UINTA VALLEY SHOSHONE TRIBE OF
AFFILIATED UTE CITIZENS;
DORA VAN; RAMONA HARRIS; LEO LEBARON; (Pro se)
UINTA & OURAY AGENCY
Uinta Valley & Ouray Reservation
P.O. Box 787
5750 East 1000 North White Rocks Road
Fort Duchesne, Utah 84026

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA Plaintiff	:	Case No. 2:17 CV 1140 ~~TC~~ BSJ
	:	**RESPONSE TO COMPLAINT AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**
vs.	:	
UINTA VALLEY SHOSHONE TRIBE OF AFFILIATED UTE CITIZENS DORA VAN; RAMONA HARRIS; LEO LEBARON & OTHERS WHO ARE IN ACTIVE CONCERT WITH THE FOREGOING;	:	~~Honorable Tena Campbell~~
Defendants.	:	

The Defendants are filing this Response "Pro se" because they were notified of this Complaint by electronic transfer the morning of 10-18-2017 and was actually served with a Summons in the late afternoon of 10-19-2017 wherein the Notice of Hearing was set for Tuesday 10-24, 2017 at 2:00 p.m. giving the Defendants one day on a Friday and one day on a Monday to engage legal counsel to appear on Defendants behalf before this Court on said Tuesday.

1. The United States of America has filed this Complaint against the Defendants alleging the Defendants and others in active concert with them carried out a scheme to sell fraudulent hunting and fishing licenses to its members on land that the United States holds in trust *exclusively* for the "Ute Indian Tribe" of the Uinta Valley & Ouray Reservations by using interstate wire communications facilities for the purpose of carrying out this scheme. The Plaintiff is seeking a Temporary Restraining Order and Preliminary Injunction to enjoin said Defendants from selling alleged fraudulent hunting and fishing licenses for use on the trust lands of the Ute Tribe of the Uinta Valley & Ouray Reservations ("the Ute Tribe").

2. The Defendant's deny the allegation that they were engaged in a "scheme" to sell fraudulent hunting and fishing licenses to its members by electronic devices or by any other means.

FACTUAL BACKGROUND

3. "The entire Valley of the Uinta River within Utah Territory, extending on both sides of said river to the crest of the first range of mountains on each side …" was set apart as an Indian Reserve from the Public Domain by Executive Order 38-1 of the United States President Abraham Lincoln on October 3, 1861, as an Indian Reserve, creating the Uinta Valley Reservation "for the permanent settlement and exclusive occupancy" of the tribes of Utah territory. The Uinta Valley Reservation was confirmed by the Senate on May 5, 1864 (13 Stat. 63) encompassing an area of 2,487,474.83 acres.

4. The Ouray Reservation (which was not ratified by Congress) is located on land lying east of the Green River in Utah (Royce 630) consisting of 1,933,440 acres that was set apart from the public domain by Executive Order (1 Kappler 901) of President Chester A. Arthur as a

temporary reserve for the Uncompahgre Utes on January 5, 1882 after the Confederated Ute Tribe of Colorado agreed to cede its entire reservation in Colorado Territory to the United States in an 1880 Agreement (21 Stat. 199), and agreed thereafter, to become citizens of the "state or territory in which they may reside". The Uncompahgre and White River Utes were expelled from Colorado after the White River Utes killed their Indian Agent on the Confederated Ute Reservation in Colorado in 1879, that had been created for the Confederated Band of Ute Indians of Colorado Territory on March 2, 1868 (15 Stat. 619, 2 Kappler 990).

5. Therefore, the Plaintiff's statement that the Uinta Valley and Ouray Reservations are trust lands *exclusively* set aside for the "Ute Tribe" is inherently wrong and egregiously misleading. Only the Uinta and Ouray Agencies in Utah were consolidated around 1891. Both Uinta and Ouray Reservation's lands are all located within the Valley of the Uinta River that was set aside as the Uinta Valley Reservation by Executive Order 38-1 of October 3, 1861, "for the permanent settlement and exclusive occupancy" of the tribes of Utah Territory. When the Uinta Valley Reservation was created in 1861, the White River and Uncompahgre Utes were historically Indians of Colorado Territory that was partitioned from Utah Territory in January of 1861, nine months before the Uinta Valley Reservation in Utah Territory was created.

