

Mary Carol M. Jenkins FB# 1530  
Uinta Utah Indian Band of  
Uinta Valley Reserve, 1861-1864  
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Fort Duchesne, Utah 84026  
Phone; 1-435-822-7371

FILED  
U.S. DISTRICT COURT  
2019 FEB 13 P 12:44  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

Tara Amboh FB# 3489  
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Uinta Valley Reserve, 1861-1864  
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Neola, Utah 84053

Angelita M. Chegup FB# 228  
Uinta Utah Indian Band of  
Uinta Valley Reserve, 1861-1864  
Post Office Box 124  
Neola, Utah 84053

Lynda Kozlowicz FB# 639  
Tabeguache Colo. Indian Band of  
Colorado Treaty, 1863-1868  
Post Office Box 472  
Fort Duchesne, Utah 84026  
Phone 1-435-722-6707

U.S. District Court  
Hon. Dale A. Kimball  
351 South West Temple  
Salt Lake City, Utah 84101

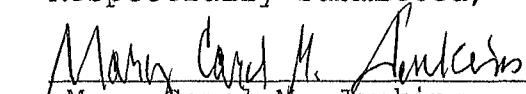
February 8, 2019.


Re: Ute Indian Tribe of the Uintah & Ouray  
Reservation v Gregory D. McKee, T&L  
Livestock, Inc., Mckee Farms, Inc.,  
And GM Fertilizer, Inc.,  
Case No. 2:18-CV-314-CW

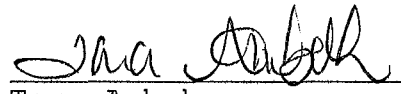
Dear Clerk for Hon. Kimball;


The following: **PLAINTIFF INTERVENOR NOTICE OF MOTION FOR LEAVE TO INTERVENE, AND MEMORANDUM OF POINTS IN SUPPORT, PLAINTIFF UINTA UTAH INDIANS AND TABEQUACHE COLORADO INDIAN**, is submitted for filing and for review with this action.

Respectfully submitted,

  
\_\_\_\_\_  
Mary Carol M. Jenkins

  
\_\_\_\_\_  
Angelita Chegup

  
\_\_\_\_\_  
Tara Amboh

  
\_\_\_\_\_  
Lynda M. Kozlowicz

UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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Ute Indian Tribe of the  
Uintah & Ouray Reservation

Case No. 2:17CV-1140BSJ

Plaintiffs,

v.

Gregory D. McKee, T&L  
McKee Farms, Inc.,  
Livestock, Inc.,  
and GM Fertilizer, Inc.,

PLAINTIFF INTERVENOR  
NOTICE OF MOTION FOR  
LEAVE TO INTERVENE, AND  
MEMORANDUM IN SUPPORT  
INTERVENORS UINTA UTAH  
INDIANS AND TABEQUACHE  
COLORADO INDIAN

Hon. Dale A. Kimball

Defendants,

---

Plaintiff Intervenors, Notice of Motion for Leave  
to Intervene, and Memorandum of Points in Support Motion,  
And Memorandum Of Points In Support, and Intervenors are  
Historical Uinta Utah Band Indians of Uinta Valley  
Reserve of 1861- 1864, and Historical Tabeguache Band  
member Indian, of Colorado Treaty of 1863-1868, as  
follows:

TO ALL PARTIES AND THEIR COUNCIL OF RECORD PLEASE  
TAKE NOTICE; that on Memorandum Decision & Order, dated  
January 24, 2019, or as soon thereafter as the matter may  
be heard, in the Courtroom 351 South West Temple, Salt  
Lake City, Utah 84101, by Honorable Dale A. Kimball,  
at the United States District Court of Utah.

The issue of the Honorable Judge Kimball's Order, we see is correct on points of the Ute Tribe's IRA status. We agree Mr. Gregory McKee's conduct with his business was ruled in Tribal Court, to be held accountable for violating tribal law, and violating Federal Codes that applies to the trust lands by not properly dealing with the Superintendent, Bureau of Indian Affairs regulating authority within trust lands. Right-of-Way for all purpose across Indian trust land, 25 U.S.C. 323, Ute Tribe is not an "entity" (person) that makes any decisions, its the Tribal Council members who acts with their own decisions and own conducts that can be held liable. Anyone who speaks out on issues, made by individual Indian exercising freedom of speech are Banished or dis-enrolled and their due Process is denied.

On March 2, 2018, the Deputy Secretary of the Interior, David L. Bernhardt issued the letter denying the Ute Tribe's Land Into Trust request. The Deputy Secretary Bernhardt explained, that he concurred with the Solicitor's Opinion issued by the Principal Deputy Solicitor on applicability of "Section 3" of the Indian Reorganization Act (IRA), to the Ute Tribe's request for restoration (Land Into Trust). Solicitor's Opinion M-

37051 (Solicitor's Opinion"). By this opinion of the Solicitor, re-enforces the Uinta Valley Reserve's trust lands, and gives his opinion on Historical Treaty Indians and the IRA created tribes.

Plaintiff Ute Tribe was not under federal jurisdiction prior to 1934, and of which Ute Tribe IRA did not exist prior to 1934, and wasn't recognized until 1934 Indian Reorganization Act. Carcieri v. Salazar, 129 S. Ct. 1058, 1061 (2009), this case brought out the IRA issues forward, whether to have been under federal jurisdiction in 1934.

The "Ute Tribe IRA" was organized under the Secretary of Interior by IRA federal Statute only, not under Executive Order or treaties of the United States by Congress.

Treaty making by the United States stopped in 1871, Future treaties with Indian tribes, 25 U.S.C. 71, and Ute Tribe's continued filing court cases in the name of Ute Tribe IRA is a conflict, based upon the Uinta Valley Treaty Reserve of 1861-1864, over the ownership Title held by the Uinta Utah Band of Indians, which establishes Indian Country - that is the trust lands of the Historical Aboriginal Uinta Utah Band of Indians, on land over which the United States exercises federal

jurisdiction to the exclusion of the State of Utah's jurisdiction.

