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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UTE INDIAN TRIBE OF THE UINTAH
AND OURAY INDIAN RESERVATION, a
federally recognized Indian Tribe,

Plaintiff,

v.

David Ure, in his individual capacity,
Michelle McConkie, in her official and
individual capacity, Melvin Brown, in his
individual capacity, Tom Bachtell, in his
individual capacity, Steven Ostler, in his
individual capacity, Paula Plant, in her official
and individual capacity, Kim Christy, in his
official and individual capacity, Mike
Johnson, in his official and individual
capacity, Michael Styler, in his individual

SECOND AMENDED COMPLAINT

Civil Case No. 2:23-cv-00295-DBB-DAO

Magistrate Judge Daphne A. Oberg

Judge David B. Barlow

capacity, Brian Steed, in his individual capacity, Joel Ferry, in his official and individual capacity, Francis Gibson, in his individual capacity, Michael Schultz, in his official and individual capacity, and Casey Snider, in his official and individual capacity.

Defendant(s).

Plaintiff, Ute Indian Tribe of the Uintah and Ouray Reservation (“Tribe” or “Ute Indian Tribe”), by and through its attorneys, alleges and complains as follows:

FACTUAL BASIS OF THE ACTION

Background and Historical Context

1. As military historian John Keegan observed, history often repeats “in such cunning disguise that we never detect the resemblance until the damage is done.” This case arises from such a recurrence, as state actors once again are diverting land and economic opportunity away from the Ute Indian Tribe, in violation of federal law and trust principles.

2. Since the earliest federal land policies, Congress has granted designated sections of public land within each state, commonly Sections 16 and 36, and in western arid states Sections 2, 16, 32, and 36, to be held in trust for the purpose of generating revenue to support public schools.

3. Following the federal government’s 1890 Manifesto prohibiting polygamy, the Land Ordinance of 1785 and the Utah Enabling Act of 1894 (“Enabling Act”) granted millions of acres of land to the State of Utah. These lands were conveyed subject to an express trust for the exclusive benefit of Utah’s schoolchildren and other beneficiaries enumerated in the Enabling Act.

4. For nearly ninety years after statehood, the Utah Legislature delegated management of these trust lands to the Division of Sovereign Lands operating under the Utah Department of

Natural Resources (“DNR”). DNR¹ was tasked with protecting trust lands and generating revenue for Utah’s schools. This revenue was to be deposited in a permanent fund, in trust for Utah’s school beneficiaries.²

5. During DNR’s administration, however, large blocks of school trust lands were consolidated into “hunting blocks,” including ten such blocks later inherited by the Utah School and Institutional Trust Lands Administration (“SITLA,” now the Trust Lands Administration). These consolidations demonstrated priorities inconsistent with maximizing revenue for school beneficiaries. In fact, the TLA³ currently has a total of ten (10) hunting blocks that were created from school trust lands while these trust lands were under the administration of the DNR.

6. As a result of DNR’s longstanding mismanagement, specifically treating trust lands as general public lands rather than as revenue-generating trust assets, approximately seven million acres of Enabling Act lands produced negligible income for the Trust’s permanent fund.

7. Between 1992 and 1993, immediately preceding SITLA’s creation, state officials made informal “handshake deals” agreeing that certain hunting blocks should never be sold, specifically to prevent Plaintiff or its members from acquiring them.

8. Public lands are held for the general welfare. Trust lands are not. Their singular lawful purpose is to generate financial returns for trust beneficiaries—not to advance private interests or unrelated political objectives.

¹ The DNR is the Utah state agency responsible for managing Utah’s public lands and natural resources, including water, land, wildlife, and energy.

² The DNR is the Utah state agency responsible for managing Utah’s public lands and natural resources, including water, land, wildlife, and energy.

³ SITLA is an independent administrative agency charged with managing school and institutional trust lands in the most prudent and profitable manner possible, not for any purpose inconsistent with the best interest of the trust beneficiaries, for the purpose of maximizing revenue for funding Utah’s public schools. Utah Code Ann. § 53C-1-102(1) and (2).

9. Reform efforts began in 1989 with the activism of the Utah Parent Teachers Association (“PTA”), the Utah State Board of Education, and allied agencies. Their investigation into DNR’s mismanagement led to the 1994 enactment of the Trust Lands Management Act, creating SITLA.

10. SITLA was established as an independent state agency to manage trust lands prudently and profitably, solely for the benefit of trust beneficiaries, and to correct DNR’s decades of mismanagement.

11. SITLA’s mission was not to serve the policy objectives of other state agencies or to yield to external political pressures, but to carry out the fiduciary responsibilities mandated by the Enabling Act, the Utah Constitution, and state statutes.

12. Despite SITLA’s intended independence, within less than thirty years the same structural weaknesses that plagued trust land administration under DNR re-emerged, this time inside SITLA itself.

13. SITLA has again succumbed to external political influence. In particular, SITLA officials and others conspired to discriminate against Plaintiff by advancing private and political interests above maximizing financial benefits for trust beneficiaries. Their actions harmed Plaintiff, its members, and all Utah trust beneficiaries, including the State’s schoolchildren.

Events Leading to the Tabby Mountain Sale Efforts

14. In approximately 2002, SITLA’s Development Group drafted a ten-year development plan for the Tabby Mountain property.

15. In 2003, Kevin Carter became SITLA’s Director, serving until 2015. After his retirement, Mr. Carter informed SITLA whistleblower Tim Donaldson that the primary reason he

resisted state pressure to force a sale of Tabby Mountain was the risk that Plaintiff could bid on and purchase the property.

16. On or about November 2005, SITLA Block Manager Kay Burton prepared a “Tabby Mountain Block Plan,” concluding that selling Tabby Mountain, either as a whole or in smaller parcels, would generate greater revenue than continuing to hold it as a performing asset, and recommending that any marketing efforts include international exposure.

17. In 2006, SITLA Board Member Don Peay, who also was and is the head of the influential Sportsmen for Fish and Wildlife, was approached by DNR representatives to discuss valuation of hunting access on Tabby Mountain. Although DNR valued such access at approximately \$2 million per year, Mr. Peay advocated for state hunters and negotiated the valuation down to \$200,000 per year, contrary to SITLA’s fiduciary duty to maximize trust revenue.

18. Since 2006, SITLA has consistently undervalued hunting access on Tabby Mountain. This undervaluation has been used to persuade SITLA’s Board that Tabby Mountain should be “monetized” through sale, rather than held to generate ongoing income.

19. On December 14, 2006, Governor Jon Huntsman met with SITLA to discuss his request for a \$20 million appropriation to enable the State to acquire Tabby Mountain. At that time, SITLA had taken no steps to initiate a sale.

20. In 2007, SITLA was asked by the DNR, the Governor’s Office, and the Utah Legislature to sell approximately 28,000 acres of Tabby Mountain for \$40 million. The DNR wanted to purchase Tabby Mountain to secure hunting access to the citizens of the State of Utah.

SITLA refused, with Director Carter stating that SITLA's duty was not to function as environmental stewards but to maximize profits for Utah's schoolchildren.

21. On or around March 18, 2007, Don Peay began conspiring with other members of the Utah State Legislature to modify SITLA's mission so that Trust lands could be set aside for hunter access.

22. In 2012, hunting access to Tabby Mountain was formalized under a Memorandum of Understanding ("2012 MOU"), set to expire in 2017. The MOU's payment amount was below appraised value, and even at that discounted rate DNR questioned its obligation to pay.

23. Upon information and belief, the valuation used in the 2012 MOU was the same discounted valuation Mr. Peay proposed in 2006.

24. Around the same time, outgoing Utah Attorney General Mark Shurtleff issued an opinion ("2012 Opinion"), clearly stating that a 1971 statute that guarantees hunter access to all state-owned land **does not apply to trust lands**, which must be managed exclusively for the benefit of schools.

25. On January 1, 2016, Defendant David Ure became SITLA's Director. One of his stated priorities was finalizing a sale of Tabby Mountain to DNR.

26. In March 2017, the Utah Legislature appropriated \$1.8 million for a renewed hunter access Memorandum of Understanding ("MOA") with SITLA.

27. Defendants Ure, DNR Director Michael Styler, Utah State Representative Casey Snider, and Speaker of the House Mike Schultz began conspiring to deliver Tabby Mountain to the DNR.

28. On August 4, 2017, SITLA watchdog Tim Donaldson resigned from the State Board of Education under threat of termination.

29. Within weeks, Board of Trustees member Mike Mower, State Representative Casey Snider, State Representative and now-Speaker of the House Mike Schultz, David Ure, and Tom Bachtell recruited Tim Donaldson to join SITLA.

30. Mr. Donaldson was recruited specifically to handle the proposed land exchange of Tabby Mountain to the DNR as SITLA's new "Special Projects Coordinator," the position created for that purpose. His prior relationships with State Representative Melvin Brown and former Director of the State Board of Education Margaret Bird made him a strategic target, neither of whom wanted Tabby Mountain to sell to a state agency below market value.

31. On or about October 8, 2017, before being hired, Mr. Donaldson met with Director Ure. The sole purpose of the meeting was to discuss how Mr. Donaldson could facilitate a sale of Tabby Mountain to the DNR.

32. In October of 2017, SITLA entered into a renewed hunter access Memorandum of Agreement ("MOA") with the Utah Department of Wildlife Resources ("DWR").⁴ This MOA was intended "to provide for compensation to Utah's school and institutional trust beneficiaries for access by sportsmen to school and institutional trust lands for hunting, fishing, trapping and viewing of wildlife." The MOA granted "public access for hunting, trapping, fishing and viewing of wildlife on all school and institutional trust lands," with some exceptions.

⁴ The DWR is a division within the DNR tasked with managing wildlife populations, habitats, and hunting and fishing activities on public lands within the State of Utah.

33. The valuation assigned to yearly hunting access under the renewed MOA again derived from Mr. Peay's 2006 discounted valuation.

34. In Spring 2017, Governor Gary Herbert and Director Ure sought to appropriate only \$1 million of the \$1.8 million required under the renewed MOA. Mr. Donaldson objected, citing the 2012 Attorney General Opinion. SITLA and the Governor ultimately paid the full amount.