6. The Uinta Valley Shoshone Tribe of Affiliated Ute Citizens ("the Tribe") is a *two-time* Organized Tribal Government under the Indian Reorganization Act of 1934 for the purpose of engaging in litigation in matters affecting the treaty rights, title, and interests of the "Tribe" and/or its individual members within the original boundaries of the Uinta Valley & Ouray Reservation. Recently, "the Tribe" and its individual members, were compelled to satisfy the requirements of the Rogers Test (45 U.S. 567 (1846) as follows:

7. *Rogers*, (45 U.S. 4 How 567 (1846)), has a two-prong test for determining Who is an Indian. A person claiming Indian status must satisfy both prongs. The first prong requires ancestry. See CANBY, supra, at 9. Because the general requirement is only of "some" blood, evidence of a parent, grandparent, or great-grandparent who is clearly identified as an Indian is generally sufficient in satisfying this prong. Id.; See also *Vezina v. United States*, 245 F. 411 (8th Cir. 1917); *Sully v. United States*, 195 F. 113 (8th Cir. 1912); *St. Cloud v. United States*, 702 F. Supp. 1456, 1460 (D.S.D. 1988); *Goforth v. State*, 644 P.2d 114, 116 (Okla. Crim. App.1982); *Makah Indian Tribe v. Clallam County*, 73 Wash. 2d 677, 440 P.2d 442 (1968).

8. The "Hunters" involved in this particular recent case have parents and grandparents who were clearly recognized by the U. S. Government as Indians before 1934, in 1934, and after 1934, and again in 1954 when the so-called Mixed-blood and Full-blood Rolls of the "Ute Indian Tribe" were published in the Federal Register in 1956, and when the so-called "mixed-blood" group was separated from the "full-blood" group of the "Ute Indian Tribe" and reorganized in 1956 as a tribal government under a separate and distinct IRA § 16 Constitution of the Tribe of Affiliated Ute Citizens that was federally approved by the Commissioner of Indian Affairs on April 5, 1956, making the Tribe of Affiliated Ute Citizens a tribe under federal jurisdiction.

9. The second prong of the Rogers Test – tribal or federal government recognition as an Indian – "probes whether the Native American has a sufficient non-racial link to a formerly sovereign people." *St. Cloud*, 702 F. Supp. at 1461. In this prong, Courts have considered evidence of the following: (1) tribal enrollment; (2) government recognition formally and informally through receipts of assistance reserved only to Indians; (3) enjoyment of the benefits of tribal affiliation, and (4) social recognition as an Indian through residence on a reservation and

participation in Indian social life. *United States v. Lawrence*, 51 F.3d 150, 152 (8th Cir. 1995) (citing *St. Cloud*, 702 F. Supp. at 1461).

10. The "Hunters" involved in said recent case have lived on the Uinta & Ouray Reservation as Indians all their lives and are the descendants of the historic Uinta Valley Shoshone Tribe of Utah Indians (aka, Uinta Band) who settled upon the lands of the Uinta River Valley Reservation after it was established in 1861 by Executive Order 38-1 of the President, and was ratified by the Senate on May 5, 1864 (13 Stat. 63) "for the permanent settlement and exclusive occupancy" of the tribes of Utah Territory. The Uinta Shoshone Tribe of Affiliated Ute Citizens is recognized by the Governor of the State of Utah as a tax-exempt entity.[3] *Felter* (752 F.2d 1505 (1985) [4] prior to this case, is settled law that established that the Tribe of Affiliated Ute Citizens (aka, mixed-blood group) and their enrolled descendants have a tribal right to hunt/fish on the Uinta & Ouray Reservation precisely because they are *Indians* "under federal jurisdiction." (Solicitor's Opinion M-37029, (2014),[5] – responding to what is the IRA's meaning of "under federal jurisdiction" in 1934)

