

ANETH OIL FIELD PROTESTS

An overview



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Contact Diné CARE for questions regarding distribution and ongoing oil and gas work on the Navajo Nation.

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table of contents

Table of contents -----	iii
1. Introduction -----	1
2. Utah and Aneth Extensions -----	2
3. Development of the Aneth Oil Field -----	3
4. Mismanagement of the Utah Navajo Trust Fund ----	4
5. Protests -----	6
a) 1978 Texaco Pumping Station	
b) 1997 Mobil Oil Corp Offices	
6. Extraction in the Aneth Field Today -----	8

1. introduction

The purpose of this report is to provide an overview of protests that Diné people led in the Aneth area of the Navajo Nation (Utah) in 1978 and again in 1997. In doing so, the report summarizes the context in which the protests arose and describes legal battles that Diné people in Utah have fought since the early 1960s to stand up for their rights.

In the Aneth area, a unique legal arrangement between the State of Utah and the Navajo Nation created a trust-like relationship between Utah and Diné people. The report will describe how the Aneth community worked to hold Utah and oil and gas companies to account for the impacts of development, always insisting that the community ought to benefit in some tangible ways from extraction instead of only experiencing the negative impacts.

The legal battles that Aneth residents continued to fight throughout the 20th century and into the 21st were part of a larger wave of litigation across the United States in which Indigenous peoples demanded transparent accounting and responsible management of tribal trust funds.

The advocacy of Aneth residents also inspired others. Relevant to Diné CARE's work, there were linkages between Aneth and Red Valley in the late 1970s. Esther Keeswood of the Coalition for Navajo Liberation, a group that led an occupation of a Texaco pumping station in Aneth in 1978, spent several months in Red Valley to support residents in their fight for accountability from Kerr-McGee. Keeswood had relatives in the Red Valley area who were impacted by operations in the Dineh Bi Keyah oil field (Red Valley). In 1978, Keeswood told the Navajo Times that she wanted to make sure Red Valley residents were compensated for the damage caused by Kerr-McGee.ⁱ

2. Utah and Aneth Extensions

When the 1868 Treaty Reservation was established, it did not include parts of Diné territory in what is now known as the State of Utah. The Reservation was gradually extended into Utah, beginning in 1884 with an Executive Order. Subsequent additions included an extension into southeastern Utah by Executive Order in 1905, and the controversial addition of approximately 500,000 acres known as the "Paiute Strip" in southern Utah. This area, traditionally occupied by both Navajo and Southern Paiute peoples, was added and withdrawn from the Reservation several times beginning in 1884, until it permanently became part of the Navajo Reservation in 1933. In 2000, the Navajo Nation and the San Juan Southern Paiute Tribe signed a treaty that would establish a permanent homeland for the Southern Paiute in the Paiute Strip area. The Treaty has yet to be ratified by the U.S. Congress.ⁱⁱ

Another extension of the Reservation, known as the "Aneth Extension", was made through an Act of Congress in 1933 (Act of March 1, 1933, ch. 160, 47 Stat. 1418). This extension added approximately 52,000 acres in what is currently Aneth Chapter to the Reservation. The Act stipulated that if any oil were to be produced in paying quantities within the extension area, 37.5% would be paid to the State of Utah. The State of Utah would hold these funds (Navajo Trust Fund) and expend them in trust for the benefit of Diné people living in Aneth.ⁱⁱⁱ The rest of the royalties would go to the Navajo Nation.

3. Development of the Aneth Oil Field

In the spring of 1956, Texas Company was doing wildcat drilling in the Aneth area and came upon a giant discovery well. "Discovery well" is a term used to designate the first productive oil well in a field. By the end of the year, several other companies, including Superior Oil, Gulf Oil, and Carter Oil made significant discoveries in the field as well. Companies quickly began leasing lands in the Aneth area. In 1956 alone, the Aneth field brought in \$34.5 million in bonuses to the Navajo Nation. However, Utah Diné did not see many benefits from this extraction in the form of improvements to their community or lives.^{iv}