Uinta Utah Band Intervenors, Mary Carol M. Jenkins, and Tara Amboh, and Angelita Chegup, are recognized Uinta Utah Band Indian as written within head count, for IRA Tribal Constitution for services and the Executive Order-Treaty of Uinta Valley Reserve 1861-1864 is recognized by the Uinta Utah Indians as Title holders; and under the Guadalupe Hidalgo Treaties with the United States on December 30, 1849 (9 Stat. 984), and established Uinta Valley Executive Order, Oct. 31, 1861 (1 Kappler 900), affirmed by Congress by Uinta Act of May 5, 1864 (13 Stat. 63). (IRA Ute Tribe is not mentioned in these documents). Prior to the IRA by Secretary of the Interior, the Whiterivers and Uncompahgre were not allowed to attend Uinta Utah Indians meetings.

The Tabeguache Intervenor Lynda M. Kozlowicz, recognizes herself as Tabeguache Band Colo. Indian, not as being labeled "Uncompahgre Indian" under a name that is FAKE. The legal Treaty name is "Tabeguache Indian", which is written in the Colorado Treaty of 1863-1868. The only recognition of "Uncompahgre Indians" came about by the Executive Order of January 5, 1882 and Act of June

21, 1906 (34 Stat. 325) under the aka Uncompahgre. "Tabeguache Indians" under name of "Uncompahgre Indians" were not written in the "Agreement of 1880" to move to Gunnison, Colorado as written in June 15, 1880 (21 Stat. 1999). The "Tabeguache Band of Indians" through Treaty with the United States on Guadalupe Hidalgo, December 30, 1849 (9 Stats. 984); October 7, 1863, 13 Stat., 673; and March 2, 1868, 15 Stats., 619, the dates belong to the "Tabeguache Band Colorado Indians", that were force to move to Uinta Valley Reserve in Utah, because of the Killing of the Indian Agent Meeker, by the Whiteriver Band of Indians, whom were stripped of their Indian status and were not to be paid as "Indians" from federal government forever as punishment by United States. Under the question of federal law, or legal standing to bring legal issues into federal court, Ute Tribe should product ownership of lands or treaty, or congressional acts, not just Secretary of Interior's IRA Act (for management).

Notice of Motion to Intervene, and Memorandum of Points and Authorities in Support thereof, intends to move, and hereby moves, for leave to intervene in this matter as matter of right pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure (FRCP), and

alternatively for permissive intervention under Rule 24(b) of the Fed. R. Civ. P.

This motion is made following the conference of council pursuant to L. R. 7-3, which took place.

The Plaintiff Ute Tribal Business Council Members enacted Ute Tribal Resolution No. 18-472, and No. 18-509, and No. 18-514, the copy of which is (**attached herein**), purports to proceed for the banishment against Intervenors, Mary Carol M. Jenkins, and Tara Amboh, and Angelita Chegup, Uinta Band Utah Indian, and Lynda M. Kozlowicz, Tabeguache Band Colo. Indian.

This Motion is the attached Memorandum of Points and Authorities in Support of the Motion, on the Intervention, on all other pleadings and papers on file this case, and upon such other and further arguments documents, and grounds as may be advanced in the future.

In United States Supreme Court. United States v. Bryant, 579 U.S. \_\_\_, 136 S. Ct. 1954 (2016), held subject to exception recognized in case law for statute that serve merely as enforcement mechanism used the tribal court guarantees right to counsel, with the Sixth Amendment right.



**MEMORANDUM OF POINTS IN  
SUPPORT AND AUTHORITIES**

The Uinta Utah Indians, and Tabequache Colo. Indian respectfully moves to intervene in the instant action as matter of right pursuant to Federal Rule of Civil Procedure 24(a)(2) or, in the alternative, to intervene permissively pursuant to Federal Rule Civil Procedure 24(b).

**BACKGROUND**

The group of Indians moved to intervene granted. The U.S. District Court of Nevada. Winnemucca Indian Colony v. United States, Department of the Interior, Case No. 13:11-CV-00622-RCJ-VPC, dated January 10, 2012, this case arises out of the refusal of United States, Department of the Interior (DOI), to recognize the Indian government of the Winnemucca Indian Colony (the Colony), and Indian Affairs (BIA) with the activities of the purpose Council Members on Colonial land. The Court issued Temporary Restraining Order (TRO), Ordered BIA to grant interim recognition to some person or persons but not ordering or restraining any BIA Activity on the land.

The present parties acknowledge that the rights to be determined by this litigation are federally reserved

rights. They acknowledge that the Intervenor Uinta Utah Indians, and Tabeguache Colo. Indians, holds title to these rights, in trust, for the benefit of the Uinta Indians and Tabeguache Indians. Accordingly, as the parties anticipated, and for the reasons set forth below, the Intervenor's respectfully seeks permission to assert and to protect its interest in these rights, and in this case. The Intervenor's requests that the court approve motion to intervene.

#### **ARGUMENT**

Rule 24 of the federal rules of civil procedure provides for intervention as of right, governed by subsection (a), and permissive intervention, governed by subsection (b). The Intervenor Uinta Utah Indian's, and Tabeguache Colo. Indian's requests approval to intervene as of right or, in the alternative, to intervene permissively.

#### **I. THE UINTA UTAH INDIANS, AND TABEQUACHE COLO. INDIAN IS ENTITLED TO INTERVENE AS OF RIGHT**

Fed. R. Civ. P. 24(a)(2) provides that upon timely application, anyone shall be permitted to intervene in an action who claims an interest relating to the property or action that is the subject of the action, and is so

situated that disposing of the action may as the practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

As construed by the ninth circuit, an applicant is entitled to intervention as of right when satisfying the following four criteria:

- (1) it has a significant protectable interest relating to the property or transaction that is the subject of the action;
- (2) the disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect its interest;
- (3) the application is timely; and
- (4) the existing parties may not adequately represent the applicant's interest.

United States v. Alisal Water Corp., 370 F. 3d 915, 919 (9<sup>th</sup> Cir. 2004); United States v. City of Los Angeles, 288 F. 3d 391, 397 (9<sup>th</sup> Cir. 2002).

In determining whether to grant intervention, Courts are to take all well-pleaded, non-conclusory allegations in the motion to intervene, the proposed or answer in intervention, and declarations supporting the motion as true absent sham, frivolity or other objections. Sw. Ctr. For Biological Diversity v. Berg, 268 F. 3d 810, 820 (9<sup>th</sup> Cir. 2001)

The courts are to be guided primarily by practical

and equitable considerations, and the requirements for intervention are broadly interpreted in favor of intervention. As shown below, the Intervenor Uinta Utah Indian's, and Tabeguache Colo. Indian's, satisfies each of the requirements for intervention as of right under Rule 24(a).

