

Written Testimony of Mark Maryboy

June 19, 2008

Mr. Chairman and Members of the Committee, it is my pleasure to submit testimony to your committee today and I hope that my testimony will help the committee in making some important decisions related to the Utah Navajo Trust Fund, namely selecting a suitable new trustee.

Intro: My name is Mark Maryboy, I'm from Montezuma Creek, Utah, I was born and raised in Bluff, Utah and a resident of the area all my life. I graduated from San Juan High School in Blanding, Utah and graduated with a degree from University of Utah.

I was the first Native American elected to a public office as a County Commissioner in the State of Utah, where I served as for 16 years and retired in 2002, I also served as Navajo Nation Council for 16 years and retired in 2007. During my tenure with the Navajo Nation Council, I served as the Chairman of the Budget and Finance Committee and also served as Chairman of Transportation and Community Development Committee.

I'm here with Phil Lyman a friend and colleague and an agent during this presentation; I'm also accompanied by my brother Kenneth Maryboy who is now the San Juan County, Utah County Commissioner and also a member of the Navajo Nation Council.

Congress, in the Utah Navajo Trust Fund Administration and Self-determination act of 2008, emphasized the right of the Utah Navajo to self-determination and self-governance.

Self-determination and self-governance are the central guiding doctrines of the act, and are vital to the success of any program intended to meet the objectives set forth by congress and by the Supreme Court.

What are the objectives? – Quoting the Supreme Court – “to provide for the health, education, and general welfare of the Navajo Indians residing in San Juan County.”

When the act was created in 1933, Congress mandated the percentage of royalties that would be held in trust and the purposes for which those funds would be expended. At the time there were no known oil or gas resources on the “Aneth Extension” and so there was no trust fund to worry about.

The later discovery of Oil should have been a tremendous stoke of good fortune for Utah Navajos. And, in fact to some extent, it was. However, as is often the case, conflicts arose. Personal agendas got in the way. Programs designed to provide valuable and needed services were poorly run. Mismanagement was a common allegation. What should have been a source of hope for the intended beneficiaries of the fund, namely the Navajos living in San Juan County, became a source of frustration.

Utah Navajo Development Council:

Much of the controversy that surrounds UNDC was not created solely by UNDC. The fiduciary duty that the state had to the beneficiaries was being subrogated, at least in part, to UNDC. The State argues that UNDC was an agent of the beneficiaries. The beneficiaries argue that UNDC was an agent of the state. While money was being poured into programs administered by UNDC, neither the state nor the beneficiaries were taking responsibility for the management of UNDC. Lacking were the internal controls that should have been in place to help the management of UNDC to withstand the onslaught of unqualified and self serving administrators

and key employees that began to have free reign. Those close to UNDC could see the collapse coming long before it actually occurred, yet the state could not change the management without the vote of the chapters and the chapters lacked the ability to act quickly and decisively to correct the problem.

The solution now is not to divide the fiduciary roles of the Trustee but to identify a Trustee that can be accountable to all parties concerned. This trustee needs the support of the State, the County, the Tribe, the beneficiaries. It needs to be empowered with control in order for it to be fully accountable. The Trustee organization needs the tools to succeed. It needs financial institutions and money managers that are willing to advise and oversee investments. It needs the State of Utah with its resources to take a vested interest in its activities; after all the beneficiaries of the trust are Utah citizens. It needs the blessing and support of the Navajo Nation Administration. It needs to allow the beneficiaries to have a voice. The Chapters must recognize the trust as a vital asset and take a vested interest in selecting quality board members who will cooperate and put personal agendas aside for the sake of the greater community.

In the early 1990s, UNDC was stripped of its funding. Since then, it has struggled to maintain a few programs. Currently UNDC is a shadow of what it was in the 70's and 80's. It owns some important real estate in Monument Valley. It runs a Tribal education program which is small but vital to the community of Montezuma Creek. Quite recently the board had contemplated winding down UNDC's affairs and dissolving the corporation once and for all.

It was at this time that Mr. Phil Lyman Contacted me, and expressed his interest in restructuring UNDC with a fresh board of directors and a with proper accounting controls to set the organization back on firm footing.

Mr. Lyman is the owner of a local CPA firm. He has had some involvement with UNDC over the last 12 years or so and wished to see UNDC resume a few of the programs that had fallen by the wayside during that time. He and I both agreed that we only wanted to be involved with UNDC if the entity was completely restructured.

We wanted to be a part of an organization that was designed to succeed, not designed to fail. With my past leadership experience and education, and Mr. Lyman's past CFO experience and education, we determined to move forward. I contacted several of the Utah Navajo Chapters to see if there was an interest in reorganizing UNDC. The sentiments were overwhelmingly in favor of re-creating UNDC to be an organization that could truly "serve" the people.

Several of the Chapters have put forth the name of their candidates for the Board. These candidates are young, educated people who are dedicated to their people. They have learned from the mistakes of the previous generation. They are willing to be involved and want to make a difference.

So now we have a UNDC with roots in the past and a vision for the future. UNDC is the oldest existing Navajo corporation in Utah. Restoring UNDC means more than just restructuring an organization. It means keeping old promises. It means reclaiming lost hope. It sends the message that a new generation can pick up the plow and continue the work of their fathers.

In light of the changes that are currently being made with the Utah Navajo Trust Fund, UNDC seems poised to take on a role much greater than we anticipated. UNDC is not without significant supporters and backing. Key members of the banking community have stood by UNDC through the ups and downs and have expressed confidence in the new organization. They have expressed an interest in and a commitment to working with UNDC in whatever capacity they can to help UNDC succeed. We have contacted several key organizations that

have provided funding for past programs. With the changes we are making they are thrilled to re-establish relations with us.

With oil at its current price levels and with the Aneth Oil fields at a high level of production, the Utah Navajo Trust Funds should be growing. The corpus of the trust fund should be conservatively invested. We have relationships with several institutional money managers. All investments decisions will be made with utmost care and prudence.

If this fund is managed properly and with frugality, program spending can be increased, management costs will be reduced, and the corpus of the fund will still grow. Using only the investment income of the fund, we hope to be able to match money from other grants to increase the effect of the trust fund and the programs we oversee.

There are tremendous opportunities for education on the reservation right now. Education has been my greatest interest since graduating from College and returning home. I created many of the programs that UNDC has been involved in over the last thirty years. In my community, we have good schools, but our people need better support. Our families need assistance to integrate into the educational system. It takes work and it takes resources, but most of all it takes an understanding of the people.

The same is true of Healthcare and economic development. To make real progress requires an understanding of the culture of the Navajo People living in San Juan County and of the challenges they face. There is no one more qualified to address these challenges than the people themselves. And no one who understands those challenges better than I do.

Additionally, UNDC is committed to working closely with the Navajo Tribe. We welcome the input of tribal administration.

This debate is not about UNDC. It is truly about the beneficiaries of the trust and what can be done to best serve them. The Utah Navajos are among the poorest people in our country today. We need economic development. We need education. We need health care. But if this is all that the money from the trust provides it will have fallen far short of its real purposes.

Self-determination; Self-governance; these are the real objectives. These are ideals that can actually shape a community, that give hope and self respect, that build trust, that help to develop a sense of pride and ownership. In truth these are ideals that cannot be granted or denied. They exist in each one of us. How we conduct ourselves will determine if we retain those rights.

Thank you for allowing me to be heard today. I trust that this committee will make a good decision. I hope that my remarks have been clear and helpful.