11. "Fishing rights secured by treaty are: 1) neither alienable no descendible; 2) may be exercised by a withdrawing member of the tribe, *until fully paid his share in the tribal assets*; 3) may be exercised by an heir of a member only if the heir is also a member; 4) may not be exercised with respect to tribal land which is sold or conveyed in fee simple; and 5) may continue to be exercised by members who elect to remain in the tribe." *** "No decision has held that the right to hunt and fish on the tribal lands is a property right which is vested in the individual member of the tribe. The right is inseparably connected with membership and when membership ceases, (as in death) the right comes to an end. The right is not subject to transfer and is incapable of transmission by descent or devise; it has no appraisable value." *** "The

Tribe will continue to exist subsequent to the date of any termination proclamation, and will continue as such for the purpose of exercising such rights and privileges as are reserved to it by the Act" *** "If nothing in the act can abrogate such fishing rights or privileges of the tribe (held by treaty), then it would appear obvious that the termination proclamation date would not abrogate such rights or privileges of the tribe, and that the tribe would continue as such for the purpose of exercising such rights and privileges." *** "There is an assumption that tribal property becomes personal property after publication of the final roll, this is not so – the tribal property remains tribal property and only the "interest" of the individual member therein becomes personality." (Solicitor's Opinion M-36284 (1955))

12. To ignore or flagrantly dismiss these treaty rights as unimportant and the powers of a tribe who holds said privileged treaty rights is an egregious flouting of the laws that governs the Indian tribes who are legitimately "under federal jurisdiction." Particularly when these rights, title and interests are fraudulently taken away from the historic treaty holders and given over to people who don't legally hold the rights and who are inherently unauthorized and unqualified to manage or legally protect such tribal treaty rights, title, and interests from destruction merely for avarice individual self-enrichment.

13. **The Bureau of Indian Affairs** explains how federal recognition status is conferred: "Historically, most of today's federally recognized tribes received federal recognition status through treaties, acts of Congress, presidential executive orders or other federal administrative actions (such as federal acknowledgement), or federal court decisions."

14. 25 CFR part 81(3)(a) provides: "No tribe which has voted to exclude itself from the provisions of the Indian Reorganization Act (IRA of 1934), or is otherwise precluded by law, may be reorganized under a Federal Statute." (Emphasis added)

15. 25 CFR part 82 (1)(e) provides: "*Constitution*" or "*Constitution and Bylaws*" means the written organizational framework of any tribe for the exercise of governmental powers.

BACKGROUND SUMMARY OF THE PURPOSE AND INTENT OF CONGRESS WITH THE APPROVAL OF P. L. 671 (68 Stat. 868) of August 27, 1954, "The 'Ute' Partition and Termination Act"

16. After the White River Utes killed Nathan C. Meeker at the White River Agency in Colorado in 1879 and the Uncompahgre Utes kidnapped the wife and children and killed Army personnel that was in pursuit, the Confederated Bands of Ute Indians of Colorado entered into an Agreement with the United States (21 Stat. 199), June 15, 1880, wherein, they gave up their treaty rights and ceded the Ute Reservation lands in Colorado to the United States; the tribe was disbanded and each and every individual member thereafter agreed to take allotments only - in Colorado. Section 4, of said Act in part, provides; *** **"each and every of the said Indians shall be subject to the provisions of section 1977 of the Revised Statutes (civil rights law) and to the laws, both civil and criminal, of the State or Territory in which they may reside, with the right to sue and be sued in the (State) courts thereof."** [6] Thereafter, the individual Utes, per this agreement, were no longer a "tribe" by federal definition and could not participate in any Federal Acts for tribes "under federal jurisdiction." (Emphasis added)

