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The Ute Indian Tribe Rejects the Court's Dismissal of Lawsuit to Recognize and Protect Water Rights, Plans to Appeal

FORT DUCHESNE, UT (September 22, 2021) — The Ute Indian Tribe of the Uintah and Ouray Reservation has announced that it plans to seek further judicial review of a federal district court decision that dismissed portions of the Tribe's lawsuit against the United States, the State of Utah, and the Central Utah Water Conservancy District, and transferred the Tribe's remaining claims to the U.S. District Court for the District of Utah. That decision was issued on September 15, 2021.

The Tribe characterized the D.C. District Court's decision as a "miscarriage of justice," saying the Court's decision is the product of a selective interpretation of the law and a superficial resolution of the issues. The Tribe says it is disappointed that issues so critical to the health, well-being, and economic sustainability of the Tribe were treated in such a cursory manner. The Tribe says it will continue to vigorously litigate its claims through the appellate process to prevent a further miscarriage of justice.

It is the position of the Tribe that the United States cannot continue to simultaneously seek to wield complete administrative control over the Tribe's waters, while at the same time insisting to the federal courts that the United States has no legally enforceable liability to the Tribe in relation to the federal government's management of the Tribe's waters.

The Ute Indian Tribe occupies the second largest reservation in the United States. And without reliable access to water, the Tribe cannot develop its vast and arid homeland. It is well-established under federal law that the United States reserves water rights for the benefit of the Indians when it establishes an Indian reservation.

In 1965, the United States entered into a binding contract with the Ute Indian Tribe, in which the U.S. recognized the full quantity of the Ute Indian Tribe's water rights that were reserved under federal law at the time the Tribe's Reservation was established. The Tribe was forced to make the difficult decision to bring its lawsuit only when it became clear that United States, the State of Utah, and the Central Utah Water Conservancy District no longer honored this

recognition of the Tribe's water rights and that the federal government had no plans to fulfill its trust responsibility to assist the Tribe in obtaining much-needed water storage infrastructure.

The district court's decision was based, in large part, on the court's finding that the Tribe's claims are untimely. What the Court has failed to recognize is that these harms being perpetrated by the United States and the State of Utah are ongoing in nature. These are not past misdeeds, but ongoing violations of federal law. Federal courts are not powerless to remedy longstanding violations of law. To the contrary, some of the most formative and historically significant rulings in the federal judiciary have done just that, such as the Supreme Court's ruling in *Brown v. Board of Education* to eliminate the longstanding practice of racial segregation in schools.

In addition, federal courts continue to misapply narrow Supreme Court decisions from the past 20 years to remove any real-world impact of the Federal Government's trust responsibility toward Indian tribes. It is as clear as it has ever been that the trust responsibility to Indian tribes, despite being one of the fundamental doctrines of federal Indian law, exists in name only. If the trust responsibility cannot be enforced, then it is no more than a symbolic doctrine aimed at rebranding the historical oppressors of Indian tribes rather than providing any meaningful benefit to tribes themselves.

"To date, the Tribe has never been compensated for the theft of its water," states the Ute Indian Tribe Business Committee, the governing body of the Ute Indian Tribe. "The Tribe has a vested property interest in its Indian reserved water rights. Yet, the Federal Government's failure to recognize the Tribe's reserved water rights leads to abundant tribal water flowing downstream for junior-priority water users to appropriate for free. These are tribal property rights being stolen from underneath us."

The Tribe will not stand down in fighting for recognition of its senior-priority Indian reserved water rights.

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.

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