**A. THE INTERVENOR UINTA UTAH INDIAN'S AND  
TABEQUACHE COLO. INDIAN'S HAS SIGNIFICANT  
PROTECTABLE INTERESTS IN THIS LITIGATION**

The legally protectable interest in ensuring that those water rights are available for the Intervenor's and individual allottees to develop the Uinta Utah Indian's trust land base Uinta Valley Reserve, and for Tabeguache Colorado treaty Indian's to claim Tabeguache Colorado Reserve as their viable homelands. The Supreme Court has long recognized that United States has both the governmental interest and the trust interest, in addition to the property interest, in protecting Intervenor's trust property. Cramer v. United States, 261 U.S. 219, 232-33 (1923); Heckman v. United States, 224 U.S. 413, 442-44 (1912). Application of this principle to the Intervenor's Uinta Utah Indian's Uinta Valley Reserve's water rights to the allotments in Utah, and Tabeguache with their water rights on Colorado. Both Congressional,

Historical Treaty rights context is also well established. Winter v. United States, 207 U.S. 564 (1908) (action by United States to enjoin water uses affecting water available for Indian Treaty Reserves). The United States meets this requirement for intervention as of right under Rule 24(a).

In granting intervention as of right, the Ninth Circuit has recognized that government agencies have significant interests in cases involving the application of laws that agencies are tasked with administering and enforcing. Smith v. Pangilinan, 651 F. 2d 1320, 1324-25 (9<sup>th</sup> Cir. 1981).

The rights under the Winters Doctrine are not restricted to the Ute Tribal context. They are application to national parks, forests, wildlife refuges and other federal lands that utilize reserved water. United states v. Cappaert, 508 F. 2d 313 (9<sup>th</sup> Cir. 1974) aff'd, 426 U.S. 128 (1976) (applying Winters in the context of the federal water right reserved for the purpose of preserving the species of d3esert pupfish). Because this case will impact the Winter Doctrine, and thus, has the potential to impack the Intervenor Uinta Utah Indian's, and Tabeguache Colo. Indian's, ownership

and management of federal lands and water, the outcome of this case, including the potential for appeals by existing parties, warrants the Intervenor intervention.

Even though Intervenor has significant interests in this litigation, and disposition of the case without the Intervenor participation may impair the Intervenor's ability to protect those interests as treaty properties will be harmed by IRA Ute Tribe's constantly filing to put Ute Tribe's claims as owners into Uinta Valley Reserve or Colorado Treaty homelands, under IRA's land into trust.

The Intervenor would not be bound by the final judgment, absent federal intervention to protect their treaty lands. Fort Mojaave Tribe v. Lafollette, 478 F. 2d 1016, 1018 (The United States will not be bound by any determination made in the suit to which it is not the party) (citing United States v. Candelaria, 271 U.S. 432 (1926) (holding that prior judgments against the tribe did not bar the United States from bringing the subsequent action on the tribe's behalf)). Granting intervention, on the other hand, would not only bind the United States, but would also comport with principles of judicial economy for the reasons described below.

**B. EXISTING PARTIES DO NOT ADEQUATELY REPRESENT THE UINTA UTAH INDIANS, OR TABEQUACHE INDIAN'S INTERESTS.**

The proposed Intervenor's burden of showing inadequacy of representation is minimal and satisfied if the applicant can demonstrate that representation of its interests may be inadequate. Citizens for Balanced Use v. Mont. Wilderness Ass'n, 647 F. 3d 893, 898 (9<sup>th</sup> Cir. 2011); Arakaki v. Cayetano, 324 F. 3d 1078, 1086 (9<sup>th</sup> cir. 2003), there factors are relevant: (1) whether the interest of the present party is such that it will undoubtedly make all of the whether the interest of the present party is such that it will undoubtedly make all of the proposed Intervenor's arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether the proposed Intervenor would offer any necessary elements to the proceeding that other parties would neglect. California v. Tahoe Reg'l Planning Agency, 792 F. 775, 778 (9<sup>th</sup> Cir. 1986).

Intervenors shares with the tribe, interest in protecting its water. The Uinta Utah Indian's Reserve in Utah, and Tabequache Indian's Allotments in Colo. recognizes that water is the lifeblood of the Intervenor's desert land. Colville Confederated Tribe v. Walton, 647 F. 2d 42, 52

(9th Cir. 1981). Nevertheless, the Ute Tribe does not adequately represent the Intervenor's interests in this case for at least three reasons.

**C. THE APPLICATION FOR INTERVENTION IS TIMELY**

The Three factors are weighed in determining whether the motion for intervention is timely; (1) the stage of the proceeding in which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of the delay. County of Orange v. Air California, 799 F. 2d 535, 537 (9<sup>th</sup> Cir. 1986); United States v. Oregon, 745 F. 2d 550, 552 (9<sup>th</sup> Cir. 1984). Mere lapse of time alone is not determinative, as the Supreme Court has emphasized, timeline is to be determined from all the circumstances. NAACP v. New York, 413 U.S. 345, 366 (1973); Day v. Apoliona, 505 F. 3d 063, 966 (9<sup>th</sup> Cir. 2007), granting state intervenor's motion where it could not be said that the state ignored the litigation or held back from participation to gain tactical advantage and noting that all the circumstances of the case must be considered in ascertaining whether or not a motion to intervene is timely, and Legal Aid Soc'y of Alameda County v. Dunlop, 618 F. 2d 48, 50 (9<sup>th</sup> Cir. 1980). In this case, all three prongs of the timeliness



analysis weigh in favor of granting the Intervenor Uinta Utah Indians, and Tabeguache Colo. Indians, motion to intervene.

The hearing date for the phase of the proceeding is not set. These considerations favor the finding of timeliness, because the Intervenor's is filing this motion long before the Court has substantively - and substantially - engaged the issues in the case. League of United Latin Am. Citizens v. Wilson, 131 F. 3d 1297, 1303 (9<sup>th</sup> Cir. 1997).