17. The White River and Uncompahgre Utes were expelled from Colorado and in 1881 they were moved to Utah Territory, 20 years after the Uinta Valley Reservation was established, and 15 years before Utah became a State of the Union. Upon Statehood, each and every individual Ute in Utah was included as "*ordinary citizens*" of the State of Utah regardless that they lived on the Uinta Valley Reservation within the sovereignty and jurisdiction of the Uinta Valley Shoshone Tribe of Utah Indians. The Ute descendants are known today as the Southern

Utes and Ute Mountain Utes in Colorado, the White Mesa Utes in southern Utah, and the White River, Uncompahgre and 89 Uintah Utes represented as the *Northern Ute Tribe* or *Ute Indian Tribe* who reside on the Uinta Valley & Ouray Reservation in Utah. These historic and current facts are not in dispute unless for some other nefarious reason someone wants to alter history.

18. When the Indian Reorganization Act (IRA) was initiated by Congress in 1934 only the Uinta Shoshone Tribe (Uinta Band) was eligible to adopt said provisions which was the first time "the Tribe" was organized under the 1934 IRA, and according to the Chief Counsel for the United States Indian Service in 1947,[7] only the Uinta Band of the Uinta & Ouray Reservation in Utah voted for a § 16 – Constitution and § 17 – Charter in accordance with said IRA.[8] However, when the Constitution was issued in 1937, the State's White River and Uncompahgre Ute citizens were nefariously included in the Uinta Shoshone Constitution that was then issued as the "*Constitution of the Ute Indian Tribe*" – creating a "fictitious tribe." The following year (1938), again only the Uinta Band voted for a § 17 – Charter[9] that was also issued under the fictitious name, "*Ute Indian Tribe,*" and given the status of a federally recognized (*fictitious*) tribe of the Uinta & Ouray Reservation in Utah. The legal questioning of "tribes under federal jurisdiction" and these two incidents in 1937 and 1938, and the propriety in other tribes of a similar nature, are left to attorneys and the United States Government to sort out as Congressmen are doing so in Washington D.C. today.

19. The "ordinary" Ute citizens of Utah-Colorado, in 1910, began the process of suing the United States for payment for the reservation lands in Colorado they had ceded to the United States in 1880. They won said lawsuit in the Court of Claims in 1950, and during the Appropriations Hearings, it was discovered that a small group of 89 Uinta Shoshone members with ½ or more 'Ute' blood could file a claim against the newly acquired Ute Judgment Funds.

To prevent this from happening and delay payment, the Secretary of the Interior was authorized by Congress in P. L. 120 (65 Stat. 193) "*The Southern Ute Rehabilitation Planning Act*" of 1951, to identify the 89 Uintah Utes[10] who would subsequently be terminated from federal status and thereafter be eligible to participate in the Ute Judgment Funds and in the Ute Ten-Year Development Program administered by the State of Utah.

20. The Congressional intent in 1951 was for the Secretary of the Interior to administratively partition the 89 Uintah Utes with ½ or more Ute blood (mixed-bloods) from the main body of the Uinta Shoshone Tribe which he did, but then the Uinta Tribe's partition process was conflated with the Uintah Ute's Termination Act that was to initiate after the Utes submitted a "Plan" to the Secretary of the Interior who would forward it to Congress for the division, distribution, and use of the Ute Judgment Funds between themselves, and to pay for the Utes Ten Year Development Program under state law that began in 1954. (The Uinta Shoshone Tribe had no interest). The 'Utah-Ute Plan' was issued as P. L. 671 (68 Stat. 868) the "*Ute Partition and Termination* Act" (UPTA) of August 27, 1954.[11]

21. The stated purpose of P. L. 671 was; "To provide for the partition and distribution of the assets of the (fictitious) "Ute Indian Tribe" of the Uinta & Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; and for the termination of Federal supervision over the property of the (89 Uintah Ute) mixed-blood members of said tribe; to provide a development program for the full-blood members of said tribe; and for other purposes."

