

Working Draft Copy - Written Testimony of Mark Maryboy

July 28, 2010

Chairman Rahall and Members of the Committee, I appreciate the opportunity to provide my testimony this morning. First of all, on behalf of the Utah Navajos, I would like to acknowledge and thank our congressman, Mr. Jim Matheson for his concern and willingness to help Utah Navajos. We applaud his efforts to keep the management of the Utah Navajo Trust fund in Utah consistent with the 1933 congressional act.

Two years ago in June 2008, I presented and provided a testimony before this committee regarding the Utah Navajo Trust Fund. At that hearing you heard a presentation from me, President Joe Shirley, and Ross O. Swimmer, Special Trustee of the American Indians, Department of the Interior.

During my presentation, I recommended that this trust fund be controlled and administered locally by Utah Navajos. My position at that time was that, within our Utah Navajo community, we have the ability to manage and administer the fund. President Shirley recommended a different position which was to have the Navajo Nation manage the trust fund for the Utah Navajos. The Final presentation was made by the assistant secretary of the interior, Mr. Swimmer. He proposed two options - give the responsibility to the Navajo Nation, or have the Utah Navajos form a private non-profit organization to manage the trust.

Since this hearing, the Utah Navajo chapters and Congressman Matheson have met regarding these two options. The Utah Navajos and Mr. Matheson both agree that the option to keep the funds in San Juan County Utah is the most desirable for the beneficiaries.

Chairman Rahall, your staff also traveled to San Juan County Utah and met with the seven Utah Chapters regarding this matter in the fall of 2008 and also in early 2010. During the first visit with the chapters, most of the chapters preferred to keep the trust fund administration in San Juan County Utah. This was reiterated during your staff's second visit this year.

As for management of this asset by the Navajo Nation; in 1996 the 10th circuit court made the following statement:

"Contrary to the Tribe's claims, we do not believe that the Navajo Nation has any ownership in the 37 \1,% of the royalties generated by the Aneth Extension. We note that prior to the addition of these lands to the Navajo Reservation, these lands were public lands. (*Citation omitted*). Contemporaneous with adding these lands to the reservation, Congress chose to reserve a portion of any oil and gas revenues. Congress then transferred the ownership interest in these proceeds to the State of Utah to hold as trustee for the benefit of the Aneth Extension Navajos. (Later amended be for the benefit of all Navajos residing in San Juan County Utah). Therefore, since the Tribe never possessed an ownership interest in these proceeds, *see* P.L. No. 90-306, 82 Stat. 121, the Tribe could not have a federal connon-law claim based on its ownership interest." 104 F.3d 1545.

Federal law has designated the beneficiaries as "Navajos residing in San Juan County Utah," yet the beneficiaries have been relegated to subordinate position in matters related to management of this trust. The primary concern of this committee should be to align legislation with the desires and best interests of the beneficiaries.

Regarding the current bill being proposed, we have met extensively with Mr. Matheson's staff and with Chairman Rahall's staff to discuss the language. Our intent has been to insure that the bill reflects the wishes of the beneficiaries of the trust fund. These beneficiaries are the Navajos residing in San Juan County. The purpose of the fund is to directly provide a resource to the people for their development. It is to foster economic growth, provide education, health, and general welfare services to our communities. We are proud to be a part of the great Navajo Nation. It is our deepest desire to make a meaningful contribution to the progress and development of our people. This trust fund represents a valuable asset, which if managed properly can do tremendous good. We believe that the Utah Navajos are in the best position to effectively manage the trust.

With full respect to our leaders from the Navajo Nation we ask for their full confidence and cooperation. This bill provides an opportunity for Utah Navajos to take on the full responsibility of managing this resource.

Conclusion: The Utah Navajos are optimistic as we look toward the future. We are anxious to create an environment that fosters true economic and community development. One of the main objectives of the 1933 act and the 1968 amendment was to allow for self determination and self governance of the beneficiaries. HR 4384 will place responsibility where it belongs, with the Navajo people of San Juan County Utah.

We have formed Utah Dineh Corporation, a Utah non-profit corporation. We believe that this entity can make a difference to our people. We want to work in cooperation with San Juan County, The State of Utah, and the Navajo Nation to develop jobs, promote industry, education, healthcare, and prosperity. We see clearly the objective of our people. For too long our economy has been stagnant. We have been deprived of the resources that exist right beneath our feet. All we ask is for control of these resources which are essential for our growth.

This bill is set before the committee. It is truly an honor for me to speak to you in this setting. I urge you to pass this bill quickly so that we who have called the Four Corners area of Utah our home for over 600 years can get back to the business of building our communities. Passing House Bill 4384 is the first step, but it is a step that we must wait for you to take.

This concludes my statement. I would be happy to answer any questions of the committee.