Intervenors Uinta Utah Indians, and Tabeguaches Colo. Indians, to bring such an independent action, Defendants burden in defending two separate lawsuits would be much greater than it would be, were the Court to grant the instant motion. Trbovich v. United Mine Workers of Am., 404 U.S. 528, 536 (1977), noting that intervention . . . . in the pending enforcement suit, unlike initiation of the separate suit . . . . subjects the defendant to relatively little additional burden. The above consideration support the finding that the Intervenor Uinta Utah Indian, and Tabeguache Indian, application is timely.

**D. PERMISSIVE INTERVENTION**

Intervenor Uinta Utah Indians, and Tabeguache Colo. Indians, requests permission to intervene under Fed. R. Civ. P. 24(b), which provides that the Court may permit the Intervenor Indian's to intervene if an existing party's claim or defense is based upon the statute or executive order administered by the Uinta Utah Indians, and Tabeguache Colo. Indians, or . . . . any regulation, order, requirement or agreement issued or made under the statute or executive order. Fed. R. Civ. P. 24(b)(2), Under 25 U.S.C. 2;

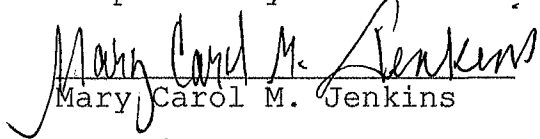
The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations.

#### **CONCLUSION**


For the foregoing reasons, the Intervenor Uinta Utah Indians, and the Tabeguache Colo. Indians, Notice of Motion for Leave to Intervene, with Memorandum of Points in Support and Authorities, have respectfully requests that this Court grant this Motion to Intervene as the matter of right pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure or, in the alternative, permissively pursuant to Rule 24(b) of the Federal Rule

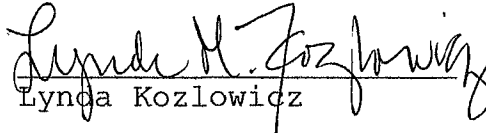
of Civil Procedure.

Respectfully submitted this 8 day of February 2019.

  
\_\_\_\_\_  
Mary Carol M. Jenkins

NA  
\_\_\_\_\_  
Angie Chegup

  
\_\_\_\_\_  
Tara Amboh

  
\_\_\_\_\_  
Lynda Kozlowicz

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**THE UTE INDIAN TRIBE BUSINESS COMMITTEE OF THE UTAH AND OURAY  
RESERVATION  
FORT DUCHESNE, UTAH**

---

**IN RE THE BANISHMENT OF LYNDA M.  
KOZLOWICZ, tribal member.**

**UTE TRIBE BUSINESS COMMITTEE  
NOTICE OF HEARING**

**YOU ARE HEREBY NOTIFIED** that a hearing in the above-entitled matter will be held in the Business Committee Chambers, 910 South 7500 East Fort Duchesne, UT 84026, on the 27th day of November, 2018, at the hour of 1:30 p.m. pursuant to Ordinance 14-002, *Law and Order Code, Title III, Amended Exclusion and Removal Code*. The Complaint received by the Business Committee alleges the named individuals have engaged in the following conduct:

1. Repeatedly interfered in ongoing litigation involving the Tribe.
2. Caused repeated delays and confusion in cases which impact the future well-being of the Tribe and its membership.
3. For nearly thirty years, have engaged in vexation litigation in federal, state, and tribal courts. Their court filings are frivolous and often nonsensical. These filings often confuses a representing the views and opinions of the Tribe.
4. By delaying legal proceedings, confusing legal issues, and intervening where they shouldn't, have cost the Tribe millions of dollars in unnecessary legal fees.
5. Routinely seek to destabilize the tribal government, causing waste in resources, delay in providing services, and diminishes the respect of the Tribe as a sovereign entity.

The Business Committee will conduct a hearing to decide whether to banish you from the Uintah and Ouray Reservation for your actions which seriously threatens the peace, health, safety, morals and general welfare of the Ute Indian Tribe of the Uintah and Ouray Reservation. You may appear with counsel if you desire and present evidence on your own behalf.

DATED THIS 20<sup>th</sup> DAY OF NOVEMBER 2018.

  
Chairman, Ute Tribal Business Committee

Mary Carol Jenkins, Uinta Utah Indian.  
Post Office Box 394  
Fort Duchesne, Utah 84026.

UTE INDIAN TRIBE  
TRIBAL BUSINESS COMMITTEE

NOV 27 2018

RECEIVED

By \_\_\_\_\_

Lynda M. Kozlowicz, Tabeguache Colo. Indian.  
Post Office Box 472  
Fort Duchesne, Utah 84026

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THE UTE INDIAN TRIBE BUSINESS COMMITTEE OF THE  
UINTAH AND OURAY RESERVATION FORT DUCHESNE, UTAH

---

IN RE THE BANISHMENT OF  
MARY CAROL JENKINS, and  
LYNDA M. KOZLOWICZ.  
Ute Tribal Member.

NOTICE OF PRELIMINARY  
INJUNCTION AND REPLY TO  
HEARING ON NOVEMBER 27, 2018

Resolution No. 18-472

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cc: Acting Superintendent  
Post Office Box 130  
Fort Duchesne, Utah 84026

Ute Tribal Council Members  
Post Office Box 190  
Fort Duchesne, Utah 84026

Pursuant to Article VII - Bill of Rights, and the Indian Civil Rights Act, 25 U.S.C. 1302(8) Due Process, Mary Carol Jenkins, and Lynda Kozlowicz, files Notice of congressional sovereign Executive Treaty Holder, respectfully move entry for preliminary injunction, enjoining the Ute Tribal Council Members violations of IRA regulations and denial of rights of congressional sovereign Executive Treaty Holder for equal protection of its laws, and "NO" sufficient time of Notice was given for getting an attorney, and Title III - Ute Indian Exclusion and Removal Code, (or is this an Ordinance now??) the resolution 18-472 also has not been reviewed by the Secretary of the Interior's 90 days to review resolution 18-472, which is required in the Ute Tribe Constitution, for federal review on the Ute Tribal Council's created procedures and ensure they comply with legal requirements including rights: (1) distributing federal funds to Ute tribal members; (2) recognizing all Ute tribal members; (as head Count for federal funds) and (3) recognizing the government-to-government relationship on decision of Indian Board of Indian Appeal. Ute Indian Tribe of the Uintah and

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NOV 27 2018

UINTAH AND OURAY  
AGENCY

Superintendent

Reservation v. Phoenix Area Director, Bureau of Indian Affairs, 21 IBIA 24 (10/22/1991) (Ute Tribal ordinances are subject to review by the Secretary of the Interior), which applies to IRA Ute Tribe.