35. Prior to negotiations over the renewed MOA, DNR Director Styler opposed paying for hunting access, relying on DNR's historic treatment of trust lands as general public lands.

36. The DNR's Division of Wildlife Resources' main revenue source is hunting and fishing license and permit sales, totaling \$37.5 million in 2023, far exceeding the amount paid under the MOA.

37. Provision 4 of the MOA prohibited SITLA from entering into agreements that would preclude public hunting access during the MOA's term, conflicting with SITLA's fiduciary obligation to maximize returns through sale, lease, or development.

38. Under the MOA, DWR was responsible for annual payments of \$1,795,195, with \$795,195 paid from DNR's budget and subject to 3.5% annual compounding.

39. As of November 2025, DNR's annual obligation under the MOA is nearly \$2.1 million, excluding inflationary adjustments legislatively granted to SITLA.

40. Provision 7 of the MOA allowed reductions in DNR's annual payment if SITLA sold or otherwise impaired access on high-value tracts, including Tabby Mountain.

41. Since 2006, SITLA has valued retail hunting access to Tabby Mountain at approximately \$246,162 annually (or \$113,613 "wholesale"). Compounded at 3.5%, these values currently approximate \$324,148 (retail) and \$149,606 (wholesale).

42. SITLA's and DNR/DWR's appraiser valued DNR's hunting access income at \$227,857 annually, or \$300,044.16 when compounded at 3.5%.

43. The DNR places even greater value on Tabby Mountain because acquiring it would create a "land bridge" connecting their largest Wildlife Management Area—located within the Uintah and Ouray Reservation—to millions of acres of U.S. Forest Service lands. Tabby Mountain lies along crucial elk and deer migration routes.

Tabby Mountain's Location and Ute Tribal Significance

44. Tabby Mountain lies north of Highway 40, south of Tabiona, and north of Fruitland, Utah. It sits within Plaintiff's ancestral and aboriginal lands and within the exterior boundaries of the Uintah Valley Reservation.

45. When non-Indian westward expansion reached the Ute Indian Tribe's homeland, Plaintiff ceded most of its territory in exchange for the federal government's promise to protect the land reserved for the Tribe from non-Indian encroachment.

46. The present-day Uintah and Ouray Reservation was originally two separate reservations; the first, the Uintah Valley Reservation, which was established by an Executive Order and signed by President Abraham Lincoln on October 3, 1861, to encompass all lands within the Uinta Basin. As described in the 1861 Order, the Uintah Valley Reservation was to encompass: "the entire valley of the Uintah River within Utah Territory, extending on both sides of said river to the crest of the first range of contiguous mountains on each side."

47. Congress codified this Reservation through the Act of May 5, 1864, § 2, 13 Stat. 63.

48. The Uncompahgre Reservation was later established by the Act of June 15, 1880, ch. 223, 21 Stat. 1999, and the Executive Order of January 5, 1882. Together, under the Indian Reorganization Act, they form the present-day Uintah and Ouray Reservation (the “Reservation”).

49. Tabby Mountain has always been a part of the historical Uintah Valley Reservation and remains a culturally and economically significant hunting area for Plaintiff’s members.

50. Between 1902 and 1910 (“the Allotment Era”), Congress authorized the allotment and sale of so-called surplus lands of the Uintah Valley Reservation.

Allotment Era and Nature of Discrimination

51. Congressional acts also authorized President Theodore Roosevelt to withdraw certain lands for federal purposes, including reservoirs, forest reserves, and townships. Using this authority, President Roosevelt withdrew nearly half of the Uintah Valley Reservation—1,010,000 acres—for a federal forest reserve, now largely part of the Ashley National Forest.

52. During the Allotment Era, Tribal lands in the Uintah Valley Reservation were reduced by over ninety percent. Allotment scattered Plaintiff’s land base and disrupted traditional hunting and trading practices. As a result, many members of Plaintiff’s community suffered starvation and illness.

53. These events established a pattern of persistent racial animus and invidious discrimination by the Defendants, which continues to this day and disproportionately harms Plaintiff’s members while benefiting Utah’s majority white population.

54. Intentional diversion of minority lands to primarily benefit the non-minority population exemplifies racial animus. Historical evidence shows that non-Indian greed for land

and resources drove most campaigns of displacement and genocide against Native American populations in the United States.

55. Plaintiff alleges that such racial and ethnic animus motivated the wrongs detailed in this Complaint. This invidious discrimination is actionable under federal law.

56. In 1956, the United States reserved the mineral estate for certain parcels on Tabby Mountain for Plaintiff, which remains owned by Plaintiff, while the U.S. retains the mineral estate for the remaining parcels.

57. In 1966 and 1968, under Utah's 1965–1971 in-lieu land selections pursuant to the Utah Enabling Act, the U.S. Forest Service conveyed portions of the surface estate that now comprise Tabby Mountain to SITLA.

58. SITLA does not own the mineral estate, which is the dominant estate. Plaintiff, as the beneficial owner of the mineral estate, retains the right to develop it, notwithstanding SITLA's surface ownership.

59. The DNR's vision for Tabby Mountain mirrors the U.S. Government's goals during the Allotment Era. Upon acquiring Tabby Mountain, the DNR intends to create Utah's first State Forest on Tabby Mountain and its largest adjoining WMA within the Uintah and Ouray Reservation, ensuring continued public hunting access for the majority white population while restraining Plaintiff's members from having unencumbered use of the property, similar to the lands now comprising the Ashley National Forest.

60. The DNR had just one problem, a limited budget, with contingent funds from the Pittman-Robertson Act that must be used within a certain timeframe.⁵ The remainder of this money had to be secured during a year when there was enough money in the state budget. This money had to be designated by the Governor's Office in the proposed state budget, and approved by the Utah State Legislature.

61. To assist DNR and DWR in obtaining Tabby Mountain, Governor Gary Herbert included the "magic number", an appropriation of \$20,000,000 in his proposed 2019 budget toward setting aside a Utah "state forest" on lands straddling Duchesne and Wasatch counties, about 60 miles (100 kilometers) southeast of Salt Lake City, also known as Tabby Mountain.

SITLA's Decision to Sell.

62. SITLA exists to carry out trust responsibilities and other duties provided for in Sections 6-12 of a federal statute, the Utah Enabling Act, 28 Stat. 107 (July 16, 1894). Those and other trust responsibilities and other responsibilities were further codified into sections 5 and 7 of Article X of the Utah Constitution, and into Titles 53C and 53D of the Utah Code.

63. Under these laws, SITLA has a trust responsibility to maximize revenue for trust beneficiaries while preserving trust assets for future generations.

64. In Fall 2017, SITLA Director David Ure, DNR Director Michael Styler, and other personnel conspired to transfer Tabby Mountain to the DNR via a land exchange, in violation of SITLA's trust duties.

⁵ The Pittman-Robertson Act imposes an 11% tax on firearms, ammunition, and archery equipment and distributes the proceeds to state governments for wildlife projects. States must use the money apportioned to them for research, surveys, management of wildlife and/or habitat, and acquisition or lease of land. Once a plan has been approved, the state must pay the full cost and is later reimbursed for up to 75% of that cost through the funds generated by the Pittman-Robertson Act. The 25% of the cost that the state must pay generally comes from its hunting license sales. If this money does not get spent, after two years, it is diverted to the Migratory Bird Conservation Act.

65. The entire purpose of the contemplated land exchange was to avoid the negotiated sales process, i.e. to discriminate against Plaintiff and its members by ensuring that Plaintiff would not have the opportunity to bid on and purchase Tabby Mountain for the benefit of its members.

66. In a PowerPoint presentation created by SITLA personnel for the purpose of convincing SITLA's Board of Trustees to permit a land exchange with DNR, SITLA personnel indicated that they were concerned with retaliation in the form of an argument from the DNR of bad faith breach of the MOA from DNR if Tabby Mountain was sold in a public auction. SITLA personnel also indicated that they were concerned with the DNR's habits in dictating a fixed price, a fair and established price being negotiated, and concerned with DNR having the money to pay for Tabby Mountain.

67. SITLA personnel's final recommendation to its Board of Trustees was to engage a specialized broker and with DNR and other relevant state parties to conduct the previously contemplated land exchange.

68. On or around January 4, 2018 at a SITLA Board Retreat, the PowerPoint presentation was given for the purpose of convincing the Board of Trustees to permit a land exchange with DNR. The Board discussed Tabby Mountain as "politically radioactive," noting potential repercussions if the sale did not align with legislative expectations, noting that there would be hell to pay. The recording of this meeting was deliberately not kept.

69. In March 2018, in an effort to move SITLA oversight authority away from the State Board of Education, the Utah Legislature passed HB 404, creating the Utah Land Trusts Protection and Advocacy Office ("ULTPAO") with oversight by the state treasurer to protect the interests of the current and future school institutional trust lands beneficiaries.

70. On March 27, 2018, Highland Commercial delivered a confidential broker price opinion to SITLA, estimating the value of Tabby Mountain to be between \$25 million and \$37 million, and recommending a \$40 million list price with a 24-month marketing period.

71. In May 2018, DNR and SITLA jointly issued an invitation for appraisal bids for Tabby Mountain and Kamas West Hills parcels, intended for a proposed SITLA–DNR land exchange.

72. On September 25, 2018, SITLA and the DNR engaged Tom Boyer to complete a joint appraisal of Tabby Mountain between DNR and DWR, in part because he had previous business dealings with SITLA Director Ure and had appraised many of his personal properties.

73. SITLA informed Boyer that “[t]he intended use of the appraisal report is to facilitate the acquisition of the subject property by DWR.” The intended users of the report include SITLA, DNR, and the U.S. Fish and Wildlife Service, Wildlife and Sportfish Restoration Program (WSFR).”

74. On November 21, 2018, Tom Boyer issued his appraisal report of the Tabby Mountain Block, estimating the market value of Tabby Mountain as of October 3, 2018, to be \$41,000,000. There were numerous issues with this appraisal that would later be used as pretext to discriminate against Plaintiff and its members.

