

NEWS RELEASE- FOR IMMEDIATE RELEASE

UTE INDIAN TRIBE BUSINESS COMMITTEE VIGOROUSLY COMBATS THEFT OF TRIBAL WATER; CHALLENGES U.S. FEDERAL TRUST VIOLATIONS

FORT DUCHESNE, UT (Oct. 26, 2020) — The Ute Indian Tribal Business Committee is taking aggressive action to protect and defend the tribe’s reserved Indian water rights and resources and to seek recourse against those who have engaged in unlawful activities to interfere with the Tribe’s reserved water rights. The Business Committee has long been aware of past illegal diversions, takings, and uses of Uintah Indian Irrigation Project tribal water that have occurred within and near the reservation, and is taking swift action to combat these threats to the tribe’s water resources. The Business Committee has adopted a zero-tolerance policy to vigorously pursue and prosecute offenders in order to enforce tribal laws to protect the tribe’s resources against anyone who has sought to illegally divert, take, or use Uintah Indian Irrigation Project tribal waters.

In its most recent enforcement of this zero-tolerance policy, the tribe has continued its ongoing effort to seek recognition and enforcement of a judgment issued by the Tribal Court in the tribe’s favor against a non-Indian water thief, Gregory McKee.

Upon receipt of information from a whistleblower regarding McKee’s unlawful acts, the Business Committee engaged a private investigative firm to verify the allegations against McKee. Once the tribe’s investigative team identified and confirmed the water theft by McKee, the Business Committee took immediate action to prosecute McKee in Tribal Court for the water theft. After determining that it had jurisdiction over the case because it involved tribal water, the Tribal Court declared that McKee had no right to divert the tribal water he had stolen, enjoined and restrained McKee from illegally diverting tribal water in the future, and ordered McKee to pay damages to the tribe in the amount of \$142,718.

In the wake of the Tribal Court’s decision, McKee attempted to obstruct and otherwise avoid enforcement of the Tribal Court judgment. In response, the Business Committee, in an effort to ensure that McKee is held accountable for his theft of tribal waters, brought an action in federal court to seek enforcement of the judgment. That action is currently pending before the Tenth Circuit Court of Appeals, and the Tribe fully expects a favorable ruling from the Circuit Court to enforce the Tribal Court judgment against McKee.

The Business Committee has taken this action to enforce its water rights pursuant to Tribal Water Policy Resolution No. 16-358. This Resolution defines “the waters within the exterior boundaries of the Uintah and Ouray Reservation as essential to the life, future well-being, and perpetual existence of the Tribe through the sustenance and continuing development of the Tribal homeland.” It recognizes the Ute Indian Tribe’s inherent right as sovereign government to

impound, divert, withdraw, use, or affect the use of waters of the tribe under its own management and laws. It establishes a priority for tribal water to be used for the purpose of promoting the general welfare of the tribe and its membership.

The Tribal Water Policy Resolution further declares that the objectives of tribal water development shall be to maximize the beneficial use of tribal water through economically sound and efficiently designed and managed tribal water projects; to review all formal and informal “carriage agreements” between federal agencies and private water users to determine whether they are in the best interest of the tribe; to preserve tribal water rights as a sacred and finite natural resource; and to promote environmentally sound water projects to maintain water quality within the natural streams and rivers.

Consistent with the Tribal Water Policy Resolution, the Business Committee has taken further actions to assert its authority and protect tribal water rights and resources for the tribal membership. In 2018, the Business Committee filed two water lawsuits against the United States in federal court. The first lawsuit seeks the court’s declaration that the quantification of the tribal Indian water rights was completed in 1965 under the Deferral Agreement, giving the tribe the right to develop and administer its water without the need for further action or approval by the United States as trustee for the tribe. The lawsuit seeks to hold the United States accountable for breaching its trust responsibilities as part of a century of neglect and mismanagement of the tribal water rights and resources, including turning a blind-eye to past tribal water theft such as McKee’s.

The second lawsuit seeks monetary damages from the United States from its past and ongoing mismanagement of tribal water, which has negatively impacted the tribe’s water trust asset. These impacts have occurred due to the United States failure to protect and preserve the tribal water rights and resources. These include past failures of the United States to construct and maintain tribal water storage, failures of the United States to rehabilitate the Uintah Indian Irrigation Project, which is in dire condition, and failures to transfer Midview Reservoir and all its related property into trust to ensure tribal beneficial ownership of the reservoir.

The Business Committee has continued its efforts to protect and preserve the tribe’s water resources through its challenge to the relicensing of Moon Lake Electric Association’s (MLEA) Uintah Hydroelectric Project and decommissioning of the Yellowstone Hydroelectric Project. The Business Committee is fighting to place requirements on MLEA’s Hydroelectric Project license that will result in the restoration of fisheries and wildlife habitat — in particular, of Pole Creek, which has been completely dewatered by the project.

The Ute Indian Tribe Business Committee will continue all of these initiatives to protect and preserve its water resources and vigorously prosecute any individual or entity that seeks to unlawfully divert or use waters of the tribe without tribal permission. Ute Indian Tribe Business Committee Chairman Luke Duncan issued the following statement with respect to this matter:

“Water is a sacred resource and essential to the life and well-being of our people. It is our most important resource as a tribe. The United States government has stood by for the past century and done nothing to protect our tribal water from theft and misuse by those outside of our tribe. Those days have now come to an end. The Ute Indian Tribal Business Committee will take all lawful actions to hold federal agencies to their trust responsibility to protect the tribe’s water. But the tribe will not stop there. We will be taking our own action as a tribe to vigorously prosecute and stop any ongoing theft of our waters to put an end to this unlawful activity, to ensure our water is protected for the tribal membership and future generations.”

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 3,000 individuals, with more than 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 that contains significant oil and gas deposits. The Ute Business Committee is the governing council of the tribe.*