



individuals or entities are using Trust property (including water) but are not making payments to the Trust for their use of those assets. Moreover, the Order that the Court has signed authorizes the Attorneys General to conduct discovery and, therefore, to participate in bearing some of the costs of discovery. Ultimately, that lessens a financial burden that the Trust would otherwise have to incur. The Court declines to speculate whether the proposed discovery could eventually be used in a criminal prosecution. The Court is persuaded that the proposed discovery is highly relevant for purposes of identifying how Trust assets are being used, by whom, and under what authority. Speculation as to other possible uses that may be made of information gleaned in discovery is just that—speculation; it is not a concern impacting the probate management of this case.

The purported Intervenor next assert that conducting discovery regarding the unauthorized removal of personal property is a futile effort because the Trust does not own any personal property. Again, the Court disagrees. There is a significant dispute regarding the nature of the assets at issue—whether they be personalty or whether, as fixtures, they have become part of the realty owned by the Trust. To be sure, the purported Intervenor claim that items removed from the property are personal property. The Court is persuaded that discovery may help to resolve some of these disputes. Additionally, discovery will assist the Special Fiduciary to identify, recover, or seek reimbursement for removed property if it can be shown that the property rightly belongs to the Trust.

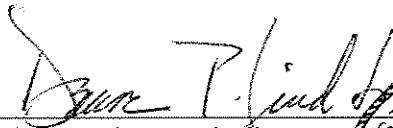
The purported Intervenor also argue that the Arizona AG and Special Fiduciary are advocating a substantial expansion of this case without direction or plan, and that all or part of these efforts may be rendered moot by the Utah Supreme Court's review of several matters in this case. First, it is not true that discovery constitutes a substantial expansion of the case. Discovery is an essential part of bringing every case to resolution. Moreover, it is not without plan or direction. This Court has always known that this case cannot continue in its current posture indefinitely. All that the Order does is that it authorizes the Special Fiduciary and the Attorneys' General to conduct necessary discovery on matters involving or related to Trust administration, and then to report back to this Court following completion of discovery. Based on what is learned the Court will then consider and determine what additional steps will need to be taken to bring this matter to resolution. As the Court pointed out to counsel during the telephonic status conference held July 22, 2010, the mere fact that portions of this case are on appeal does not eliminate this Court's continuing jurisdiction to administer the Trust. In this probate matter the Court must—and will—continue overseeing the Trust's administration. This Court will discharge that responsibility until such time as this case is resolved, either by this Court or by a reviewing appellate court. Moreover, it is purely speculative whether the Utah Supreme Court will ultimately reach different legal conclusions than this Court has reached. Regardless, until that Court rules, this Court expects the Special Fiduciary to administer the Trust according to the parameters the Court has established.

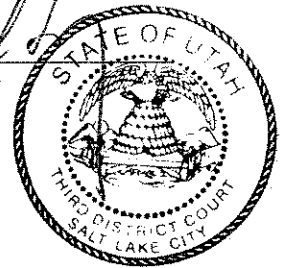
As this Court has stated previously, the Stay Order was imposed, in part, to preserve the Trust's assets. However, nothing in the Court's Stay Order was intended to prevent the Special Fiduciary from taking all reasonable and necessary action to administer the Trust under the Court's oversight. That includes conducting any discovery necessary to facilitate Trust administration and uncover potential diversion of Trust assets. Similarly, the Attorneys' General, as the people's representatives and as parties, have an ongoing interest and right to conduct whatever discovery they deem necessary to assist them in fulfilling

their responsibilities towards the beneficiaries of this charitable Trust.

In summary, the Arizona Attorney General's Motion for Partial Lift of Stay is GRANTED. The Court has also signed the Order Authorizing and Directing Discovery and Recommendations. No further order is necessary.

DATED this 27<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
Judge Denise P. Lindberg  
District Court Judge



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**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH**

IN THE MATTER OF THE UNITED EFFORT  
PLAN TRUST Dated November 9, 1942,  
Amended April 10, 1946, and Amended and  
Restated on November 3, 1998; and its  
TRUSTEES, including known trustees  
TRUMAN BARLOW, WARREN JEFFS,  
LEROY JEFFS, WINSTON BLACKMORE,  
JAMES ZITTING and WILLIAM E. JESSOP  
a/k/a WILLIAM E. TIMPSON DOE  
TRUSTEES I THROUGH IX.