75. Assuming Tabby Mountain had no other capital appreciation, based on the DNR’s previous offer of \$40,000,000 in 2007, adjusted for inflation, Tabby Mountain’s value in 2019 would approximate \$49,321,000.000. It is very unlikely that the value of Tabby Mountain has decreased or at minimum, has not kept pace with inflation.

76. These appraisal issues manifested due to SITLA's favoritism towards DNR, as the intended party to receive Tabby Mountain, and were due to the influence of SITLA and the DNR on the appraisal process, including: 1) The rushed appraisal report conducted in a one-day visit, with a 45-day due diligence period in the dead of winter, where potential buyers were very limited in conducting their own assessments of the value of Tabby Mountain. There were non-existent attempts to market a property as unique as Tabby Mountain in size, and within one-hour of a major U.S. airport. Moreover, all the comparable properties the appraiser referenced in determining the value of Tabby Mountain had significantly longer marketing periods, from a year to a year and a half. 2) Boyer was consulted by DNR and subsequently determined that the highest and best use of the property was determined to be as a wildlife habitat, which did not provide a specific and quantifiable income stream. Boyer further stated in his report that the use of the acreage after the acquisition will be the same as before the acquisition. Moreover, the intended use of the appraisal was the transfer of ownership through sale from SITLA to DWR, where DWR intended to continue the uses of livestock grazing, hunting, fishing, and associated recreational uses including timber harvesting and wildlife habitats. These were identified as the "ideal" and "maximally productive uses" of Tabby Mountain by Boyer. Boyer further stated that "buyer-seller motivation" is a detail that must be studied in the "sales approach", which was the basis for the appraiser's conclusion of the value. 3) The value of the hunting rights was not considered in Boyer's valuation of Tabby Mountain, and was misconstrued in the report as not being part of the rights being conveyed to DNR/DWR. 4) Boyer did not give any credit for the value of certain waterways located within Tabby Mountain, which impacted Boyer's perception of the feasibility of residential development and Tabby Mountain's valuation. 5) The ninth sale was solely used to make the conclusion of

value per acre, and the other eight parcels involved in the comparable sales were dismissed. Furthermore, the nine sales selected for inclusion in the appraisal report were not identically comparable to the subject. There is no other parcel of this size and kind near a major airport.

77. As part of convincing the Board of Trustees to sell Tabby Mountain to the DNR, SITLA contrasted the proposed minimum sale price of \$41,000,000.00 with SITLA's analysis that the present-day value of all income from Tabby Mountain was \$3,240,000.

78. As part of convincing the Board of Trustees to sell Tabby Mountain to the DNR, SITLA calculated that selling Tabby Mountain would distribute \$1,640,000 to beneficiaries versus \$9,501.20 if retained, with school distributions increasing from \$5,961.18 to \$1,361,200.

79. Based on these calculations, selling to DNR appeared in the Trust's best interest.

80. On December 4, 2018, SITLA considered a minimum bid of \$41,000,000, anticipating DNR as the sole bidder. The Board unanimously concluded the sale was in the Trust's best interest, acknowledging state agencies' interest and the property's limited revenue potential. Because of the faulty appraisal report, SITLA noted it was aware that state agencies have interest in purchasing the property, and that because SITLA only owned the surface estate and "very little water associated," there is difficulty generating revenue from a property of this size.

81. SITLA noted ongoing political issues surrounding the sale and issued a public notice of intent to sell in December 2018.

82. On December 13, 2018, SITLA notified Plaintiff of the sale, deliberately timed to minimize Plaintiff's awareness, setting the minimum bid at \$41,000,000.

83. On December 17, 2018, a meeting took place in the afternoon in SITLA Director David Ure's office, between former Director of the Department of Education Margaret Bird, the

Chair of the ULTPAO Advocacy Committee Melvin Brown, Special Projects Coordinator Tim Donaldson, and Advocacy Committee member and former Board of Trustees member Thomas Bachtell.

84. At this meeting, Margaret Bird, now a Consultant for Higher Education SITLA Beneficiaries, expressed her concerns with the appraisal and sales process and advocated for proper marketing of the property and advertising to be conducted, to generate revenue from Tabby Mountain. After being pressured by Tim Donaldson and Margaret Bird, Tom Bachtell called Bobby Chapoose, a member and former Chairman of the Ute Indian Tribe and delivered the news that Tabby Mountain was for sale and invited Plaintiff to bid on the property. Margaret Bird then called her cousin, Zach Thwaite, who owned a brokerage firm in Georgia and North Carolina. Zach Thwaite then submitted a letter of interest on behalf of two prospective buyers, Southern Pine Plantations of Macon, GA, and The Preservation Group, LLC of Atlanta, GA.

85. On December 19, 2018, Plaintiff mailed a letter to SITLA expressing its interest in participating as a competing bidder. In total, at least ten (10) entities submitted letters of interest. Because of the inability to conduct due diligence within the time constraints, Zach Thwaite's buyers did not submit an offer to purchase Tabby Mountain.

86. On December 20, 2018, Margaret Bird (in a role as a consultant and also on behalf of two state university realty officers) sent a memo to SITLA Director Ure regarding the proposed sale. She did not question whether selling the land was in the Trust's best interests but did question the prudence of the proposed plan for marketing the property.

87. In that memo, Margaret Bird specifically questioned whether a longer marketing period would be better. She further expressed her view that Director Ure had structured the sale

process with the goal of selling the land to DNR, instead of with the goal of maximizing the income to the Trust. SITLA and SITLA Director David Ure adamantly rejected Margaret Bird's contentions.

88. On December 28, 2018, SITLA mailed a letter to Plaintiff stating that it received and accepted Plaintiff's letter of interest, extended the deadline to January 31, 2019, required a *binding* Offer to Purchase with \$1,000,000 earnest money, and outlined final sale terms, including non-refundable deposits and incorporation into SITLA's standard certificate of sale.

Plaintiff's high bid and Defendants' discriminatory response.

89. On or around February 12, 2019, the DNR submitted a bid for \$41,000,000. The DNR disclosed in its bid that it did not even have the resources to pay the amount it had bid, and that its bid was therefore contingent on it receiving money from both the United States and the Utah legislature.

90. On or around February 15, 2019, Plaintiff submitted its complying sealed bid and binding Offer to Purchase to SITLA with an offer of \$46,976,000.00.

91. That same day, upon receipt of Plaintiff's bid, SITLA Deputy Director Kim Christy and SITLA Chief Legal Counsel Mike Johnson called SITLA Special Projects Coordinator Tim Donaldson, disclosing Plaintiff's bid amount expressing concern about "what they were going to do." SITLA Director David Ure instructed Tim Donaldson to call DNR Director Mike Styler and inform him of Plaintiff's high bid.

92. During that call, Mike Styler stated to Tim Donaldson that he believed that he would not be able to get additional funds from the Utah Legislature to outbid Plaintiff.

93. When Deputy Director Christy, Mike Johnson, Director Ure and Director Styler learned that Plaintiff had submitted the high bid, these Defendants did not want to sell the land to the Indians and immediately began working behind the scenes to stop the sale. This behind-the-scenes conduct constituted discrimination based upon race, ethnicity, national origin, and religion.

94. On that same day, SITLA's Advocacy Committee scheduled a meeting for February 19, 2019, to object to the sale of Tabby Mountain.

95. Advocacy Committee member Tom Bachtell and Vice-Chair of the Advocacy Committee Paula Plant, knowing that the DNR did not have sufficient funds to exceed Plaintiff's bid, scheduled this meeting to coordinate with others in continuing the conspiracy to discriminate against Plaintiff and its members. They intended to use purported appraisal, and sales process concerns as pretext to suspend the Tabby Mountain sale by SITLA's Board of Trustees.

96. On February 19, 2019, Director Ure sent a letter to Ute Business Committee Chairman Luke Duncan notifying him that SITLA had received Plaintiff's bid. Plaintiff and the DNR were the only parties to submit bids.

97. That same day, members of the Advocacy Committee, including Chairman Melvin Brown, Steven Ostler, Tom Bachtell, and Vice-Chair Paula Plant, met privately to discuss the sale of Tabby Mountain.

98. During this meeting, Melvin Brown, Tom Bachtell, Steven Ostler and Paula Plant, knowing that DNR did not have sufficient funds to exceed Plaintiff's bid, conspired to conceal the on-going conspiracy against Plaintiff and its members through the excuse of a faulty appraisal and sales process to have the Tabby Mountain sale suspended by SITLA's Board of Trustees. They

intended to use purported appraisal, and sales process issues to justify suspending the sale of Tabby Mountain.

99. In the meeting, Tom Bachtell expressed concerns regarding Plaintiff's high bid, including political ramifications if Plaintiff were to win the Tabby Mountain sale, and what Plaintiff could do to control hunting and fishing access on Tabby Mountain.

100. Tom Bachtell stated that the primary issue with the sale is that "Tabby Mountain went out to bid, and the Indians bid on it . . . " and remarked that factors other than money were relevant to the best interests of SITLA beneficiaries. He indicated this was part of the rationale for fast-tracking the sale, including the fast appropriation of funds from the legislature for DNR's use. He further expressed concerns regarding the appraisal and sales process and SITLA's purported "right" to restart the sale if necessary, as well as a reluctance to own fee land in the middle of Tabby Mountain if Plaintiff prevailed.

101. Paula Plant stated that she had informed the Board of Trustees about appraisal and sales process issues and acknowledged that political ramifications of Plaintiff winning the bid were a factor. She further stated that DNR Director Michael Styler had threatened her by saying that "if we don't get this property, we will change the mission of the trust."

102. Melvin Brown, Tom Bachtell, Paula Plant, and Steven Ostler determined to advocate for suspension of the sale based on appraisal and sales process issues, intending to rely on the Board of Trustees to "make the final decision." The Advocacy Committee only raised these issues because of Plaintiff's high bid.

103. In fact, the appraisal and sales process issues were caused by SITLA manipulating the sale to favor DNR as the intended purchaser. These issues were used as a pretext to suspend the sale.

104. On February 19, 2019, SITLA Director David Ure met with State Representatives Francis Gibson and Mike Schultz at the Utah State Capitol and recommended allocating an extra \$10 million so that SITLA could outbid Plaintiff. Representatives Gibson and Schultz stated, “we don’t have to outbid the Indians to buy our own land back.”