22. The Ute Termination Act of 1954 provides that a so-called "mixed-blood" and "full-blood roll"[12] of said "Tribe" be prepared using only 'Ute blood' as the defining factor: "Full-blood" means a member of the tribe who possess one-half or more degree of Ute Indian blood,

and "Mixed-blood" means a member of the tribe who does not possess sufficient Ute Indian blood to fall within the full-blood class. Needless to say, the Uinta Shoshone Tribe members who voted to adopt the IRA of 1934 are thus, not Utes, but they, and their 1861 tribal trust property was effectively "bootstrapped" to the Ute Termination Act by the scurrilous use and definition of the ambiguous term "Mixed-blood" whereby, they became involuntary participants in a 1954 Ute Termination Act that did not legally involve the Uinta Shoshone Indians or their tribal property. The Act of 1954 was not fully in compliance with the intent of Congress.

23. The Final Mixed-blood Roll was falsified when the 89 Uintah Utes with ½ or more Ute blood (mixed-bloods) was substituted with 455 members of the Uinta Valley Shoshone Tribe who were fraudulently listed on said "Mixed-blood" Roll of the fictitious "Ute Indian Tribe" that was published in the Federal Register in 1956. The mixed-blood group was not precluded by P.L. 671 or any other prior federal law and thus, Section 6 of said Act provided that the so-called "mixed-blood group" including those residing on and off the reservation, would have the right to organize for their common welfare at a special election called by the Secretary of the Interior and so they did reorganize, a second time, under § 16 of the IRA and remained an organized Indian Tribe "under federal jurisdiction."

24. The very same day as the Mixed-blood and Full-blood Rolls were published in the Federal Register, the 455 Uinta Shoshone Indians (aka. Mixed-blood group) was withdrawn from the § 16 fictitious "Ute Indian Tribe" organization by the use of said rolls, and reorganized as a separate independent Shoshone federal Indian Tribe under § 16 of the IRA. The § 17 Federal Indian Corporation was not touched by said Act of 1954 and the Uinta Shoshone Indians were never expressly withdrawn by said Act, from the Federal Corporation. When the so-called "mixed-blood group" was reorganized in 1956, they took with them the Tribe's historic

sovereignty & jurisdiction, and all vested and reserved rights, title, and interests in the lands and assets of the Uinta Valley & Ouray Reservation, (represented by the § 17 Federal Corporation d/b/a, the "Ute Indian Tribe"). This fact of law was muddied when "the Tribe" was led to believe it was the entity that was intended by Congress to be terminated pursuant to P.L. 671 in 1961 despite the reorganization in 1956 - which was not true.

25. "The Tribe" continued to exist as a tribe under federal jurisdiction. Its members were authorized by Section 6 of said Act to withdraw from the State's Ute citizens (full-bloods) and reorganize as the Uinta Valley Shoshone Tribe of "Affiliated Ute Citizens" of Utah Indians and thereby retained exclusive ownership of the reservation lands and assets that was set apart from the public domain by Executive Order 38-1 by President Abraham Lincoln,[13] exclusively for the Indians of Utah Territory in 1861 and ratified by the Senate on May 5, 1864 (13 Stat. 63).[14] The membership of the fictitious Ute Indian Tribe was merely diminished, despite any so-called termination proclamation issued five years later that was intended by Congress to apply only to the 89 Uintah Utes and so it did.

26. **Pertinent Regulations Under the Termination Act** (25 CFR part 243)[15] **Appendix F** - (h) "Termination of Federal supervision" means termination of Federal supervision over the particular real estate involved (Sec. 9 of said Act) by the issuance of a patent in fee or other similar title document, and does not mean termination of the wardship relationship between the Indian and the United States on the occasion of the issuance of a so-called "Termination Proclamation"[16] (25 U.S.C. 677v).