The Uinta Valley Reserve's Executive Order-treaty mentioned is Congressional Act, with the understanding of the federal government on the government-to-government right for declaratory and injunctive relief against the Ute Tribal Council Members, (in exclusion and removal, requires the majority vote of one-third 1/3 of each band) (not 70 individuals) pursuant to Exclusion and Removal Code 3-1-1 through 3-1-8 ULOC, (or is it an ordinance now??) reservation boundaries are removed from Ute tribal jurisdiction pursuant to 25 U.S.C. 5123 that classifies as burden of proof. Oneida Nation v. Village of Hobart, Case No. 16-CV-1217 dated Oct. 4, 2018 (Order) reconsideration, and dated Oct. 23, 2017 (Decision and Order on Burden of Proof).

The grounds for this action as set forth is the absence of preliminary injunction, and congressional Holder will suffer immediate and irreparable harm by being deprived of the rights as congressional Executive Order-treaty Holder, and their right to participate in Ute tribal government, benefit of Article VII - Bill of Rights, and the Indian Civil Rights Act, 25 U.S.C. 1302(8) and subject to review by the secretary of the interior is for the protection of illegal discrimination or deprivation against Congressional sovereign treaty Holders, that are likely to prevail on the merits, and they have raised serious and substantial questions that are the fair ground for litigation regarding the Ute tribal council members actions to deny the four individuals their congressional rights, because only congress has the right to set judgment over congressional Executive Order-treaty holder, and Ute Council is subject to review by the Secretary of the Interior for failures to fulfill the responsibilities of federal government. The United States Department of the Interior letter dated March 2, 2018 of the Deputy Secretary of the Interior, David L. Bernhardt issued the letter denying the Ute Tribe's Chairman, Luke Duncan under the Ute Tribe's Land Into Trust request. The Deputy Secretary explained that Bernhardt concurred with the Solicitor's opinion issued by the Principal Deputy Solicitor on

applicability of section 3 of the IRA on the Ute Tribe's Land Into Trust request is in the Solicitor's opinion M-37051.

This issue brought forth to demonstrate the immediate threat to Ute Tribe's filed claims in federal courts, and was not at the hands of the accused, that intervened to protect the Uinta Valley Reserve's Executive Order-treaty of 1861-1864 rights and their ownership and Title to the Uinta Valley Reserve as recognized in the Indian Ct. of Cl, docket 44-45, along with the Tabeguache Colo. Indians Treaty of 1868 as recognized in the Indian Ct. of Cl., docket 327. These are two separate congressional Acts, where one is in Utah and other is in Colorado. Finally, the question remain to ask is, how does a created laws supercede congressional acts?? and again, only congress has the right to set judgment over congressional Executive Order-Treaty interests, that also stated: for the treaty owners only provision in the treaty's congressional act stated; for the congressional Indians to be farmers with water rights, now files entry for preliminary injunction.


This notice is based upon the subject to review by the BIA Superintendent (who has 10 days to review) and the Secretary of the interior (has 90 days to review), on Resolution 18-472 pleadings on file in this action. The accused demand copies of the "complaint Petition" filed by 70 members with their complaining issues.

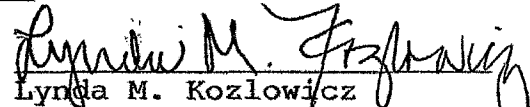
The Ute tribal members relief sought in this action is subject to review by the Secretary of the Interior in the good faith effort to determine whether the tribal council members opposed the relief sought by the accused . The resolution and letter from Chairman Duncan is incomplete without the required evidence as documination called discovery, or proper due process from the Tribal Council.

WHEREFORE, the Congressional sovereign Executive Treaty Holder respectfully request the acting superintendent recognize the days to review by the Secretary of the Interior to respond to this action and enter the preliminary injunction as the form submitted herein.



Respectfully submitted this 27<sup>th</sup> day of November, 2018

  
Mary Carol Jenkins  
Uinta Utah Indian

  
Lynda M. Kozlowicz  
Tabeguache Colo. Indian



**UINTAH AND OURAY  
TRIBAL BUSINESS COMMITTEE**

Resolution No. \_\_\_\_\_

**WHEREAS:** The Tribal Business Committee ("Business Committee") of the Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") is empowered by Article VI, Section 1(k) of the Constitution and By-Laws of the Tribe to provide for the maintenance of law and order and the administration of justice of the Tribe; and

**WHEREAS:** The Business Committee is empowered by Article VI, Section 1(l) to safeguard and promote the peace, safety, morals and general welfare of the Tribe by regulating the use and disposition of property of the Reservation; and

**WHEREAS:** The Business Committee is empowered by Article VI, Section 1(i) to exclude individual persons from the territory of the Uintah and Ouray Reservation; and

**WHEREAS:** Pursuant to Ordinance 14-004, amending *Law and Order Code, Title III, Ute Indian Exclusion and Removal Code*, the Business Committee received a complaint requesting the banishment of tribal members Mary Carol Jenkins, Lynda M. Kozlowicz, Tara J. Amboh, and Angelita Chegup, based on alleged engagement in acts which seriously threaten the peace, health, safety, morals and general welfare of the Tribe; and

**WHEREAS:** Through Resolution 18-472, the Business Committee has accepted the complaint requesting banishment and scheduled a hearing to consider the banishment of tribal members Mary Carol Jenkins, Lynda M. Kozlowicz, Tara J. Amboh, and Angelita Chegup on November 27, 2018; and

**WHEREAS:** The Business Committee has determined that in the interest of protecting the due process rights of the participants, guidelines for the November 27, 2018 hearing should be adopted; and

**NOW, THEREFORE, BE IT RESOLVED:** that the Business Committee, at a duly called meeting with a quorum present, does hereby accept and approve the use of the attached *Guidelines for Business Committee Hearings on Exclusion and Removal under the Exclusion and Removal Code*, incorporated herein by reference, to govern the November 27, 2018 hearing in this non-emergency case and provide both sides with the opportunity to be heard.