Revenues were generated for the Navajo Nation through lease bonuses, annual rents, and royalties in oil produced. Oil royalties in Aneth generated significant revenues for the Navajo Nation and the Navajo Trust Fund, administered by the State of Utah (see below). Between 1960-1991, the Utah fund accrued an average of \$1.3 million annually in royalties, while the Navajo Nation made \$10 million in royalties during the early peak years, then approximately \$5 million annually.^v As oil development in Aneth began to slowly decline by the 1970s, the Navajo Nation Council nonetheless remained reliant on revenues from this extraction.^{vi}

4. Mismanagement of the Utah Navajo Trust Fund

The language in the 1933 Act, which enabled the Aneth Extension, caused some confusion about exactly how the State of Utah should administer the royalty funds or Utah Navajo Trust Fund, because it seemed to imply that the State had to use these funds for tuition: “royalties shall be expended by the State of Utah in the tuition of Indian children in white schools and/or in the building or maintenance of roads across the lands described in section 1 thereof, or for the benefit of the Indians residing therein”.^{vii} Most children attended public schools, and the federal government paid for the cost. Unsure of what to do, the State sat on the bulk of the funds, and spent several thousand dollars to benefit white occupants in the region.^{viii}

In 1961, a group of Aneth residents filed suit against the State of Utah and the recently formed Utah Indian Affairs Commission (later the Utah Division of Indian Affairs), alleging that none of the over \$3 million in royalties that the State had collected thus far had been expended to benefit Diné people in Aneth. The Court found that the State had done a poor job at keeping plaintiffs informed about the collection and disbursement of funds and ordered the Utah Indian Affairs Commission to do better. Plaintiffs had to file several petitions in subsequent years requesting relief from the Court, because they saw no change in the State's practices. *Sakezzie v. Utah State Indian Affairs Commission et al.* (Case No. C-55-61 (D.Utah 1961)).

In 1968, the Act was amended to broaden the scope of Utah's mandate for spending the 37.5% share of royalty monies. The amended Act read that the funds should be expended “for the health, education, and general welfare of the Navajo Indians” *residing in all of San Juan County*, not only within Aneth.^{ix} This change was not welcome by residents of Aneth, and several brought a lawsuit claiming that the 1968 Act of Congress was unconstitutional. *Jim v. State of Utah et al.* (Case No. C-21-70 (D.Utah 1970)). The Supreme Court affirmed the constitutionality of the amendment in 1972, but also directed the State of Utah to properly account for the accrual and expenditure of the Navajo Trust Fund. *United States v. Jim*, 409 U.S., 80 S. Ct. 261 L.Ed. 2d 282.

Aneth residents continued to insist that funds generated from oil extraction on their lands were not being used to benefit them. The State of Utah continued to fail to provide a proper accounting of the funds.

In 1977, two Diné residents of Aneth, Seth Bigman and Martha Collins, filed suit against the Utah Navajo Development Council and several of its subsidiaries. The complaint was not filed as a class action, but plaintiffs stated they were filing on behalf of Diné beneficiaries of the Utah Navajo Trust Fund. *Bigman v. Utah Navajo Development Council, Inc., et al.* (Case

No. C-77-31 D. Utah 1977). The Utah Navajo Development Council (UNDC) had an all-Diné board. It formed in 1971 to deliver services to Diné people in San Juan County, using monies from several sources including the Navajo Trust Fund.^x

In *Bigman v. UNDC*, Plaintiffs alleged that Defendants had breached their fiduciary duty towards the beneficiaries of the Navajo Trust Fund and request an accounting and recovery of all money that had been wrongly expended from the fund. Seven months after the case was filled, the parties settled and agreed to an independent review of questionable transactions involving the Utah Navajo Trust Fund, a review of UNDC's management and accounting practices, and a review of several health clinics operating in San Juan County. The review revealed widespread mismanagement of the Navajo Trust Fund by UNDC and the Utah Division of Indian Affairs.