**ORDER AUTHORIZING AND  
DIRECTING DISCOVERY AND  
RECOMMENDATIONS**

Civil No. 053900848

Judge Denise P. Lindberg

Having considered the Motion of the Office of the Arizona Attorney General for Partial  
Lift of Stay and Order Authorizing and Directing Discovery and Recommendations, and having  
considered the Response of the Office of the Arizona Attorney General to the Court's Request

for Recommendations and Memorandum in Support of Motion for Partial Lift of Stay and Order Authorizing and Directing Discovery and Recommendations, and good cause appearing therefor,

IT IS HEREBY ORDERED, that stay of and injunction against litigation previously issued in this action is lifted in part to allow the Office of the Arizona Attorney General ("Arizona AG") and the Office of the Utah Attorney General ("Utah AG") (collectively, the "Attorneys General") to complete the discovery and reporting contemplated by this Order; and

IT IS HEREBY FURTHER ORDERED, that the Attorneys General are authorized and directed to undertake discovery related to: 1) creating a complete record concerning impediments to ongoing identification and protection of assets of the United Effort Plan Trust (the "Trust") and to effective administration of the Trust; 2) developing recommendations for further action by the Court needed to develop available income and revenue for the Trust, identify and protect Trust assets and ensure effective ongoing trust administration for the Trust; and 3) developing recommendations for final resolution of this trust administration proceeding;

IT IS HEREBY FURTHER ORDERED, that the discovery authorized and directed hereby may include, but is not limited to, discovery concerning: 1) the current condition of the Trust's assets; 2) any areas of confusion or ambiguity in the administration of the Trust that further orders from the Court can alleviate; 3) any issues that exist concerning the nature, historical use, ownership or authorization to use Trust property or improvements thereon; 4) any rights the Trust may have to future income or to seek damages under any theory including conversion, breach of contract, unjust enrichment, fraud, or any other legal or equitable theory; 5) incidents of alleged trespass on or unauthorized use of Trust property and recommendations regarding orders from the Court needed to address or remedy any such issues; 6) incidents involving unauthorized removal, use of, destruction of, or vandalism on Trust property; 7) incidents concerning unauthorized improvements built upon Trust property; 8) any issues concerning conduct of the local county governments, municipal governments, or law enforcement personnel in connection with any property of the Trust, any person(s) or entities

dealing with property of the Trust, the Special Fiduciary or his agents, or concerning any water, sewer, utilities, zoning, subdivision, building permit or other regulatory or governmental service issue in connection with any property of the Trust; 9) any issues concerning the water rights of the Trust and the use of water rights belonging to the Trust or associated with Trust property; 10) issues concerning funds used to develop and maintain the Cottonwood Park property; 11) any claims the Trust might pursue for wrongful transfer or conveyance of Trust property; and 12) issues concerning the historical uses of Trust properties, including, without limitation, the cemetery, Cottonwood Park, rights of way and easements, and trails; and

IT IS HEREBY FURTHER ORDERED, that, absent an order of the Court modifying the deadline, the discovery authorized and directed here shall be completed no later than 120 days after the issuance of this Order; and

IT IS HEREBY FURTHER ORDERED, that the Special Fiduciary and his counsel may participate in any discovery conducted by the Attorneys General under the terms of this Order; and

IT IS HEREBY FURTHER ORDERED that the Attorneys General may apply to the Court through verbal motion showing good cause for expedited orders enforcing discovery subpoenas and other deposition and discovery obligations in connection with this Order, and may further seek by verbal motion showing good cause expedited orders directing that witnesses appear for deposition at judicial offices before an appropriate judicial officer who may decide discovery objections as they occur; and

IT IS HEREBY FURTHER ORDERED, that the Attorneys General shall, no later than sixty (60) days after completion of the discovery authorized and directed here, file with the Court a report identifying the results of the discovery and identifying for the Court: 1) the current condition of the Trust's assets and obligations; 2) options for pursuing possible sources of income or revenue to the Trust, including claims for damages or return of property; 3) impediments to ongoing administration of the Trust and recommendations for clarifying or

supplemental orders, and for enforcement of prior court orders, that will address prior violations of the Court's orders and ongoing or future impediments to efficient trust administration; 4) projections about future costs of trust administration; and 5) recommendations regarding options for final resolution of this trust proceeding.

DATED this 27 day of July, 2010.

BY THE COURT



DENISE P. LINDBERG  
Third District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21st day of December, 2009, I caused a copy of the ORDER AUTHORIZING AND DIRECTING DISCOVERY AND RECOMMENDATIONS to be mailed via U.S. Mail to the following:

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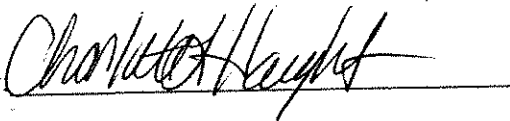
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