105. SITLA Director David Ure and DNR Director Michael Styler, aware that Plaintiff was the high bidder, conspired with State Representatives Francis Gibson, Mike Schultz, and SITLA Chief Legal Counsel Mike Johnson to prevent the sale to Plaintiff, knowing that DNR lacked the funds to make a binding bid exceeding Plaintiff’s offer.

106. Tim Donaldson, at the direction of SITLA Director David Ure, met with Representative Francis Gibson, who stated that no further budget was available for the Tabby Mountain purchase, and directed Tim Donaldson to find a way for DNR to acquire Tabby Mountain regardless of Plaintiff’s bid.

107. SITLA Director David Ure again directed Tim Donaldson to meet with Representatives Gibson and Schultz regarding the sale. Upon arrival, Tim Donaldson’s phone was confiscated, and he was threatened by Representative Schultz regarding SITLA’s request for an additional \$10 million to outbid Plaintiff.

108. Tim Donaldson was interrogated about how the Indians became aware of the potential sale and questioned SITLA’s “arrogance” in requesting another \$10,000,000 that was not

appropriated for this sale in the State Budget. He was threatened with legislative action to undermine the trust mandate if he did not see to it that the sale went a certain way.

109. House Majority Leader Mike Schultz's exact threat to Tim Donaldson was "sell it to the Tribe and see what happens to you." State Representative Francis Gibson and State Representative Mike Schultz then arranged for Tim to go to DNR's boardroom immediately and meet with Mike Styler and others. SITLA Chief Legal Counsel Mike Johnson joined SITLA Director David Ure and Tim Donaldson for a near full day meeting in DNR's board room discussing how the State of Utah wanted us to ensure that DNR bought Tabby Mountain, and in absolutely no instance could the Ute Indian Tribe be the successful bidder, whether they wrote a bigger check or not. Numerous DNR attorneys and others were present that day for those meetings.

110. Tim Donaldson questioned halting the sale, but SITLA Director David Ure overruled him, agreeing to postpone the sale indefinitely and deny Plaintiff any further opportunity to bid. The agreed-upon plan was to wait several years and then effectuate the conveyance of Tabby Mountain to DNR through land exchanges, conservation easements, or other mechanisms to avoid public sale to Plaintiff.

111. Following these meetings, DNR planned to bid \$50,000,000, despite lacking the financial ability to do so. The Land Trust Protection and Advocacy Committee would submit a pre-vetted letter questioning the appraisal, and the sale would be paused indefinitely.

112. SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, Representative Francis Gibson, Representative Mike Schultz, and SITLA Chief Legal Counsel Mike Johnson's first plan for thwarting sale to Plaintiff was for DNR to seek additional

funds from the State, so that it could outbid Plaintiff. They lobbied state legislators but were unable to obtain the requisite funding.

113. Thereafter, Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant, and others conspired to suspend the sale if DNR could not acquire the land and to fabricate appraisal and sales process issues to conceal discrimination against Plaintiff.

114. As part of this conspiracy and to conceal it from Plaintiff and the public, these Defendants created a false public record.

115. Behind the scenes, these Defendants conspired to ensure that SITLA publicly gave DNR an opportunity to increase its bid, knowing that any new bid would be a sham.

116. These Defendants knew that DNR could not pay any bid sufficient to match or exceed Plaintiff's bid.

117. Consistent with that conspiracy, on February 20, 2019, SITLA publicly gave DNR twenty-four hours to counter the Tribe's bid.

118. The DNR submitted a new written bid of \$50,000,000.

119. The DNR annually receives millions of dollars of federal funding, including Pittman-Robertson money, for a variety of purposes.

120. The DNR's \$50,000,000 bid, like its earlier \$41,000,000 bid, was contingent upon DNR securing and transferring millions of dollars in federal funding to SITLA. Unlike the earlier bid, there was no commitment from the Utah Legislature for the difference.

121. On February 20, 2019, Advocacy Committee member Tom Bachtell drafted a letter containing the Committee's pretextual "concerns." The purpose of this letter was to create cover for suspending the Tabby Mountain sale and concealing the conspiracy against Plaintiff and its members. Advocacy Committee Chairman Melvin Brown delivered a physical draft to SITLA Chief Legal Counsel Mike Johnson and SITLA Special Projects Coordinator Tim Donaldson for comment and subsequently submitted the finalized letter to the SITLA Board of Trustees.

122. On February 21, 2019, SITLA Director David Ure sent a letter to Plaintiff stating that DNR had countered Plaintiff's bid with a higher bid of \$50,000,000. At the time he sent that letter, Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant, and others knew that the bid of \$50,000,000 was a sham.

123. Behind the scenes, Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant, and others

agreed that, once DNR submitted its sham bid, Chairman Melvin Brown would present a letter drafted by Tom Bachtell containing pretextual concerns regarding the appraisal and sales process. This letter would be used to recommend that the SITLA Board of Trustees suspend the sale, thereby creating a false public record concealing the conspiracy. Pursuant to this agreement, the Board of Trustees was to suspend the sale without evaluating whether the DNR could actually meet its bid.

124. Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant and others knew that any review of the DNR's bid would quickly reveal that DNR could not pay the amount it offered, that Plaintiff remained the highest true bidder, and that Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant knew that any review of DNR's bid would quickly reveal DNR could not pay the amount it offered, that Plaintiff remained the highest true bidder, and that they had conspired to prevent the sale to Plaintiff.

125. These same Defendants also knew that public disclosure of the sham bid would expose SITLA to claims for breach of fiduciary duty, and expose them individually to claims for discrimination, and other violations of state and federal law.

126. Consistent with their conspiracy, on or about February 21, 2019, after receiving Bachtell's pretextual letter, SITLA's Board of Trustees indefinitely postponed the sale without giving Plaintiff any opportunity to challenge DNR's bid or increase its own.

127. On February 22, 2019, SITLA issued a press release announcing that it had voted to "temporarily suspend proceedings on a proposed sale." SITLA Director David Ure also notified Plaintiff that the Board had suspended the sale, falsely claiming that the suspension was necessary to address concerns regarding the appraisal and advertising period.

128. Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant and others coordinated to create a false public record to conceal their discrimination against Plaintiff and its members. These Defendants agreed that DNR should submit another bid higher than Plaintiff's despite knowing that the DNR lacked the funds to meet the bid and then decided that SITLA would "suspend" the sale on a pretextual basis.

129. Before learning that Plaintiff was the highest true bidder, the Advocacy Committee had previously considered and rejected these same concerns it later used as pretext.

130. After suspending the sale, SITLA commissioned no new appraisal, and initiated no new marketing or sales efforts.

131. Despite taking no steps to remarket the property, SITLA considered options to permanently transfer rights in Tabby Mountain to the DNR without competitive bidding.

132. Director Ure stated that SITLA would contact Plaintiff “when it determines to move forward with further action.” He knew this was false, and that SITLA would move forward only if it could find a way to transfer the land to the DNR without risk of the Indians buying the land.

133. Director Ure knew that SITLA’s stated reasons for suspending the sale, the concerns about the flawed appraisal and hastened advertising were false and pretextual. These false statements were intended to deceive and did deceive the Trust beneficiaries, the public, and Plaintiff.

134. Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Vice-Chair of the Advocacy Committee Paula Plant, and others concealed from Plaintiff and the public that the DNR’s bid was a sham, that the suspension was not temporary, and that SITLA had rejected sale to Plaintiff in violation of anti-discrimination laws.

135. The conspiracy constituted unlawful discrimination against Plaintiff and its members and violated SITLA’s trust responsibilities and fiduciary duties.

136. On or around February 26, 2019, Ute Indian Tribe Chairman Duncan sent Director Ure a letter expressing concerns regarding SITLA’s handling of the sale and demanding that SITLA honor Plaintiff’s right to purchase the property under its own bidding rules.

137. On or about February 28, 2019, during a meeting with Director Ure and Chief Legal Counsel Mike Johnson, SITLA Special Projects Manager Tim Donaldson suggested that SITLA

engage Plaintiff in negotiations regarding potential deed restrictions for public sportsmen. Director Ure responded that “the decision has been made not to contact the Tribe.”

138. On March 22, 2019, the Advocacy Committee members, including Chairman Brown, and Members Tom Bachtell and Steven Ostler met with the new ULTPAO Director Justin Atwater and discussed the pretextual letter used to suspend the sale, making remarks confirming their earlier conspiracy.

139. Chairman Brown told Director Atwater: "Actually, the Board got involved in an issue before you got involved, that was the letter that was proposed on Tabby Mountain . . . even though, you know, we felt strongly about that, that letter was used pretty effectively to change the direction of that issue." Brown referred to the letter's use in concealing the conspiracy and suspending the sale so Plaintiff's members could not acquire or enjoy the property. Bachtell added that the letter "saved some skin."

140. Brown further remarked, “Luckily, it helped SITLA cover their butts, as well as other things.” Committee members laughed, and Bachtell joked that Brown would “likely receive a Christmas card” for his efforts. Steven Ostler stated that he would rely on Brown and Bachtell for anything further.

141. On May 8, 2019, ITLA Deputy Director Kim Christy and SITLA Director David Ure argued about whether allowing Tim Donaldson to handle the sale had been a mistake. Christy lamented that not embedding a right of first refusal for the sale had been a “huge mistake,” because such a provision would have avoided the need to conceal the conspiracy.

142. To further the conspiracy, Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State

Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant and others' proposed legislation to appropriate funds sufficient enabling the DNR to outbid Plaintiff. SITLA was prepared to lift the suspension if the bill passed. Because it did not, SITLA Director Michelle McConkie has kept the sale suspended, leaving Plaintiff as the only true bidder.

143. In April 2019, DNR Director Michael Styler retired and was succeeded by Brian Steed. Soon after, Styler was quoted describing his vision for a co-managed Utah state forest on Tabby Mountain and stated that DNR would still acquire Tabby Mountain through land exchanges, remarking: "We are still going to do this because we are going to get it," and "We're talking to Wasatch County and Duchesne County and SITLA about doing some property exchanges to help us get all or part of Tabby Mountain."

