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UTE INDIAN TRIBE SUCCESSFUL IN LEADING NATIONAL EFFORT TO RESCIND U.S. HISTORICAL POSITION ON TRIBAL WATER LAW

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On April 6, 2022, Secretary of the U.S. Department of Interior, Deb Haaland, announced that the Department will remove a nearly 50-year procedural hurdle to the approval of tribal water laws. Former Secretary of the Interior, Roger Morton, imposed a moratorium on Departmental approval of tribal water laws in 1975. Morton instructed all Bureau of Indian Affairs area directors to disapprove any proposed tribal water laws. The moratorium was applied even to tribes with adjudicated water rights, such as the Ute Indian Tribe.

In 2018, the Ute Tribal Business Committee took on a national challenge to this outdated federal policy and proposed a resolution to the National Congress of American Indians, the oldest and largest national organization of American Indian and Alaska Native tribal governments. The resolution, adopted by the General Assembly of the NCAI, called for the Department to lift the “Morton Moratorium” as inconsistent with the federal government’s trust responsibility to Indian tribes. The policy denied tribes the opportunity to seek Secretarial review and approval of their tribal water laws, which is needed for tribes with constitutions that require Secretarial approval, including the Ute Indian Tribe’s Constitution. Some tribes with Congressionally approved tribal water rights settlements have been able to get approval of tribal water laws.

In 1923, a portion of the Ute Indian Tribe’s Indian reserved water rights in the Colorado River were adjudicated by a federal district court against non-tribal, state water users. The Tribe was awarded about 300,000 acre-feet per year of water from the Lake Fork and Uinta Rivers and tributaries. The Tribe is currently litigating against the United States and the State of Utah to secure full recognition of its quantified Indian reserved water rights, for a total of about 550,000 acre-feet per year in the Upper Basin of the Colorado River.

The Secretary’s decision to remove this tribal policy barrier to the enactment of tribal water laws represents support for tribal self-determination and self-governance, enabling tribes to protect and preserve a significant tribal natural resource, Indian reserved water rights. Indian water rights for reservations, including the Ute Indian Tribe’s Uintah & Ouray Reservation, are required to develop a permanent and sustainable homeland for tribes and their members. The Ute Indian Tribe is proud to see its effort adopted by the Secretary of the Interior.

About the Ute Indian Tribe-The Ute Indian Tribe resides on the Uintah and Ouray Reservation in northeastern Utah. Three bands of Utes comprise the Ute Indian Tribe: the Whiteriver Band, the Uncompahgre Band and the Uintah Band. The Tribe has a membership of more than three thousand individuals, with over half living on the Uintah and Ouray Reservation. The Ute Indian Tribe operates its own tribal government and oversees approximately 1.3 million acres of trust land which contains significant oil and gas deposits. The Tribal Business Committee is the governing council of the Tribe.