The Uinta Valley Shoshone Tribe of Affiliated Ute Citizens (AUC)

27. The AUC Constitution was issued and federally approved on April 5, 1956 by Glenn L. Emmons, Commissioner of Indian Affairs, and the Uinta Valley Shoshone Indians retained an organized tribal government under the IRA. Included in said AUC Constitution is a reference to an amendment to said 1954 Act, dated August 2, 1956 (68 Stat. 869)[17] that provides: Section 8 of said Act of August 27, 1954 is amended by adding the following: "*but this Act shall not be construed as granting any inheritable interests in tribal assets to full-blood members of the tribe or as preventing future membership in the tribe, after the date of enactment of this Act, in the manner provided in the Constitution and bylaws of the tribe*." The Act of 1954 superseded the 1937 Constitution of the fictitious "Ute Indian Tribe" and the State's ordinary Ute citizens (full-bloods) are controlled by said Act. (Solicitor's Opinion M-36304)[18]

28. The 1938 § 17 – Charter of the Ute Indian Tribe was not dissolved by Congress under the 1954 Act that merely implies the State's "full-blood" Ute citizens had some sort of interests in the lands and assets of the Uinta & Ouray Reservation - which they do not, but since the withdrawal of the Uinta Shoshone Indians from Utah's Ute citizens (full-bloods) in 1956, the Federal Corporation has been a "shell Corporation" insofar as the Utes are concerned – the Utes have never had any legally protectable rights, title, or interests in any lands or tribal assets in Utah. All federal tribe authority to manage any of the reservation lands remained with the Uinta Shoshone Tribe by federal authority and treaty rights that is recognized by the Executive Order 38-1 of 1861, and the same holds true for every form of legitimate tribal/federal legal authority to develop the resources thereof and exclusively receive the financial benefits therefrom.

29. Under the pretense and pretext of P. L. 671, a fraudulently orchestrated termination of the Uinta Valley Shoshone Tribe of Affiliated Ute Citizens' was immediately forcefully initiated. The State of Utah et al., and its Ute citizens, (full-bloods) conspired together to develop the

concept that the fictitious "Ute Indian Tribe" of ordinary Ute citizens, after they took over pursuant to section 5 of said Act, was fraudulently construed to make the State's Ute Tribe appear to be a federal tribe that "should approach the organization of a modern business corporation (not the § 17 Federal Corporation chartered under the IRA) in administering and making the best possible use of the Uinta Shoshone Tribal resources with the transfer of purely governing powers to the local and state governments …" [19] which falls right in line with the Ute's state status after 1880, but under the pretense of a federal tribe, the state could not overtly take purely governing powers. The State of Utah is not a 280 State and was/is precluded by federal laws from doing so despite the pretext of P. L. 671 of 1954.

30. The intent of Congress in passing P. L. 120 (65 Stat. 193)[20] in 1951 was, by design, misapplied in 1954 and the Courts were manipulated by smart attorneys to conclude that the individual so-called "Mixed-bloods" listed on the fraudulent 1956 Mixed-blood Roll of the fictitious Ute Tribe, were not only "Ute" but were terminated pursuant to said Act of 1954 without any representation from the actual "Tribe" itself, in its own defense. That privilege was handed to the Ute Distribution Corporation, a state non-profit conduit corporation created by the Attorneys representing the State's full-blood Ute citizens in 1958, to distribute the trust funds transferred from the United States Treasury to the individual members of the so-called Mixed-blood group that was organized as the Tribe of Affiliated Ute Citizens in 1956. However, the said corporation has been managed and operated since its creation as if it is a "for profit" corporation and has engaged in selling stock shares purporting to represent corporate assets but the UDC stock holders are receiving an interest in the trust funds belonging by federal statute to the tribe and the members of the Tribe of Affiliated Ute Citizens.

31. The Policy of Congress in 1953 when it initiated HCR 108,[21] was to terminate an entire Indian Tribe, not individual members of the Tribe. Each Tribe that was slated for termination under this Policy, had to be specifically identified by name in any Act to terminate and the intent to do so expressly stated. The historic Uinta Valley Shoshone Tribe nor the Uinta Valley Shoshone Tribe of "Affiliated Ute Citizens" has never been subjected to an express termination Act of Congress before or after 1954 and it is the burden of the Plaintiff to provide evidence supported by federal Acts to the contrary.

