Be Allocated to Aneth Chapter to Mitigate Environmental Impacts and Develop Needed Infrastructure.

On the Aneth Extension, oil and gas development and production processes that generate royalties for the UNTF cause environmental and other negative impacts. The new terms of the trust should ensure that separate monies are specifically allocated to Aneth Chapter to mitigate the environmental impacts of oil and gas extraction on the Aneth Extension. Additionally, infrastructure needs at Aneth Chapter have not been adequately funded in the past. Future trust administration should provide sufficient funds to develop needed infrastructure at Aneth Chapter.

9. Trust Fund Monies Should Not Be Used in Off-Reservation Projects "Proportional" to the Benefit Received.

Under the 1968 amendments, UNTF monies were allowed to be used in off reservation projects if they were allegedly "proportional" to benefits enjoyed by beneficiaries. This provision has been one of the causes of mismanagement and waste of trust funds. Except for educational endowments, no trust funds shall be used outside Navajo Indian Country without at least 50% matching funds provided by other participating entities.

10. Funds from the Sale of Utah Navajo Trust Fund Administrative Offices Should be Designated Specifically For New Trust Fund Administration Facilities.

One of the goals of the Navajo Nation is to provide for centralized administration of Navajo Nation service providers in the Utah portion of the Navajo Reservation through a Regional Navajo Nation Office centrally located in Montezuma Creek. At present, Navajo Nation services are scattered and not as efficient as they could be in a centralized space.

The State of Utah generally limits its services to the county seat in Monticello. A Regional Navajo Nation Office should be a shared facility for the new UNTF Trust Administrator, Navajo

Nation service providers, and state programs. Along with Navajo Nation and state funds, UNTF should provide matching funds from the sale of the current UNTF administrative offices to help fund the construction of a Regional Office Facility. A Regional Office Facility would improve coordination of projects involving the UNTF Trust Administrator, Navajo Nation service providers, and state entities.

11. Full Accounting by State of Utah.

The State of Utah should provide a full and complete historical accounting of the Utah Navajo Trust Fund before a new trustee is designated. A full and complete historical accounting will specify *how* all UNTF funds were used by both state and non-governmental entities and not merely what entities received UNTF funds and in what amounts.

12. Settlement of Existing Lawsuits.

The State of Utah should use its best good faith efforts to settle the litigation in Pelt v. Utah before a new trustee is designated.