144. Tim Donaldson began his term as ULTPAO/Advocacy Committee Director on December 3, 2020. On or about July 15, 2021, Scott Ruppe met with appraiser Neil Abercrombie, and Utah lobbyist Jodi Burnett to work on a conservation easement appraisal for another property. The memorandum drafted afterward discussed another plan for DNR to obtain Tabby Mountain, using the same inter-beneficiary exchanges as previously discussed.

145. On August 30, 2021, ULTPAO Director Tim Donaldson met with Scott Ruppe, who sought to work out the same inter-beneficiary exchanges between DNR and SITLA for Tabby Mountain. ULTPAO Director Donaldson advised him that Plaintiff's attorneys would detect any such agreement between DNR and SITLA.

146. That same day, SITLA and DNR personnel, including SITLA Director David Ure, incoming SITLA Director Michelle McConkie, DNR Director Steed, and State Representative Snider, met and discussed plans to obtain Tabby Mountain for DNR. Ure told Representative Snider, “We’ll do what we have to do to get you Tabby Mountain sooner or later.” Representative Snider responded, “You better. I can change your mandate,” in direct violation of SITLA’s trust obligations.

147. This meeting marked the beginning of SITLA Director Michelle McConkie’s and DNR Director Brian Steed’s coordinated efforts to continue discriminating against Plaintiff by maintaining the suspension and pursuing side deals to transfer Tabby Mountain to DNR.

148. On September 9, 2021, ULTPAO Director Tim Donaldson met with retiring SITLA Director David Ure and Deputy Director Ruppe at SITLA. Retiring Director Ure informed ULTPAO Director Tim Donaldson that Representative Snider was threatening legislation to ensure DNR could acquire Tabby Mountain. Director Ure and Deputy Director Ruppe shut down Donaldson when he proposed a settlement conference with Plaintiff.

149. That same day, Representative Casey Snider began conspiring with retiring SITLA Director David Ure, incoming SITLA Director Michelle McConkie, and new DNR Director Brian Steed to discriminate against Plaintiff and its members, by attempting to pass legislation preventing any new SITLA Director from being able to lift the suspension of the sale of Tabby Mountain, conveying Tabby Mountain to Plaintiff.

150. On December 15, 2021, SITLA Deputy Director Scott Ruppe informed Donaldson that Representative Snider was threatening legislation against SITLA’s beneficiary mandate unless SITLA found a way to transfer Tabby Mountain to the DNR. Throughout these meetings, Director

Ure repeatedly reassured Snider that SITLA would find a way to deliver the property to DNR and prevent Plaintiff from owning it

151. After one such meeting, incoming SITLA Director Michelle McConkie expressed discomfort with Director Ure's promises, both because they violated SITLA's fiduciary duties to the Trust and because they continued discriminatory actions against Plaintiff. She considered resigning.

152. Tim Donaldson later confirmed with Director David Ure and SITLA Chief Legal Counsel Mike Johnson that Representative Snider had a close relationship with Ure and was indeed conspiring to obtain Tabby Mountain for DNR.

153. In January 2022, Representative Snider introduced HB 204, legislation designed to limit SITLA's ability to sell large land blocks without legislative notification, a bill specifically aimed specifically at Tabby Mountain. SITLA leadership, including Mike Mower, opposed the bill because it threatened longstanding trust-management reforms. Representatives Snider and Schultz orchestrated a cover-up using the sale of the Cinnamon Creek WMA to the DNR to create a pretext for HB 204. The sale was rushed to require emergency appropriations, advancing their efforts to ensure SITLA could not sell Tabby Mountain to Plaintiff.

154. The Cinnamon Creek WMA sale was intended to build legislative momentum for HB 204, and secure assurances regarding Tabby Mountain, as SITLA Director David Ure was approaching retirement.

155. On January 5, 2022, at a SITLA Board meeting, several trustees, including Vice Chair, Rick Woodbury criticized Director Donaldson for arguing that SITLA must meet its fiduciary duties, and lift the suspension of the sale of Tabby Mountain. SITLA Director Ure

became angry, telling Donaldson: “Mr. Director, that sale had to go a certain way. Let’s say I went ahead and sold it [Tabby Mountain] to the Tribe as the highest bidder. Do you have any idea the amount of hell that would rain down upon this organization for years to come?” Ure added that Donaldson must be “smoking hooch” if he thought SITLA could sell Tabby Mountain to the Tribe.

156. On or around February 12, 2022, Tim Donaldson met with Representative Mike Schultz and convinced him to drop HB 204, explaining that SITLA had no intention of resuming the paused sale to Plaintiff over the next decade, at minimum, that Representative Snider’s bill would backfire, that SITLA had “spun off the Tribe to a dead end” and that the only way Tabby Mountain would be sold to Plaintiff is if the Utah Legislature attempted to pass this bill, which would give Plaintiff an opportunity to force a sale in federal court. Representative Schultz agreed to persuade Representative Snider to drop the Bill.

157. Later that afternoon, Representative Casey Snider met with ULTPAO Director Tim Donaldson in his office. As soon as Donaldson sat down, he said “this is about Tabby and the Book Cliffs. . . . I had a deal with Dave that he was going to get me Tabby, now he is leaving and I need some assurance on Tabby.” After a multi-agency legislative call, Director Ure confirmed he had spoken with Snider and that the bill would be dropped.

158. In March 2022, David Ure retired and was replaced by SITLA Director Michelle McConkie. On or about July 5, 2022, DNR Director Brian Steed stepped down as DNR Director and was replaced by Representative Joel Ferry.

159. On August 25, 2022, SITLA Director Michelle McConkie met with ULTPAO Director Tim Donaldson and stated that SITLA’s messaging about “money for schools” and

“beneficiaries” message was getting stale, and SITLA would be shifting to an economic development focus.

160. Before this meeting, SITLA Director Michelle McConkie repeatedly stated her intention to keep the Tabby Mountain sale suspended for the next ten years. Director McConkie and DNR Director Ferry have continued conspiring to determine how to convey Tabby Mountain to DNR instead of Plaintiff, just as their predecessors had done.

161. On or around August 30, 2022, Director Tim Donaldson filed a formal complaint alleging that the sale was rigged to prevent Plaintiff from acquiring Tabby Mountain. The following day, ULTPAO terminated his employment in retaliation.

162. HB 262 was orchestrated between Directors Ferry and McConkie, along with Representatives Snider and Schultz, and passed in 2024. HB 262 gives preferential treatment and exclusive access to the DNR in the sale of large Trust land blocks (over 5,000 acres) at minimal value, ensuring that Plaintiff will be excluded from future opportunities where DNR is the intended purchaser.

163. HB 262 was clearly proposed and passed as retaliation against Plaintiff and its members for bidding on Tabby Mountain. Its structure mirrors SITLA’s earlier attempt to sell Tabby Mountain to DNR and was intended to prevent Plaintiff from bidding on the Book Cliffs property.

164. As of the filing of this Second Amended Complaint, this deal is actively being “cooked up” between DNR Director Joel Ferry, SITLA Director Michelle McConkie, Representative Casey Snider, and Representative Mike Schultz as part of the ongoing conspiracy to discriminate against Plaintiff and its members.

165. Tabby Mountain was acquired through school trust selection rights but has historically been managed for wildlife and hunting rather than Trust beneficiaries. Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Advocacy Committee Chairman Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Advocacy Committee Vice-Chair Paula Plant manipulated appraisals and income estimates to make the property affordable for DNR. After Plaintiff submitted the high bid of \$46,976,000, these Defendants conspired to discriminate against Plaintiff by suspending the sale and using the pretextual letter to conceal their actions.

166. The conspiracy to discriminate against Plaintiff and its members remains ongoing. SITLA Director Michelle McConkie has maintained the sale in suspended status to avoid a final agency action from which a state appeal could flow. Former ULTPAO Director Tim Donaldson's whistleblowing exposed these actions.

167. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Advocacy Committee Chairman Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, Advocacy Committee Vice-Chair Paula Plant, and others intentionally discriminated against Plaintiff in violation of SITLA's fiduciary duties, the United States Constitution, federal law, and state law. These Defendants intentionally ensured that Tabby

Mountain would not be sold to the Indians despite Plaintiff's high bid of \$46,976,000 and SITLA's fiduciary duty to maximize revenue for the school trust. These actions are contrary to the general principle that neither the State of Utah nor individuals working under color of state law can base decisions on racial animosity against Indians (or anyone else based upon racial or national origin).

PARTIES

168. Plaintiff Ute Indian Tribe of the Uintah and Ouray Reservation is a federally recognized sovereign Indian tribe. 87 Fed. Reg. 4636 (Jan. 28, 2022). The Tribe is comprised of the Uintah, Whiteriver, and Uncompahgre Bands, who today occupy the Uintah and Ouray Indian Reservation ("Reservation") in the Green River Basin of northeastern Utah. The Reservation lies within a portion of the Tribe's aboriginal lands and encompasses just over four million acres within the Reservation's exterior boundaries.

169. The Tribe is organized under the Indian Reorganization Act of 1934 ("IRA"), 25 U.S.C. § 5101-5144.⁶ It is organized both as a tribal government under 25 U.S.C. § 5123 and as a federally chartered corporation under 25 U.S.C. § 5124. The Tribe brings this cause of action on its own behalf and on behalf of its members as *parens patriae* to protect their health, welfare, natural resources, and economic security.

170. The Tribe has *parens patriae* ("parent of the country") standing because it represents the interests of all of its members and asserts claims affecting all of its members. *E.g.*,

⁶ The IRA is "a statute specifically intended to encourage Indian tribes to revitalize their self-government." *Fisher v. District Court*, 424 U.S. 382, 387 (1976). The IRA implements a federal policy of reestablishing tribal governments, reconstituting tribal land bases, and revitalizing tribal economies and cultures. *Cohen's Handbook of Federal Indian Law* §4.04[3][a], p. 256 (Nell Jessup Newton ed., 2012).