CONCLUSION

32. The 10th Circuit Court of Appeals reached a similar conclusion in the Civil Case No. 95-C-376W, (934 F. Supp. 1302 (1996), "The [State's full-blood] Ute Tribe argues that the policy concerns underlying the Supreme Court's ruling in *Oneida Nation* are absent here because the *mixed-bloods* are not Indians. The court disagrees. Although the Ute Partition Act terminated the mixed-bloods' federal status generally, and terminated federal supervision of divisible and distributed assets specifically, the UPA expressly provided for a continuing federal trust relationship with the mixed-bloods in the supervision of the mixed-bloods' joint management of *indivisible* assets with the Ute Tribe. (25 U.S.C. § 677i.) (Emphasis added)

33. The Court continues: Thus, with respect to jointly managed assets "not susceptible to equitable and practicable distribution," the mixed-bloods retained their federal Indian status, and the same concerns about the United States' trust responsibility to protect valuable Indian property rights that guided the Supreme Court in *Oneida Nation* apply here as well." "Thus, any breach at any time of the continuing responsibility of the Secretary or the "full-blood" Ute Tribe could trigger a cause of action; hence, a declaratory judgment defining a party's rights under the UPA may properly be sought at any time while the federally supervised joint management

scheme is in effect." (28 U.S.C. § 2415(c)) "Nothing herein shall be deemed to limit the time for bringing an action to establish the title to, or right of possession of, real or personal property," This court finds that the same policy considerations apply here. (Emphasis added)

34. The Indian Reorganization Act (IRA) was for Indian Tribes then "*under federal jurisdiction*" in 1934. Unknown to the *Uinta Shoshone Tribe* and most of the general public, the Confederated Utes of Colorado-Utah were not eligible to participate in said federal act because in 1934 each and every one of the Utes (excepting the Uintah Utes for whom P.L. 671 applied) were subject to "*the civil and criminal laws of the State in which they may reside*" and no longer "Indian" by federal definition found in section 19 of the IRA, pursuant to and in accordance with Federal law and their Agreement with the United States in 1880.

35. The Court continues: "The corporate charter's "sue or be sued" provision serves as a waiver of immunity only as to the tribal corporation, not as to the tribal organization established pursuant to section 16 of the Indian Reorganization Act, ch.576, 48 Stat. 987 (1934) (codified at 25 U.S.C. § 476). *Ramey Const. Co. v. Apache Tribe,* 673 F. 2d 315, 320 (10th Cir. 1982); *Kenai Oil & Gas, Inc. v. U.S. Dep't of the Interior*, 522 F. Supp. 521, 528-30 (D. Utah 1981), aff'd and remanded, 671 F. 2d 383 (10th Cir. 1982)."

36. The Court addressed the contention by the Plaintiff that, "it is suing the Ute Indian Tribe as a federally chartered corporation and that the "sue and be sued" provision is therefore a waiver of sovereign immunity." The Court replied: "The tribal defendant is named in the complaint, however, only as "the Ute Indian Tribe," without designation of corporate status. The charter does denote that the tribal corporation is chartered under the name "The Ute Indian Tribe"; however, the tribal organization is also known as the "Ute Indian Tribe," or as the "Ute

Indian Tribe" of the Uinta and Ouray Reservation. Hence, it is at least facially ambiguous whether the tribal corporate entity is indeed a defendant in this case." *** "Whether the "sue and be sued" clause of the charter serves as a waiver of sovereign immunity depends on whether the Ute Tribe as a constitutional organization or the Ute Tribe as a federal corporation is the proper defendant here." *** "The Ute Partition Act specifies that the Business Committee of the Ute Tribe is to act as joint managers of the indivisible assets on behalf of the Tribe. The Tribal Business Committee was established under the constitution of the tribal organization, and is authorized by the charter to exercise all enumerated powers of the tribal corporation. At this stage of the litigation, it is unclear whether the Tribal Business Committee's exercise of its joint management function with respect to the indivisible assets is a corporate activity, or whether the Committee is acting on behalf of the tribal organization …"

