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January 24, 2017

Ms. Elisabeth Shumaker, Clerk
United States Court of Appeals
Tenth Circuit - Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Re: *Murphy v. Royal*
Case Nos. 07-7068 and 15-7041

Dear Ms. Shumaker,

This Court's recent decision in *Hackford v. Utah*, No. 15-4120, ___ F.3d ___ (Jan. 19, 2017), 2017 WL 217963, considered whether the Act of April 4, 1910, diminished the Uintah and Ouray Indian Reservation. This decision affirms a number of well-settled federal Indian law principles that are directly applicable to this case. See Appellant's Opening Brief at 59-69.

First, *Hackford* noted that “[w]ithin Indian country, generally only the federal government or an Indian tribe may prosecute Indians for criminal offenses.” Slip op. at 3 (quoting *Ute Indian Tribe v. Utah*, 790 F.3d 1000, 1003 (10th Cir. 2015)). Accordingly, “States have no authority over Indians in Indian Country unless it is expressly conferred by Congress.” *Hackford*, Slip op. At 3. (quotation marks omitted).

Second, *Hackford* emphasized that “the ‘first and governing principle’ regarding the diminishment of Indian reservations” is that

Only Congress can divest a reservation of its land and diminish its boundaries. Once a block of land is set aside for an Indian Reservation

and no matter what happens to the title of individual plots within the area, the entire block retains its reservation status until Congress explicitly indicates otherwise.

Id. at 6 (quoting *Solem v. Bartlett*, 465 U.S. 463, 470 (1984)).

Third, drawing on the Supreme Court’s “well-settled” reservation diminishment framework, *Nebraska v. Parker*, 136 S. Ct. 1072, 1075 (2016), *Hackford* recognized that such diminishment “‘will not be lightly inferred.’” *Hackford*, slip op. at 6 (quoting *Solem v. Bartlett*, 465 U.S. 463 (1984)). *See also id.* at 10 n.6 (same). Hence, this Court confirmed that “[t]he Court will only find diminishment if Congress clearly evince[s] an intent to change boundaries.” *Id.* at 6-7 (quoting *Solem*, 465 U.S. at 470) (quotation marks omitted).

Finally, applying *Solem* and *Parker*, this Court looked to “the explicit language of the 1910 Act,” to find that Congress clearly intended to diminish the reservation lands at issue, based solely on the text of that Act. *Id.* at 8-9 (noting that language ceding the Tribe’s lands to the United States in exchange for a fixed monetary payment constituted clear textual evidence of Congress’ intent to diminish).

Respectfully submitted,

s/ Patti Palmer Ghezzi

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