

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ON
S. 1327**

OCTOBER 20, 2011

Good afternoon Mr. Chairman, Mr. Vice Chairman, and members of the Committee. It is a pleasure to be here today to provide testimony on behalf of the Department of the Interior (Department) on S. 1327, a bill to amend the Act of March 1, 1933, to transfer certain authority and resources to the Utah Dineh Corporation, and for other purposes. The Department opposes S. 1327.

Background

In 1933, Congress established the Utah Navajo Trust Fund (UNTF), Pub. L. No. 72-403, 47 Stat.1418 (1933 Act), which designated Utah as the trustee. UNTF’s corpus was derived from 37.5 percent of net royalties from the extraction of oil and gas deposits under the Navajo Reservation’s Aneth Extension. According to the statute, the 37.5 percent net royalties are to be paid to the State of Utah, for the health, education and general welfare of the Indians residing in the Aneth Extension. In 1968, Congress expanded the beneficiary class to include all Navajos living in San Juan County, Utah, Pub. L. No. 90-306, 82 Stat. 121. The Navajo Nation has managed 62.5 percent of the net royalties since the initial development of oil and gas on the Navajo Reservation.

In approximately 1959, oil and gas wells in the Aneth Extension began producing in paying quantities, and the Department, through oil and gas mining leases on the Navajo land, began collecting oil and gas royalties. The leases are between the Navajo Nation and the producer, and are subject to approval by the Secretary of the Interior.¹ The State of Utah is not a party to the tribal leases for these oil and gas royalties.

In 2008, the State of Utah decided to resign as trustee of the UNTF, and allowed UNTF, as a state agency, to sunset. The State moved the responsibility to fulfill the liabilities and obligations of the repealed UNTF to the State of Utah’s Department of Administrative Services. The State also provided for a transition process until the United States Congress designates a new administrator of the 37.5 percent of the Utah Navajo royalties identified in the 1933 Act.

¹ See, e.g., 25 U.S.C. § 396a (provision in 1938 Indian Mineral Leasing Act allowing tribe to lease unallotted Indian land for mining purposes, subject to Secretary of Interior approval); 25 C.F.R. Pt. 211 (Leasing of Tribal Lands for Mineral Development).

The Office of Natural Resources Revenue (ONRR) receives the Report of Sales and Royalty Remittance from the royalty payor and prepares a monthly summary of the reported royalties for 21 Aneth leases. Currently, the royalties are paid to the ONRR, the same as all other Indian leases. The ONRR then forwards the funds to the Navajo Nation, and simultaneously reports to the Navajo Regional Office of the Bureau of Indian Affairs (BIA) on the respective funding amounts due to Navajo Nation and to the State of Utah Navajo trust entity. The BIA then forwards correspondence to the Navajo Nation recapitulating the ONRR-calculated funding split and directing Navajo Nation to forward the appropriate amount to the Utah Navajo trust entity.

Department's Concerns with S. 1327

S. 1327 would amend the 1933 Act and its subsequent 1968 amendments by identifying the Utah Dineh Corporation as the trustee of the former UNTF. Consistent with our government-to-government relationship with the Navajo Nation, the Department acknowledges and respects the position of the Navajo Nation as it pertains to the UNTF. The Department understands that the Navajo Nation would like to manage the trust and disburse the funds to the Utah Navajo beneficiaries consistent with the current disbursement and percentages. We also understand that the Navajo Nation opposes this bill and has opposed a similar version in the 111th Congress. The Department, therefore, opposes S. 1327. At this time, the Department believes it is more appropriate for the Navajo Nation to manage the trust and disburse the funds consistent with and to further the intent of the 1933 Act.

Furthermore, without additional background or definition of whom, or what makes up, the Utah Dineh Corporation, the Department is concerned with the designation of the Utah Dineh Corporation as the trustee for the 37.5 percent. We are also concerned with the deletion of a significant portion of the 1933 Act and its subsequent amendments that required "planning of expenditures" in cooperation with the appropriate department, bureaus of the United States and with the Navajo Nation. The planning and cooperation would not be required by the Utah Dineh Corporation under S. 1327. Also, the Department is concerned that S. 1327 would eliminate the reporting requirement of the 1933 Act, whereby an annual report was sent to the Navajo Area Regional Director of the BIA.

Again, for the above stated reasons, the Department opposes S. 1327. This concludes my statement. I would be happy to answer any questions the Committee may have.