The court declined to rule on the lawfulness of the expenditures and instead ordered a legislative audit of the Utah Navajo Trust Fund, which was released in 1991. The Audit found that the state's management of the Navajo Trust Fund needed to be improved. It was based on the findings of the 1991 Audit that Plaintiffs Pelt et al. filed a fourth case in federal court on behalf of a class of Navajo Plaintiffs residing in San Juan County, Utah, alleging that the State was in long-term breach of its fiduciary duty. *Pelt, et al v. State of Utah*, No. 06-4046 (10th Cir. 2008). After a long legal battle, the parties settled in 2010. As per the terms of the settlement, the State of Utah paid \$33 million to the Utah Navajo Trust Fund, of which the beneficiaries would remain Diné residents of San Juan County.^{xi}

As of 2020, there was \$80 in the Navajo Trust Fund. That year, \$1.5 million was expended in San Juan County, Utah, on educational assistance and chapter projects.^{xii}

5. Protests

a) 1978: Texaco Pumping Station

In the late 1970s, as UNDC and the Utah Division of Indian Affairs came under fire for the mismanagement of the Utah Navajo Trust Fund, San Juan County residents also saw Window Rock grow richer from oil royalties while they experienced no benefits to their local communities. Tensions mounted.

The recently formed Coalition for Navajo Liberation (CNL), which worked towards “the protection of our natural resources against white corporations, the protection of our Mother Earth, and the protection of our individual rights”, became active in Utah.^{xiii} A local chapter of the American Indian Movement (AIM), led by spokesperson Larry Anderson, was also active in the region. On March 30, 1978, CNL and AIM mobilized over 100 people to block a road leading to a Texaco pumping station at Montezuma Creek. After three days, oil companies in the Aneth field voluntarily shut down their operations and left until the matter was resolved. The group of protesters would eventually grow to over one thousand, and their occupation of the site lasted 17 days.^{xiv}

The protesters and Aneth residents listed several concerns that forced them to action. They felt that oil extraction in the region did not benefit them, but instead destroyed the land, killed livestock, released noxious fumes, and brought antagonistic oil workers into the community. They argued that trust funds had been mismanaged, and while Window Rock was collecting a large sum from royalties, the Aneth community had not seen any improvements in terms of infrastructure. Residents felt that the oil companies did not make a good effort to hire local Diné people. Moreover, residents who had lived in Aneth since the 1950s said that the Tribe had not consulted with local communities about issuing leases and the plan to develop the oil field.

The Navajo Nation Council provided food to the protesters during the occupation. Chairman Peter MacDonald visited the site after several days. MacDonald was a strong proponent of Navajo control of energy production, but he wanted to see a resolution to the conflict that would not result in a decrease in revenue generation for the Tribe. He also was at odds with CNL and AIM, and thus wanted to frame the protest as one led by the community. MacDonald convened meetings between federal agencies, and tribal representatives, and oil companies to come up with proposed solutions to meet the protesters' demands.

The parties struck a deal that addressed all but two of the protesters' demands regarding social, environmental, economic, and infrastructural matters. Oil companies agreed to provisions like hiring Diné workers, not disturbing livestock, better environmental practices, and contributing to education funding, while tribal officials committed to tighter environmental controls and getting electrical infrastructure hooked up in the community. Two demands were not addressed. First, due to the mismanagement of the Utah Navajo Trust Fund, Utah residents advocated for per capita disbursements of their share of the fund. The oil companies refused to renegotiate the revenue disbursement scheme, because they said this business was between the Navajo Nation and the Department of the Interior. Second, Utah residents wanted to subject the leases to renegotiation, because they had never been party to those talks. The companies also refused to renegotiate the leases.

Months after the agreement was signed, Diné people in Utah felt abandoned by the Tribe. After the momentum from the protests died down, the Tribe returned to assisting oil companies with exploration and drilling in Aneth. In November of 1978, a group of Utah Diné walked 250 miles from Montezuma Creek to Window Rock in protest of the Tribe's broken promises.

b) 1997: Mobil Oil Corp. Offices

Two decades after the protests at the Texaco pumping station, a group of Utah Diné blocked Mobil Oil Corporation's offices in Aneth with a large teepee.^{xv} The group demanded that Mobil halt oil operations on the reservation. At this point, tensions had been growing for several years in the community, because area residents felt that both oil companies and Navajo Nation government had failed to fulfill promises made in 1978.^{xvi} Meanwhile, the cumulative impacts of 40 years of extraction in the Aneth field had only continued to mount.

