

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

MARY BENALLY; TERRANCE LEE; and  
MARIETTA TOM; Beneficiaries of the Utah  
Navajo Trust Fund,

Plaintiffs,

v.

GARY R. HERBERT, Utah Governor, in his  
official capacity; KIMBERLY K. WOOD,  
Exec. Dir., Utah Admin. Serv., in her official  
capacity; JOHN REIDHEAD, CPA, Dir., Utah  
Div. of Finance, in his official capacity;  
CRAIG BUXTON, Dir., Utah Div. of  
Facilities, Constr., and Mgt., in his official  
capacity; TONY DAYISH, Adm., Utah Navajo  
Royalty Holding Fund, in his official capacity;  
STATE OF UTAH,

Defendants.

**MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
DISMISS**

Case No. 2:12-cv0275-DN-EJF

District Judge David Nuffer

Defendants move for an order dismissing this case due to mootness after the Utah Legislature passed S.B. 90 during the 2015 legislative session.<sup>1</sup> Plaintiffs did not file a timely reply.<sup>2</sup> The court took the motion under advisement, stating “The court will rule on the state of the record as of 4:00 p.m. on June 30, 2015.”<sup>3</sup> Plaintiffs did not respond. Accordingly, the motion is GRANTED.

Plaintiffs brought this action seeking to require Defendants to distribute the oil revenues from the Aneth extension of the Utah Navajo Reservation to benefit the Navajos living in San

---

<sup>1</sup> Motion and Memorandum to Dismiss Based Upon Mootness (Motion), docket no. 40, filed April 15, 2015.

<sup>2</sup> “Failure to respond timely to a motion may result in the court's granting the motion without further notice.” DUCivR 7-1(d).

<sup>3</sup> Docket Text Order, docket no. 41, filed June 17, 2015.

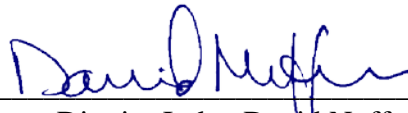
Juan County, Utah pursuant to federal law.<sup>4</sup> In 2008, the Utah Legislature adopted H.B. 352 causing the State of Utah to stop distributing the funds under those federal laws. However, in the 2015 legislative session the Utah Legislature adopted S.B. 90, Utah Navajo Royalties Amendment, which was signed by Governor Herbert on March 23, 2015. Defendants previously filed the Notice of Passage of S.B. 90 which included an enrolled copy of S.B. 90.<sup>5</sup> This law reestablishes that the State of Utah will disburse the funds pursuant to the federal laws. As a result, there is no longer a justiciable conflict between the parties and the action is moot.

**ORDER**

IT IS HEREBY ORDERED that the Motion to Dismiss Based Upon Mootness<sup>6</sup> is GRANTED and this case is DISMISSED with prejudice. The clerk is directed to close this case.

Signed July 1, 2015.

BY THE COURT



---

District Judge David Nuffer

---

<sup>4</sup> See 47 Stat. 1418 and 82 Stat. 121 (State of Utah named as Utah Navajo Trust Fund).

<sup>5</sup> Notice of Passage of S.B. 90, docket no. 39, filed April 1, 2015.

<sup>6</sup> Docket no. 40.