Miccosulcee Tribe of Indians v. United States, 680 F. Supp. 2d 1308 (S.D. Fla. 2010). "When acting solely in a representative capacity, a tribe's standing is based exclusively on the standing of its individual members: the tribe simply raises claims that its members could raise individually, and essentially stands in the same position as they would, had they brought the action collectively." *White Mountain Apache Tribe v. Williams*, 810 F.2d 844, 865 n.16 (9th Cir. 1984).

171. Defendant David Ure, sued in his individual capacity, served as SITLA Director from approximately January 2016 through March 2022, and took actions related to this matter under color of Utah state law.

172. Defendant Michelle McConkie, here sued in her official capacity, is the current Director of SITLA, now known as the TLA, and continues to take actions related to this matter under color of Utah state law.

173. Defendant Mike Johnson, sued in his official and individual capacity, is the current Chief Legal Counsel of SITLA and took actions related to this matter under color of Utah state law.

174. Defendant Paula Plant, sued in her official and individual capacity, is the current Vice-Chair of SITLA's, (now TLA's) Advocacy Committee and took actions related to this matter under color of Utah state law.

175. Defendant Kim Christy, sued in his official and individual capacity, is the current Director of the Trust Land Administration's Land Trust Protection and Advocacy Office. He previously served as SITLA Deputy Director from approximately January 2001 until December 2019 and took actions related to this matter under color of Utah state law.

176. Defendant Melvin Brown, sued in his individual capacity, served as Chairman of the SITLA Advocacy Committee from approximately March 2018 through August 2020 and took actions related to this matter under color of Utah state law.

177. Defendant Tom Bachtell, sued in his individual capacity, served as a member of the SITLA Advocacy Committee from approximately March 2018 through August 2020 and took actions related to this matter under color of Utah state law.

178. Defendant Steven Ostler, sued in his individual capacity, served as both a member and Chairman of the SITLA Advocacy Committee from approximately March 2018 through August 2020 and took actions related to this matter under color of Utah state law.

179. Defendant Michael Styler, sued in his individual capacity, served as Director of the Utah Department of Natural Resources (“DNR”) from approximately January 2005 through June 2019 and took actions related to this matter under color of Utah state law.

180. Defendant Brian Steed, sued in his individual capacity, served as Director of DNR from approximately April 2019 through July 2022 and took actions related to this matter under color of Utah state law.

181. Defendant Joel Ferry, here sued in his official and individual capacity, is the current Director of DNR, and has served in that position since approximately June 2022.

182. Defendant Francis Gibson, sued in his individual capacity, served as a Republican member of the Utah House of Representatives from approximately January 2009 through November 2021 and took actions related to this matter under color of Utah state law.

183. Defendant Mike Schultz, sued in his official and individual capacities, is the current Speaker of the Utah House of Representatives and took actions related to this matter under color of Utah state law.

184. Defendant Casey Snider, sued in his official and individual capacities, is a current member of the Utah House of Representatives and took actions related to this matter under color of Utah state law.

JURISDICTION

185. This Court has subject-matter jurisdiction because this action arises from violations of federal constitutional and statutory rights under 42 U.S.C. §§ 1981 and 1982, enforceable through 42 U.S.C. § 1983.

186. Venue is proper in the District of Utah because Plaintiff resides in this District and because the acts and omissions giving rise to this action occurred within this District. 28 U.S.C. § 1402.

FACTS

Facts regarding Plaintiff and Its Members.

187. Plaintiff's members, the Ute Indians of the Uintah and Ouray Indian Reservation constitute a distinct minority population based on race, ancestry, ethnicity, national origin and religion.

188. Plaintiff currently identifies its members through an administrative process for enrollment as a member. To be enrolled, an applicant must establish, inter alia, that at least one of the applicant's parents was a member of the Tribe, and that the applicant has at least "five eighths (5/8) degree of Ute Indian blood of the Tribe." Ute Ordinance 92-05 (Enrollment).

189. Each enrolled member of Plaintiff is racially and ethnically American Indian.

190. Each enrolled member of Plaintiff is of Ute national origin and has a political affiliation as a member of the Ute Indian Tribe.

191. Plaintiff's members have a distinct religious/spiritual history, and all or many Ute members continue to practice that religion to varying extents. Plaintiff's traditional religious practices are independent from the Abrahamic religions or any other religions which originated outside of the Americas.

192. Both historically and currently, Plaintiff and its members hold collective and equal rights to the use and enjoyment of all of the land within Plaintiff's territory.

193. These collective rights are, under federal law, now denominated as ownership by the United States in trust for Plaintiff.

194. For lands such as Tabby Mountain, if Plaintiff had acquired the surface estate, the land would have been open to use by all of its members equally, based upon Plaintiff's collective ownership law.

Tabby Mountain and Intended Use.

195. The unlawful discrimination described in this Complaint deprived Plaintiff and each of Plaintiff's members of ownership of the surface estate in Tabby Mountain.

196. Tabby Mountain is located within the Tribe's historical territory. Had the Tribe acquired the surface estate of Tabby Mountain, the land would have been open to all members equally, consistent with the Tribe's collective ownership law.

197. The Tribe and its members would have used Tabby Mountain for a variety of purposes, including cultural, religious, and spiritual practices. The Tribe also would have used the land's springs, plants, medicines, and natural resources.

198. Tabby Mountain contains game. The Tribe has hunted on the Mountain since time immemorial and presently has limited hunting access. If the Tribe had acquired the property, all members would have had full access for hunting and trapping.

199. The Tribe's interest in Tabby Mountain is unique due to its historical, cultural, religious, and spiritual significance, as well as its natural resources.

Facts related to remedies.

200. Defendant SITLA Director Michelle McConkie is holding the sale in suspension, rather than cancelling the sale, based upon the same unlawful discriminatory intent and conspiracy to discriminate as discussed above.

201. Canceling the sale would be a final agency action and would permit Plaintiff, Trust beneficiaries, or other harmed parties to access state courts through an appeal.

202. Defendant SITLA Director Michelle McConkie is using the indefinite suspension and the false public record to attempt to prevent Plaintiff from access to the Utah state courts or federal courts.

203. The Tribe submitted a bid for Tabby Mountain, including \$1,000,000 in earnest money, and committed to pay the remaining \$45,976,000 of the purchase price in reliance on the State's constitutional and statutory commitments to equal treatment and non-discrimination, and on SITLA's public assurances that the sale would be awarded to the highest qualified bidder.

204. Subsequent legislation, including HB 262, restricts the Tribe's ability to purchase similar state lands, effectively preventing the Tribe from acquiring large blocks of SITLA land in the future.

205. The Tribe's inability to acquire Tabby Mountain has caused harm that cannot be remedied by monetary damages alone.

206. Tabby Mountain is unique, and therefore monetary compensation for Defendants' unlawful acts would not be an adequate remedy.

207. "Realty has always been held to be unique, and in the case of the sale of land, the inadequacy of the legal remedy is well settled." *SMS Fin., LLC v. CBC Fin. Corp.*, 2017 UT 90, ¶ 15, 417 P.3d 70, 75 (internal punctuation and citations omitted).

208. Monetary damages are also inadequate here because of Plaintiff's unique and specific interests in Tabby Mountain. Tabby Mountain is land to which the Tribe held aboriginal title and then held beneficial and compensable title after the United States created the Uintah Valley Reservation.

209. Tabby Mountain, and the artifacts, plants, natural resources, springs, and medicines found on that property have unique religious and spiritual significance to Plaintiff and its members.

210. Reacquisition of the surface estate is the only adequate remedy to allow the Tribe and its members to exercise their collective rights and to preserve the Tribe's historical, cultural, and spiritual practices.

211. In Article I, Section 24 of the Utah Constitution, the State commits to its citizens that it will uniformly apply its laws. That includes a commitment by the State that it will not discriminate based upon race, national origin, ethnicity, or religion.

212. In Article I, Section 7 of the Utah Constitution, the State commits to its citizens that it will not deprive any person of life, liberty or property without due process of law.

213. In Article I, Section 4 of the Utah Constitution, the State commits to its citizens that it will not discriminate based upon religious affiliation.

214. The State's commitment to its own citizens is redundant to commitments which the State made in 1896, when it joined the United States. Those included commitments that it would provide due process and equal protection to all, and that it would not discriminate based upon race, national origin, ethnicity, or religion.

215. As relevant to this matter, The Tribe reasonably expected that the State and its agencies would not discriminate against it based on race, ethnicity, national origin, or religion.

216. Defendants' actions have interfered with the Tribe's exercise of collective rights, its reliance on statutory and constitutional protections, and its ability to acquire property that is central to its cultural and spiritual practices.

COUNT I

Violation of Civil Rights under 42 U.S.C. § 1983

217. Plaintiff incorporates and re-alleges all preceding paragraphs of this Complaint as if fully set forth herein.

Defendants Acting Under Color of State Law

218. At all relevant times, the following Defendants acted under color of state law: SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey

Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant.

219. These Defendants engaged in actions that discriminated against Plaintiff and its members on the basis of race, national origin, ethnicity, and religion, and interfered with Plaintiff's rights to due process and equal protection.

Statutory Basis

220. 42 U.S.C. § 1983 provides a remedy for the deprivation of any rights, privileges, or immunities secured by federal law, including 42 U.S.C. §§ 1981 and 1982, when such deprivation occurs under color of state law.

221. 42 U.S.C. § 1981 guarantees all persons the right to make and enforce contracts, including the full and equal benefit of all laws and proceedings for the security of persons and property. The 1991 Civil Rights Act clarified that § 1981 protects against impairments of these rights under color of state law. Violations of § 1981 are enforceable under 42 U.S.C. § 1983.

222. 42 U.S.C. § 1982 guarantees all citizens the right to inherit, purchase, lease, sell, hold, and convey real and personal property on the same terms as enjoyed by white citizens. Violations of § 1982 are enforceable under 42 U.S.C. § 1983.

Protected Class

223. Plaintiff and its members are members of a protected class based upon race, national origin, ethnicity, and religion. Plaintiff's members are citizens of the United States, citizens of the Ute Indian Tribe, and residents of the State of Utah.