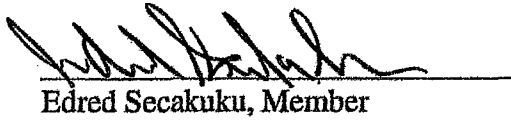
**BE IT FINALLY RESOLVED:** that the Business Committee hereby authorizes and approves its Chairman or, in his absence, the Vice-Chairman, to execute any and all documents as may be necessary and appropriate to carry out the terms, conditions and intent of this Resolution.

  
\_\_\_\_\_  
Luke Duncan, Chairman

  
\_\_\_\_\_  
Tony Small, Vice-Chairman

  
\_\_\_\_\_  
Ronald Wopsock, Member

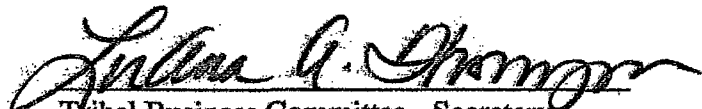
  
\_\_\_\_\_  
Shaun Chappoose, Member

  
\_\_\_\_\_  
Edred Secakuku, Member

  
\_\_\_\_\_  
Sal Wopsock, Member

**CERTIFICATION**

I HEREBY CERTIFY THAT THE FOREGOING Resolution was adopted by the Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation pursuant to the Constitution and By-Laws of the Ute Indian Tribe of the Uintah and Ouray Reservation at a duly called meeting in Ft. Duchesne, Utah, on the 27th day of November, 2018, at which time a quorum was present and votes 6 for, 0 against, 0 abstaining and 0 absent.

  
\_\_\_\_\_  
Tribal Business Committee - Secretary  
Ute Indian Tribe, Uintah & Ouray Reservation

**UINTAH AND OURAY  
TRIBAL BUSINESS COMMITTEE**

**Resolution No. \_\_\_\_\_**

- WHEREAS:** The Tribal Business Committee ("Business Committee") of the Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") is empowered by Article VI, Section 1(k) of the Constitution and By-Laws of the Tribe to provide for the maintenance of law and order and the administration of justice of the Tribe; and
- WHEREAS:** The Business Committee is empowered by Article VI, Section 1(l) to safeguard and promote the peace, safety, morals and general welfare of the Tribe by regulating the use and disposition of property of the Reservation; and
- WHEREAS:** The Business Committee is empowered by Article VI, Section 1(i) to exclude individual persons from the territory of the Uintah and Ouray Reservation; and
- WHEREAS:** Pursuant to Ordinance 14-004, amending *Law and Order Code, Title III, Ute Indian Exclusion and Removal Code*, the Business Committee received a complaint requesting the banishment of tribal members Mary Carol Jenkins, Lynda M. Kozlowicz, Tara J. Amboh, and Angelita Chegup ("Respondents"), based on alleged engagement in acts which seriously threaten the peace, health, safety, morals and general welfare of the Tribe; and
- WHEREAS:** Pursuant to Resolution 18-472, the Business Committee accepted the complaint requesting banishment and scheduled a hearing to consider the banishment of the Respondents on November 27, 2018; and
- WHEREAS:** Each of the Respondents was served with notice of the November 27, 2018 hearing through the Ute Indian Tribe Business Committee Notice of Hearing, dated November 20, 2018. Each Respondent was served with the Notice of Hearing both by personal service and via U.S Certified Mail; and
- WHEREAS:** Prior to the November 27, 2018 hearing, the Business Committee passed Resolution 18-509 which approved the *Guidelines for Business Committee Hearings on Exclusion and Removal Under the Exclusion and Removal Code* ("Guidelines"). The *Guidelines* set forth a framework for the proceedings in exclusion and removal hearings to guarantee the accused all due process and other rights guaranteed under the Ute Tribe Constitution; and
- WHEREAS:** Prior to the November 27, 2018 hearing, Respondent Tara J. Amboh submitted a letter to the Business Committee, dated November 27, 2018, acknowledging receipt of the Notice of Hearing. In her letter, Ms. Amboh stated she had retained an unnamed attorney and requested that her attorney be permitted to participate in the hearing telephonically. Although the *Guidelines* provide that parties shall have the right to be represented by counsel of their own choosing, the *Guidelines* do not provide for telephonic participation at the hearing. After fully considering Ms. Amboh's letter, the Business Committee

denied her request for her attorney's telephonic participation because Respondent was given reasonable time to provide for an attorney's attendance and no reason was given why the attorney could not appear in person. The Business Committee was also concerned that the attorney had not been identified and the Business Committee had no way of knowing who besides the attorney might be on the line during the hearing; and

**WHEREAS:** Also prior to the hearing, Respondents Mary Carol Jenkins and Lynda M. Kozlowicz submitted to the Business Committee a document entitled "Notice of Preliminary Injunction and Reply to Hearing on November 27, 2018". The Business Committee fully considered the document. Although the document included the words "Notice of Preliminary Injunction" in its title, there was no indication that a motion for preliminary injunction had been filed with any court or that a preliminary injunction had been entered by any court. The Business Committee therefore proceeded with the hearing; and

**WHEREAS:** At the hearing, the Business Committee called Peceel Cesspooch, one of the parties who had signed the complaint requesting the banishment of the four Respondents. The Business Committee also called the names of each of the four Respondents. Ms. Jenkins and Ms. Kozlowicz did not appear. Ms. Amboh appeared, but refused to enter the hearing room without her mother, Ms. Chegup. The Business Committee allowed both of them to enter the hearing room. Copies of the complaint and the *Guidelines* were in the hearing room and available for review by the Respondents; and

**WHEREAS:** Ms. Amboh and Ms. Chegup had a person whom they identified only as their attorney on a speaker phone and asked that he be permitted to participate by telephone. The individual on the phone did not identify himself, and the Business Committee denied the request for telephonic participation for the reasons discussed above. Ms. Amboh and Ms. Chegup then left the hearing in anger, saying they would sue the Business Committee in Tribal Court; and

**WHEREAS:** The Business Committee then heard the testimony of Ms. Cesspooch. Ms. Cesspooch read the complaint and played an audio recording of a court proceeding in the United States District Court for the District of Utah, Judge Jenkins presiding, in which one or more of the Respondents was engaged in the acts described in the complaint. Ms. Cesspooch also presented as an exhibit a copy of a summary of attorney fees incurred by the Tribe in defending court actions brought by one or more of the Respondents; and

**WHEREAS:** The Business Committee stated for the record that none of the Respondents were present, although it was the time and place set for the hearing; and

**WHEREAS:** At the conclusion of the hearing, the Business Committee passed a motion banishing the four Respondents; and

**WHEREAS:** The Business Committee believes it advisable to elaborate and clarify its decision.

**NOW, THEREFORE, BE IT RESOLVED:** that the Business Committee, at a duly called meeting with a quorum present, does hereby authorize and approve the four attached *Ute Tribe Business Committee Orders of Banishment*, incorporated herein by reference; and

18-514


**BE IT FINALLY RESOLVED:** that the Business Committee hereby authorizes and approves its Chairman or, in his absence, the Vice-Chairman, to execute any and all documents as may be necessary and appropriate to carry out the terms, conditions and intent of this Resolution.

