

Statement by Senator Robert F. Bennett
before the
Committee on Indian Affairs

Hearing on S.1690, a bill to transfer certain authority and resources to
the Utah Dineh Corporation

Good Morning Mr. Chairman, Senator Barrasso, and members of the Committee. I appreciate you taking the time to hold a hearing on this important issue in my home state.

In 1933, Congress added approximately 52,000 acres of land north of the San Juan River to the Navajo Reservation in Utah to compensate for land that had been taken to accommodate what would become Lake Powell. This area is known as the Aneth Extension. It was believed that this land held a high potential for oil and gas production. In anticipation of this development, and as part of an agreement between the federal government and the state of Utah, the 1933 legislation created a permanent trust specifically for the benefit of Utah Navajos, funded by a portion of any royalties from oil and gas development in the Aneth extension. The act mandated that 37.5% of the royalties from this 52,000 acre area be used for the education of Navajo children, the construction and maintenance of reservation roads, and other benefits of the Navajos living in the Aneth Extension. The remainder of the royalties would be sent to the Navajo Nation. The legislation designated the State of Utah as the trustee responsible for managing this fund, named the Utah Navajo Trust Fund.

The State of Utah only consented to removing the Aneth lands from the public domain and adding them to the Navajo Reservation when an agreement was reached to dedicate a portion of the revenue generated from the harvesting of oil and gas resources to the areas in Utah where the resource was produced. The State insisted on this arrangement to ensure that the Navajos living on the Utah portion of the Navajo Reservation received some direct benefit from the development in their back yards, and did not have to solely rely on the historically inadequate appropriations from the Nation's general funds. Congress recognized this distinction in the 1933 Act and did so again in 1968 when my father, Senator Wallace F. Bennett, amended the law to broaden the class of beneficiaries to include all Navajos residing in San Juan County. My father's amendment also expanded the purposes of the fund to include the health, education and general welfare of the beneficiaries.

The Utah Navajos and the State of Utah have often clashed over the management of the trust fund and several lawsuits have resulted from this discord. As a result of this sometimes acrimonious relationship, the Utah State legislature allowed the law that created the mechanism for distributing the Utah Navajo Trust Fund benefits to sunset. In 2007, Governor Huntsman notified the Utah Congressional Delegation that the state desired to be relieved of its trustee responsibilities. December 31, 2009 is the last day that Utah will have a legal mechanism in place to distribute funds to the various programs

established for the benefit of San Juan County Navajos. The cessation of those distributions will shut down the housing and scholarship programs that provide the bulk of assistance to the Navajos of San Juan County resulting in even greater hardship in one of the poorest regions in Utah.

The Navajos residing in San Juan County are my constituents. At the beginning of this year I received resolutions from six of the seven Utah Navajo Chapters (the seventh chapter has fewer than fifty members residing in Utah) endorsing the idea of designating a new trustee as long as that trustee is not the Navajo Nation. The response to my question of why they did not want the Navajo Nation to serve as trustee was that they believe the Navajo Nation will use the Utah Navajo Trust Fund for purposes other than what the 1933 Act and 1968 amendments require.

These Chapter resolutions also endorsed the idea of allowing the San Juan Navajos to manage their own resources. Because I represent their interests as Utahns in the United States Senate and share their desire to grant them the ability to determine their own future, I agreed to work with them in resolving this problem.

S.1690 respects the precedent established by the Congress in 1933 and reaffirmed in 1968 that the Utah Navajos are unique in this one respect from the rest of the Navajo Nation. I believe Congress' recognition that the Utah Navajos residing in San Juan County are entitled to receive a direct share of the revenue from resources developed within the Aneth Extension is evidence that this is a Utah issue and therefore, a Utah based trustee should be the solution.

On June 19, 2008, Mr. Ross Swimmer, Special Trustee for American Indians, testified before the House Committee on Natural Resources in an oversight hearing for the Utah Navajo Trust Fund. He noted in his testimony that his office did not have the capacity to administer this fund in the manner required by the 1933 Act. He concludes by stating it would be appropriate for either the Navajo Nation or a nonprofit organization made up of Navajo citizens to serve as the trustee.

This second option identified by Mr. Swimmer opens the door for a unique solution to this problem that will allow the Utah Navajos an opportunity they have never been able to fully experience—that experience known as self determination.

To this end, the Utah Navajos have used the non-profit organization option recommended by the Special Trustee for American Indians as their model in creating the Utah Dineh Corporation. This corporation has a board of directors comprised of members from each Utah Chapter. The Utah Dineh Corporation is a Utah Nonprofit Corporation organized for the specific purpose of fulfilling the mandate of the 1933 and 1968 Acts. The Corporation will contract with a private investment firm for money management and establish processes whereby the money collected and investment earned will be used to further the intent of the trust fund.

The intent of S.1690 is to designate a new trustee in the manner recommend by Mr. Swimmer and, in doing so, allow the Utah Navajos to manage their own assets. For far too long the Utah Navajos have been poorly served by a paternalistic system that is often abused. While no system of trust responsibility is exempt from the potential of mismanagement, I trust that the San Juan County Navajos are capable of acting in the collective good for today's and future generations of their people. I believe the Congress should do the right thing by fully enabling self determination for them. S.1690 would accomplish that goal. Thank you allowing me to testify and holding today's hearing on this important legislation.