224. Each of the Defendants named above is a “person” for purposes of § 1981 and § 1982.

Discriminatory Intent and Conspiracy

225. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant intentionally discriminated against Plaintiff and its members on the basis of race, ethnicity, national origin, and tribal identity, interfering with Plaintiff’s ability to purchase Tabby Mountain as the high bidder.

226. These actions included suspending the sale of Tabby Mountain, fabricating pretexts using flawed appraisals and sales processes, conspiring to delay or block the sale, attempting to pass discriminatory HB 204 and HB 262, and creating legislative and administrative obstacles that would not have been imposed on similarly situated non-Indian individuals or entities.

227. These Defendants acted in furtherance of an ongoing conspiracy to prevent Plaintiff from contracting for Tabby Mountain and future state property, creating public records to obscure the true discriminatory intent, and maintaining the sale in suspended status under pretextual pretenses.

Denial of Due Process, 42 U.S.C. § 1981

228. 42 U.S.C. § 1981 provides in relevant part:

All persons within the jurisdiction of the United States shall have the same right in every state...to make and enforce contracts...and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.

229. The Civil Rights Act of 1991 amended § 1981 by clarifying that “make and enforce contracts” “includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship,” and provides that “[t]he rights protected [thereunder] are protected against...impairment under color of state law.”

230. Plaintiff and its members are members of a racial minority and a protected class based on race, tribal affiliation, national origin, ethnicity, and religion.

231. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant acted with intent to discriminate against Plaintiff and its members on the basis of race and tribal identity in violation of § 1981.

232. Violations of § 1981 may be brought in a federal forum via 42 U.S.C. § 1983, which provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall

be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.

233. Plaintiff is a person for purposes of being a plaintiff under 42 U.S.C. § 1981.

234. Plaintiff's members are citizens of the United States, and citizens of the Ute Indian Tribe.

235. Plaintiff's members living within the State of Utah are citizens of the State of Utah.

236. Plaintiff's members are "members of a protected class" based upon race, national origin, ethnicity, and religion.

237. Defendant SITLA Director David Ure is a person for purposes of being a defendant under 42 U.S.C. § 1981.

238. Defendant SITLA Director Michelle McConkie is a person for purposes of being a defendant under 42 U.S.C. § 1981.

239. Defendant SITLA Deputy Director Kim Christy is a person for purposes of being a defendant under 42 U.S.C. § 1981.

240. Defendant DNR Director Mike Styler is a person for purposes of being a defendant under 42 U.S.C. § 1981.

241. Defendant DNR Director Brian Steed is a person for purposes of being a defendant under 42 U.S.C. § 1981.

242. Defendant DNR Director Joel Ferry is a person for purposes of being a defendant under 42 U.S.C. § 1981.

243. Defendant SITLA Chief Legal Counsel Mike Johnson is a person for purposes of being a defendant under 42 U.S.C. § 1981.

244. Defendant Chairman of the Advocacy Committee Melvin Brown is a person for purposes of being a defendant under 42 U.S.C. § 1981.

245. Defendant Advocacy Committee Member Tom Bachtell is a person for purposes of being a defendant under 42 U.S.C. § 1981.

246. Defendant Advocacy Committee Member Steven Ostler is a person for purposes of being a defendant under 42 U.S.C. § 1981.

247. Defendant Vice-Chair of the Advocacy Committee Paula Plant is a person for purposes of being a defendant under 42 U.S.C. § 1981.

248. Defendant State Representative Francis Gibson is a person for purposes of being a defendant under 42 U.S.C. § 1981.

249. Defendant State Representative Casey Snider is a person for purposes of being a defendant under 42 U.S.C. § 1981.

250. Defendant State Representative Mike Schultz is a person for purposes of being a defendant under 42 U.S.C. § 1981.

251. Defendants intentionally discriminated against Plaintiff and its members by interfering with Plaintiff's ability to purchase Tabby Mountain, despite being the highest legitimate bidder.

252. These interferences included: SITLA Director David Ure, DNR Director Mike Styler, SITLA Chief Legal Counsel Mike Johnson, and State Representatives Francis Gibson and Mike Schultz decided not to sell Tabby Mountain to Plaintiff; SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representatives Francis Gibson and Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman Melvin Brown,

Advocacy Committee Members Steven Ostler and Tom Bachtell, and Vice-Chair Paula Plant caused DNR to submit a bid it could not meet, preventing sale to Plaintiff; The same Defendants fabricated pretexts using a flawed appraisal and sales process to suspend the sale and prevent Plaintiff from obtaining Tabby Mountain; DNR Director Brian Steed, SITLA Director Michelle McConkie, State Representative Casey Snider and State Representative Mike Schultz's attempted to HB 204 to create an inter-agency roadblock to impose procedural barriers on large land sales to Plaintiff; DNR Director Brian Steed, SITLA Director Michelle McConkie, State Representative Casey Snider and State Representative Mike Schultz's conspiracy to cover-up their discriminatory intent against Plaintiff through the procedural sales history of the Cinnamon Creek WMA; DNR Director Joel Ferry, SITLA Director Michelle McConkie, State Representative Casey Snider, and Speaker Mike Schultz continued the conspiracy by passing HB 262, giving DNR preferential access to large SITLA land parcels, restricting and excluding Plaintiff from the opportunity to purchase properties such as the Book Cliffs; SITLA Director Michelle McConkie conspired with former DNR Director Brian Steed and continues to conspire with DNR Director Joel Ferry to maintain the suspension of the Tabby Mountain sale under pretextual pretenses, as her predecessor did, rather than issuing a final, appealable decision.

253. These actions were not imposed on similarly situated non-Indian entities and were motivated by racial and tribal animus, constituting intentional discrimination in violation of § 1981.

254. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State

Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant's actions denied and continue to deny Plaintiff the same right as is enjoyed by non-Indians to purchase and hold real property and to make and enforce contracts.

Denial of Equal Protection, 42 U.S.C. § 1982

255. Plaintiff incorporates and re-alleges all paragraphs and allegations in this Complaint as if fully set forth herein.

256. 42 U.S.C. § 1982 provides in relevant part:

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

257. Plaintiff and its members are members of a racial minority and a protected class based on race, tribal affiliation, national origin, ethnicity, and religion.

258. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant acted with intent to discriminate against Plaintiff and its members in violation of § 1982.

259. Violations of § 1982 may be brought in a federal forum via 42 U.S.C. § 1983, which provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.

260. Plaintiff is a person for purposes of being a plaintiff under 42 U.S.C. § 1982.

261. Plaintiff's members are citizens of the United States, and citizens of the Ute Indian Tribe.

262. Plaintiff's members living within the State of Utah are citizens of the State of Utah.

263. Plaintiff's members are "members of a protected class" based upon race, national origin, ethnicity, and religion.

264. Defendant SITLA Director David Ure is a person for purposes of being a defendant under 42 U.S.C. § 1982.

265. SITLA Director Michelle McConkie is a person for purposes of being a defendant under 42 U.S.C. § 1982.

266. SITLA Deputy Director Kim Christy is a person for purposes of being a defendant under 42 U.S.C. § 1982.

267. DNR Director Mike Styler is a person for purposes of being a defendant under 42 U.S.C. § 1982.

268. DNR Director Brian Steed is a person for purposes of being a defendant under 42 U.S.C. § 1982.

269. DNR Director Joel Ferry is a person for purposes of being a defendant under 42 U.S.C. § 1982.

270. SITLA Chief Legal Counsel Mike Johnson is a person for purposes of being a defendant under 42 U.S.C. § 1982.

271. Chair of the Advocacy Committee Melvin Brown is a person for purposes of being a defendant under 42 U.S.C. § 1982.

272. Advocacy Committee Member Tom Bachtell is a person for purposes of being a defendant under 42 U.S.C. § 1982.

273. Advocacy Committee Member Steven Ostler is a person for purposes of being a defendant under 42 U.S.C. § 1982.

274. Vice-Chair of the Advocacy Committee Paula Plant is a person for purposes of being a defendant under 42 U.S.C. § 1982.

275. State Representative Francis Gibson is a person for purposes of being a defendant under 42 U.S.C. § 1982.

276. State Representative Casey Snider is a person for purposes of being a defendant under 42 U.S.C. § 1982.

277. State Representative Mike Schultz is a person for purposes of being a defendant under 42 U.S.C. § 1982.

278. Plaintiff was qualified to purchase Tabby Mountain and was rejected only because of racial discrimination.

279. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the

Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant's actions have deprived Plaintiff and its members of ownership, use, and enjoyment of Tabby Mountain, which is a unique property.

280. Defendants intentionally discriminated against Plaintiff and its members by interfering with Plaintiff's ownership, use and enjoyment of Tabby Mountain, despite being the highest legitimate bidder.

281. These interferences included: SITLA Director David Ure, DNR Director Mike Styler, SITLA Chief Legal Counsel Mike Johnson, and State Representatives Francis Gibson and Mike Schultz decided not to sell Tabby Mountain to Plaintiff; SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representatives Francis Gibson and Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chairman Melvin Brown, Advocacy Committee Members Steven Ostler and Tom Bachtell, and Vice-Chair Paula Plant caused DNR to submit a bid it could not meet, preventing sale to Plaintiff; The same Defendants fabricated pretexts using a flawed appraisal and sales process to suspend the sale and prevent Plaintiff from obtaining Tabby Mountain; DNR Director Brian Steed, SITLA Director Michelle McConkie, State Representative Casey Snider and State Representative Mike Schultz's attempted to HB 204 to create an inter-agency roadblock to impose procedural barriers on large land sales to Plaintiff; DNR Director Brian Steed, SITLA Director Michelle McConkie, State Representative Casey Snider and State Representative Mike Schultz's conspiracy to cover-up their discriminatory intent against Plaintiff through the procedural sales history of the Cinnamon Creek WMA; DNR Director Joel Ferry, SITLA Director Michelle McConkie, State Representative Casey Snider, and

Speaker Mike Schultz continued the conspiracy by passing HB 262, giving DNR preferential access to large SITLA land parcels, restricting and excluding Plaintiff from the opportunity to purchase properties such as the Book Cliffs; SITLA Director Michelle McConkie conspired with former DNR Director Brian Steed and continues to conspire with DNR Director Joel Ferry to maintain the suspension of the Tabby Mountain sale under pretextual pretenses, as her predecessor did, rather than issuing a final, appealable decision.