  
\_\_\_\_\_  
Luke Duncan, Chairman

  
\_\_\_\_\_  
Tony Small, Vice-Chairman

  
\_\_\_\_\_  
Shaun Chaposa, Member

  
\_\_\_\_\_  
Edred Secakuku, Member

  
\_\_\_\_\_  
Ronald Wopsock, Member

  
\_\_\_\_\_  
Sal Wopsock, Member

**CERTIFICATION**

I HEREBY CERTIFY THAT THE FOREGOING Resolution was adopted by the Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation pursuant to the Constitution and By-Laws of the Ute Indian Tribe of the Uintah and Ouray Reservation at a duly called meeting in Fort Duchesne, Utah, on the 27th day of November 2018, at which time a quorum was present and votes 6 for, 0 against, 0 abstaining and 0 absent.

  
\_\_\_\_\_  
Tribal Business Committee - Secretary  
Ute Indian Tribe, Uintah & Ouray Reservation



Off: *cc* Thompson  
*TL*

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**THE UTE INDIAN TRIBE BUSINESS COMMITTEE  
OF THE UINTAH AND OURAY RESERVATION  
FORT DUCHESNE, UTAH**

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IN RE THE BANISHMENT OF LYNDA M.  
KOZLOWICZ, tribal member.

**UTE TRIBE BUSINESS COMMITTEE  
ORDER OF BANISHMENT**

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On November 27, 2018, the Tribal Business Committee ("Business Committee") of the Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") conducted a hearing to consider the banishment of tribal members Tara J. Amboh, Angelita Chegup, Mary Carol Jenkins, and Lynda M. Kozlowicz. The four named individuals received notice of the hearing and were given an opportunity to be heard. The Business Committee, having considered the arguments and evidence presented at the hearing, now enters its Order.

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. Pursuant to Ordinance 14-004, amending *Law and Order Code, Title III, Ute Indian Exclusion and Removal Code*, the Business Committee received a complaint requesting the banishment of tribal members Mary Carol Jenkins, Lynda M. Kozlowicz, Tara J. Amboh, and Angelita Chegup ("Respondents"), based on alleged engagement in acts which seriously threaten the peace, health, safety, morals and general welfare of the Tribe.
2. Pursuant to Resolution 18-472, the Business Committee accepted the complaint requesting banishment and scheduled a hearing to consider the banishment of the Respondents on November 27, 2018.
3. Each of the Respondents was served with notice of the November 27, 2018 hearing through the Ute Indian Tribe Business Committee Notice of Hearing, dated November 20, 2018. Each Respondent was served with the Notice of Hearing both by personal service and via U.S Certified Mail.
4. Prior to the November 27, 2018 hearing, the Business Committee passed Resolution 18-509 which approved the *Guidelines for Business Committee Hearings on Exclusion and Removal Under the Exclusion and Removal Code* ("Guidelines"). The *Guidelines* set forth a framework for the proceedings in exclusion and removal hearings

to guarantee the accused all due process and other rights guaranteed under the Ute Tribe Constitution.

5. Prior to the November 27, 2018 hearing, Respondent Tara J. Amboh submitted a letter to the Business Committee, dated November 27, 2018, acknowledging receipt of the Notice of Hearing. In her letter, Ms. Amboh stated she had retained an unnamed attorney and requested that her attorney be permitted to participate in the hearing telephonically. Although the *Guidelines* provide that parties shall have the right to be represented by counsel of their own choosing, the *Guidelines* do not provide for telephonic participation at the hearing. After fully considering Ms. Amboh's letter, the Business Committee denied her request for her attorney's telephonic participation because Respondent was given reasonable time to provide for an attorney's attendance and no reason was given why the attorney could not appear in person. The Business Committee was also concerned that the attorney had not been identified and the Business Committee had no way of knowing who besides the attorney might be on the line during the hearing.

6. Also prior to the hearing, Respondents Mary Carol Jenkins and Lynda M. Kozlownic submitted to the Business Committee a document entitled "Notice of Preliminary Injunction and Reply to Hearing on November 27, 2018". The Business Committee fully considered the document. Although the document included the words "Notice of Preliminary Injunction" in its title, there was no indication that a motion for preliminary injunction had been filed with any court or that a preliminary injunction had been entered by any court. The Business Committee therefore proceeded with the hearing.

7. At the hearing, the Business Committee called Pecel Cesspooch, one of the parties who had signed the complaint requesting the banishment of the four Respondents. The Business Committee also called the names of each of the four Respondents. Ms. Jenkins and Ms. Kozlownic did not appear. Ms. Amboh appeared, but refused to enter the hearing room without her mother, Ms. Chegup. The Business Committee allowed both of them to enter the hearing room. Copies of the complaint and the *Guidelines* were in the hearing room and available for review by the Respondents.

8. Ms. Amboh and Ms. Chegup had a person whom they identified only as their attorney on a speaker phone and asked that he be permitted to participate by telephone. The individual on the phone did not identify himself, and the Business Committee denied the request for telephonic participation for the reasons discussed above. Ms. Amboh and Ms. Chegup then left the hearing in anger, saying they would sue the Business Committee in Tribal Court.

9. The Business Committee then heard the testimony of Ms. Cesspooch. Ms. Cesspooch read the complaint and played an audio recording of a court proceeding in the United States District Court for the District of Utah, Judge Jenkins presiding, in

which one or more of the Respondents was engaged in the acts described in the complaint. Ms. Cesspooch also presented as an exhibit a copy of a summary of attorney fees incurred by the Tribe in defending court actions brought by one or more of the Respondents.