Mobil and the protesters held three days of talks in the teepee, culminating in the signing of a new 32-point agreement that replaced the agreement from 1978. Reports from the time said the agreement would allow utility companies to reach remote Utah Diné communities by using Mobil infrastructure and directed the Navajo Nation to funnel more money and services to local communities who were directly impacted by oil development.

6. Extraction in the Aneth Field Today

Residents in and around the Aneth field continue to have environmental justice concerns about oil development on their lands, including concerns about remediation now that oil production is undoubtedly on the decline. No new leases have been issued for several decades, and operators now inject water and carbon dioxide into wells to coax oil up to the surface. The major operators that bought the original leases in the field sold their assets in recent decades. Since 2017, the Australian-based Elk Petroleum Inc has been the field's majority owner. Navajo Nation Oil and Gas Company own one third of the working interests in the field. Elk Petroleum recently went through bankruptcy proceedings and is now controlled by the US and UK-based private equity firm AllianceBernstein.^{xvii}

ⁱ Navajo Times, "Kerr-McGee Is Most Active Energy Company," August 3, 1978, <https://newspaperarchive.com/navajo-times-aug-03-1978-p-22/>.

ⁱⁱ Lawrence Kelly, *The Navajo Indians and Federal Indian Policy 1900-1935* (Tucson, Arizona: The University of Arizona Press, 1970); The Navajo Nation Office of the President and Vice President, "Nez-Lizer Strive to Resolve Longstanding Issues with Tribes," June 6, 2019; "State of Utah Board of Indian Affairs and Division of Indian Affairs v. Navajo Area Director, Bureau of Indian Affairs" (Arlington, Virginia: Interior Board of Indian Appeals, March 31, 1992).

ⁱⁱⁱ "State of Utah Board of Indian Affairs and Division of Indian Affairs v. Navajo Area Director, Bureau of Indian Affairs" (Arlington, Virginia: Interior Board of Indian Appeals, March 31, 1992).

^{iv} Kathleen Chamberlain, *Under Sacred Ground: A History of Navajo Oil, 1922-1982* (Albuquerque, New Mexico: University of New Mexico Press, 2000)

^v Robert McPherson and David Wolff, "Poverty, Politics, and Petroleum: The Utah Navajo and the Aneth Oil Field," *American Indian Quarterly* 21, no. 3 (1997): 451-70

^{vi} *ibid*

^{vii} Quoted in "State of Utah Board of Indian Affairs and Division of Indian Affairs v. Navajo Area Director, Bureau of Indian Affairs" (Arlington, Virginia: Interior Board of Indian Appeals, March 31, 1992).

^{viii} Kathleen Chamberlain, *Under Sacred Ground*, 2000.

^{ix} *ibid*

^x Robert McPherson and David Wolff, "Poverty, Politics, and Petroleum", 1997

^{xi} Pamela Manson, "Lawyers Spent 18 Unpaid Years Fighting for Navajos," *The Salt Lake Tribune*, January 11, 2010, https://archive.slttrib.com/story.php?ref=/news/ci_14157696#gallery-carousel-446996.

^{xii} Zak Podmore, "Utah Oil Field Leaves a Mixed Legacy for Members of the Navajo Nation," *The Salt Lake Tribune*, July 7, 2020

^{xiii} Quoted in Robert McPherson and David Wolff, "Poverty, Politics, and Petroleum", 1997, p.58

^{xiv} Kathleen Chamberlain, *Under Sacred Ground*, 2000.

^{xv} Danielle Desruisseaux, "Tepee Blockade Spurs Talks," *High Country News*, March 3, 1997, <https://www.hcn.org/issues/100/3102>

^{xvi} Christopher Smith, "Navajos Blaming Oil Firms for Host of Troubles: Some Suggesting Takeover in San Juan County," *The Salt Lake Tribune*, September 3, 1992

^{xvii} Zak Podmore, "Utah Oil Field Leaves a Mixed Legacy for Members of the Navajo Nation," *The Salt Lake Tribune*, July 7, 2020