37. The State, including its ordinary Ute citizens, is without federal authority to lawfully manage or legally develop said lands and assets of the Uinta Valley & Ouray Reservation belonging to the reorganized and federally established Uinta Valley Shoshone Tribe of "Affiliated Ute Citizens" of the Uinta Valley and Ouray Indian Reservation, except by the deception inherent in P. L. 671 and by using the fictitious "Ute Indian Tribe" of the Uinta & Ouray Reservation in Utah as a "front" to do so illegally.

38. During the administrative process of P. L. 671 there were agreements made between the mixed-blood and full-blood groups that was binding upon both parties when it was believed that the Utes' were under federal jurisdiction. Some of these agreements and resolutions[22] were specific to the rights of the mixed-bloods to hunt and fish on the Uinta Valley and Ouray Reservations. Including an Injunction issued by this Court in 1990, Civil No. 85-C-569J[23] but

over the past years these agreements and injunction have been regularly breached by the State's full-blood Ute citizens pretending to be a federal tribe.

39. On November 2, of 2016, the Office of the Uinta Valley Shoshone Tribe was raided by approximately eighteen USFWS and UDWR Officers under a Search Warrant[24] purportedly looking for violations of the Lacy Act led by Special Agent Edward D. Myers, USFWS which was an unnerving and stressful experience for the tribal members involved. Mr. Myers had been in the office the day before and was told he would be provided with anything he may be looking for if he knew what it was, but apparently cooperation was not the answer because the next day the office was raided and files and equipment was taken. Some of which was necessary to the smooth operation of the office. The office equipment was returned a few week later but the personal files of individuals were not and have not been returned as of this day. We want them back.

40. For the reasons stated above, we pray this court will carefully consider the relevant facts and supporting documents attached to this Response to the Complaint and conclude that the restraining Order and Preliminary Injunction requested is directed at the wrong party here. The United States is bound by its fiduciary and trust responsibility to protect the treaty lands and assets that are held in trust by the United States for the historic Uinta Valley Shoshone Tribe that was reorganized in 1956, under the IRA of 1934, as the "Tribe of Affiliated Ute Citizens" that we believe is the actual injured party who should be issued the Temporary Restraining Order and Preliminary Injunction against the Ute Indian Tribe organization that is pretending to be a federal tribe when the persons involved are actually individual "ordinary" citizens of the State of Utah by Act of Congress in 1880.

41. Upon information and belief, we believe the United States is on the wrong side of the issues. Mr. Myers could have gotten a restraining order at any time in the past year, so why now when the statute of limitations has almost run? Everything that is presented in this Response Brief was in the computers he took last November, so we assume that he either did not believe what he read or is ignoring the relevant facts he had before him in the course of his examination that are addressed herein. No matter the reasoning, in this particular case, we believe the United States is on the opposite side of its fiduciary and trust responsibility to a tribe under federal jurisdiction whose lands and assets are held in trust by the United States.

42. "The Tribe" has been given a very short window in which to answer this Complaint. Four days - two of which is a weekend. This is not sufficient time to engage an attorney to represent the tribes interest. Therefore, we are asking the Count to give "the Tribe" at least ninety days to seek legal counsel and the time for said legal counsel to become familiar with the issues and properly represent "the Tribe."

Dated: October 23, 2017.

Respectfully submitted by

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CERTIFICATE OF MAILING

I, Ramona Harris hereby certify that on October 23, 2017, I did by U.S. Postal Service, Mail a copy of this Response Brief of the Uinta Valley Shoshone Tribe of Affiliated Ute Citizens of Utah Indians to the following parties:

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