10. The Business Committee stated for the record that none of the Respondents were present, although it was the time and place set for the hearing.

11. At the conclusion of the hearing, the Business Committee passed a motion banishing the four Respondents. The Business Committee believe it advisable to elaborate and clarify its decision. Accordingly, the details of the Business Committee's Order are set forth as follows.

12. Section 3-1-2 of Ordinance 14-004, amending *Law and Order Code, Title III, Ute Indian Exclusion and Removal Code*, provides as follows:

All persons who enter, work, or live on the Reservation are subject to exclusion, banishment and removal. All persons who are not owners of land located within the exterior boundaries of the Reservation may be excluded or removed from all or any portion of the Reservation as provided herein. All persons who are owners of land located within the exterior boundaries of the Reservation may be excluded or removed temporarily in accordance with the schedule set forth below for enrolled members whether the landowners are enrolled members or non-members.

13. Section 3-1-3 of Ordinance 14-004 provides as follows:

A person subject to exclusion and removal as provided herein may be excluded or removed from the territory of the jurisdiction of the Ute Indian Tribe as defined in Article I of the Constitution of said Tribe upon any one or more of the following grounds:

(8) Doing or threatening to do any act upon the Reservation which seriously threatens the peace, health, safety, morals and general welfare of the tribe, its members, or other persons living on the Reservation including any activity done for the purpose of benefiting, promoting, or furthering the interests of a gang.

14. Pursuant to section 3-1-7 of Ordinance 14-004, the Business Committee finds by clear and convincing evidence that Tribal members Tara J. Amboh, Angelita Chegup, Mary Carol Jenkins, and Lynda M. Kozlowicz have engaged in acts which seriously threaten the peace, health, safety, morals and general welfare of the Tribe. Accordingly, Tara J. Amboh, Angelita Chegup, Mary Carol Jenkins, and Lynda M.



Kozlowicz (individually, the "Banished Party"; collectively, the "Banished Parties") are hereby temporarily excluded, banished, and ordered to be subject to removal from the Uintah and Ouray Reservation for a period of five (5) years from the date of entry of this Order.

15. Based upon the evidence presented at the hearing of this matter, the Business Committee finds that the Banished Parties caused financial losses to the Tribe in the amount of \$242,982.93, and the Banished Parties are hereby jointly and severally fined in that amount.

16. The tribal dividends and bonuses of each of the Banished Parties shall be garnished up to 100% until the amount of \$242,982.93 is paid in full. The Tribal Accounting Department shall set up special accounts for each of the Banished Parties. The Banished Parties' monthly dividends and periodic bonuses shall be deposited into and garnished from those accounts and paid to the Tribe.

17. The rights of the Banished Parties to tribal employment, Housing Authority units, or Housing Department units are hereby terminated. Land assignments to any of the Banished Parties are hereby revoked. The Banished Parties are hereby barred from obtaining tribal employment, tribal housing of any type, or land assignments during the term of their banishment.

18. The Banished Parties shall be allowed to enter the Reservation for the following limited purposes: (1) for access to their respective allotted lands, if any; (2) to meet with the Bureau of Indian Affairs concerning their allotted lands, if any; (3) to attend to tribal business at tribal offices; (4) to attend the annual tribal membership meeting held the last Monday in May pursuant to Article VI Section 2 of the Constitution and By-Laws of the Ute Indian Tribe of the Uintah and Ouray Reservation; and (5) to receive health care at the IHS Uintah & Ouray Service Unit.

19. Except in case of a medical emergency, before entering the Reservation for any of the purposes listed in the preceding paragraph, a Banished Party must give the Business Committee at least 14 days' written notice of her intent to visit the Reservation, stating the date, time, purpose, and approximate duration of the intended visit. If the proposed visit is approved by the Business Committee, the Business Committee shall notify tribal law enforcement or security of the visit, and law enforcement or security shall contact the Banished Party to arrange a meeting location. A tribal law enforcement or security officer shall escort the Banished Party to her destination and remain with the Banished Party until the end of the visit at which time the Banished Party shall promptly leave the Reservation.

20. This Order shall be effective as of the date entered immediately below.

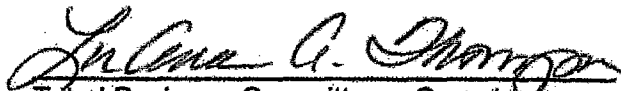
DATED THIS 6 DAY OF DECEMBER, 2018.

  
\_\_\_\_\_  
Chairman, Ute Tribal Business Committee

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing ORDER OF BANISHMENT was provided to law enforcement to personally serve and was sent via U.S. Certified Mail this 6 day of December, 2018, to the last known address of the following:

Lynda M. Kozlowicz  
P.O. Box 472  
Fort Duchesne, UT 84026

  
\_\_\_\_\_  
Tribal Business Committee – Secretary  
Ute Indian Tribe, Uintah & Ouray Reservation

**Acknowledgment of Personal Service:**

I, \_\_\_\_\_, a Law Enforcement Officer, personally served \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ location at \_\_\_\_\_ o'clock \_\_\_\_m.

\_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

Hereby certify that on 7<sup>th</sup>, day of February 2019,  
as filed the foregoing; **PLAINTIFF INTERVENOR NOTICE  
OF MOTION FOR LEAVE TO INTERVENE, AND MEMORANDUM IN  
SUPPORT PLAINTIFF UINTA UTAH INDIANS AND TABEQUACHE  
COLORADO INDIAN**, which caused parties of record to be  
served:

J. Craig Smith  
Clark R. Nielsen  
Jennie Garner  
**SMITH HARTVIGSEN, PLLC**  
257 East 200 South, Suite 500  
Salt Lake City, Utah 84111

Frances C. Bassett  
Jeremy J. Patterson  
Kamran K. Zafar  
**FREDERICKS PEEBLES & MORGAN LLP**  
1900 Plaza Drive  
Louisville, Colorado 80027-2314

J. Preston Stieff  
**J. PRESTON STIEFF LAW OFFICE, LLP**  
110 South Regent Street, Suite 200  
Salt Lake City, Utah 84111

Respectfully submitted.