282. These actions were not imposed on similarly situated non-Indian entities and were motivated by racial and tribal animus, constituting intentional discrimination in violation of § 1982.

283. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant's actions denied and continue to deny Plaintiff the same right as is enjoyed by non-Indians to purchase and hold real property.

Conspiracy to Violate Civil Rights Under 42 U.S.C. § 1983

284. Plaintiff incorporates and re-alleges all paragraphs and allegations in this Complaint as if fully set forth herein.

285. Plaintiff is a person for purposes of being a plaintiff under 42 U.S.C. § 1983.

286. Plaintiff's members are citizens of the United States, and members of the Ute Indian Tribe.

287. Plaintiff's members living within the State of Utah are citizens of the State of Utah.

288. Plaintiff's members are "members of a protected class" based upon race, national origin, ethnicity, and religion.

289. Defendant SITLA Director David Ure is a person for purposes of being a defendant under 42 U.S.C. § 1983.

290. Defendant SITLA Director Michelle McConkie is a person for purposes of being a defendant under 42 U.S.C. § 1983.

291. Defendant SITLA Deputy Director Kim Christy is a person for purposes of being a defendant under 42 U.S.C. § 1983.

292. Defendant DNR Director Mike Styler is a person for purposes of being a defendant under 42 U.S.C. § 1983.

293. Defendant DNR Director Brian Steed is a person for purposes of being a defendant under 42 U.S.C. § 1983.

294. Defendant DNR Director Joel Ferry is a person for purposes of being a defendant under 42 U.S.C. § 1983.

295. Defendant SITLA Chief Legal Counsel Mike Johnson is a person for purposes of being a defendant under 42 U.S.C. § 1983.

296. Defendant Chair of the Advocacy Committee Melvin Brown is a person for purposes of being a defendant under 42 U.S.C. § 1983.

297. Defendant Advocacy Committee Member Tom Bachtell is a person for purposes of being a defendant under 42 U.S.C. § 1983.

298. Defendant Advocacy Committee Member Steven Ostler is a person for purposes of being a defendant under 42 U.S.C. § 1983.

299. Defendant Vice-Chair of the Advocacy Committee Paula Plant is a person for purposes of being a defendant under 42 U.S.C. § 1983.

300. Defendant State Representative Francis Gibson is a person for purposes of being a defendant under 42 U.S.C. § 1983.

301. Defendant State Representative Casey Snider is a person for purposes of being a defendant under 42 U.S.C. § 1983.

302. Defendant State Representative Mike Schultz is a person for purposes of being a defendant under 42 U.S.C. § 1983.

303. Defendants, acting under color of state law, reached an agreement, understanding, or meeting of the minds to commit acts that deprived Plaintiff and its members of rights protected by the Constitution and laws of the United States, including but not limited to 42 U.S.C. §§ 1981 and 1982.

304. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant

conspired to suspend the sale of Tabby Mountain and take related actions to create a public record concealing the true reason for their decision, thereby interfering with and preventing Plaintiff from making or enforcing a contract for the purchase of Tabby Mountain and the associated rights to use and hold the property.

305. Specifically, Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant conspired to discriminate against Plaintiff and its members based on their tribal and racial identity by coordinating, encouraging, or jointly participating in a conspiracy to prevent Tabby Mountain from being conveyed to Plaintiff for the unencumbered use and enjoyment of Plaintiff's members.

306. Each Defendant took overt acts in furtherance of the racially-motivated conspiracy, including but not limited to: Defendants SITLA Director David Ure, DNR Director Mike Styler, SITLA Chief Legal Counsel Mike Johnson, State Representative Francis Gibson, and State Representative Mike Schultz deciding that the land would not be sold to Plaintiff as the highest legitimate bidder; Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representative Francis Gibson, State Representative Mike Schultz, SITLA Chief Legal Counsel Mike Johnson, Chair of the Advocacy Committee Melvin Brown, Advocacy Committee Members Steven Ostler and Tom Bachtell, and Vice-Chair Paula

Plant arranging for DNR to submit a bid DNR could not meet, to obstruct Plaintiff's purchase; Defendants SITLA Director David Ure, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, State Representatives Gibson and Schultz, SITLA Chief Legal Counsel Mike Johnson, Chair Melvin Brown, Advocacy Committee Members Ostler and Bachtell, and Vice-Chair Paula Plant fabricating pretext using flawed appraisal and sales processes to suspend the sale to Plaintiff; Defendants DNR Director Brian Steed, SITLA Director Michelle McConkie, State Representative Casey Snider, and State Representative Mike Schultz attempting to pass HB 204 to create an inter-agency roadblock, and covering up discriminatory intent through the procedural history of Cinnamon Creek WMA; Defendants DNR Director Joel Ferry, SITLA Director Michelle McConkie, State Representative Casey Snider, and Speaker Mike Schultz facilitating HB 262 to ensure ongoing discrimination and preferential treatment of DNR in acquiring large SITLA properties, preventing Plaintiff from purchasing Book Cliffs property; SITLA Director Michelle McConkie maintaining suspension of the sale under pretextual pretenses in coordination with former and current DNR Directors Brian Steed and Joel Ferry, as her predecessor did, instead of issuing a final and appealable administrative decision.

307. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representatives Francis Gibson, Mike Schultz, Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chair Melvin Brown, Advocacy Committee Members Steven Ostler and Tom Bachtell, and Vice-Chair Paula Plant acted with discriminatory animus toward Plaintiff based on tribal and racial identity, and such animus was a central motivating factor behind their agreement and actions.

308. As a direct and proximate result of these Defendants' conspiracy, Plaintiff was deprived of rights guaranteed under 42 U.S.C. §§ 1981 and 1982, including the right to enter into contracts to purchase property free of racial discrimination, and the right to equal protection under the Fourteenth Amendment.

Harms Suffered by Plaintiff and its Members

309. All actions and decisions of these Defendants were taken under color of state law, custom, or practice, in violation of Plaintiff and its members' due process and equal protection rights.

310. But for the continued unlawful discrimination, SITLA would have sold the property to Plaintiff for \$46,976,000 under the conditions required in the "Offer to Purchase," and Plaintiff would retain the opportunity to purchase other large blocks from SITLA, including the Book Cliffs property.

311. Defendants SITLA Director David Ure, SITLA Director Michelle McConkie, SITLA Deputy Director Kim Christy, DNR Director Mike Styler, DNR Director Brian Steed, DNR Director Joel Ferry, State Representative Francis Gibson, State Representative Mike Schultz, State Representative Casey Snider, SITLA Chief Legal Counsel Mike Johnson, Chairman of the Advocacy Committee Melvin Brown, Advocacy Committee Member Steven Ostler, Advocacy Committee Member Tom Bachtell, and Vice-Chair of the Advocacy Committee Paula Plant's actions have caused and continue to cause actual damages to Plaintiff and its members in an amount to be proven at trial.

312. These Defendants' actively deprive Plaintiff and its members of the ability to enter into contracts with SITLA if a state entity like DNR is also a bidder, and of unencumbered access and use of Tabby Mountain.

313. These Defendants' actions actively deprive Plaintiff and its members of the economic uses of Tabby Mountain, including value from hunting and fishing and associated income.

314. These Defendants' actions actively deprive Plaintiff and its members of the monetary difference between the market value of Tabby Mountain and its high bid, including lost time-value and appreciation.

315. These Defendants' actions actively deprive Plaintiff and its members of unencumbered ceremonial uses, as Tabby Mountain is integral to their cultural, religious, and spiritual practices.

316. These Defendants' actions actively deprive Plaintiff and its members of the inherent ownership value of Tabby Mountain, including use of Ute Tribal artifacts and natural resources of cultural and ceremonial significance.

Declaratory, Injunctive and Monetary Relief to Remedy Violations of Equal Protection and Due Process

317. Plaintiff incorporates and re-alleges all paragraphs and allegations in this Complaint as if fully set forth herein.

318. Pursuant to 42 U.S.C. § 1983, damages are available because all Defendants are state actors and intentionally violated, and continue to violate, Plaintiff's civil rights protected under 42 U.S.C. §§ 1981 and 1982 and the Equal Protection Clause of the Fourteenth Amendment.

319. Compensatory damages are proper because all Defendants caused, and continue to cause, economic harm to Plaintiff and its members.

320. Declaratory relief is proper because an actual controversy exists regarding state actions taken, and continuing to be taken, under color of law that violate Plaintiff's civil rights. The discriminatory suspension of the sale of Tabby Mountain, prior and ongoing conspiracies, including the attempted passage of HB 204 and the passage of HB 262, create continuing legal disabilities and harm.

321. Pursuant to 42 U.S.C. § 1983, injunctive relief is proper to remedy ongoing violations of Plaintiff's civil rights and to prevent further irreparable harm by Defendants SITLA Director Michelle McConkie, DNR Director Joel Ferry, Advocacy Committee Director Kim Christy, Advocacy Committee Vice-Chair Paula Plant, SITLA Chief Legal Counsel Mike Johnson, and State Representatives Casey Snider and Mike Schultz. Such relief is necessary to restore Plaintiff to the position it would have occupied absent unlawful discrimination, including full ownership of Tabby Mountain and the ability to purchase SITLA-owned lands offered to public bid where a state entity like the DNR participates.

322. Injunctive relief is further proper because Plaintiff had a legally protected right to the property, Defendants' actions were unconstitutional, and monetary damages alone cannot compensate for the loss. These losses include cultural, ceremonial, and other intangible harms, compounded by HB 262, a statutory amendment enacted with discriminatory intent and racial animus against Plaintiff and its members.

323. Punitive damages are available under 42 U.S.C. § 1983 because all Defendants acted with discriminatory intent and with reckless disregard of Plaintiff's civil rights under 42 U.S.C. §§ 1981 and 1982.

WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:

a. Compensatory damages, including but not limited to economic losses related to the denial of Tabby Mountain, lost income, lost use value, lost economic opportunities, cultural, ceremonial, subsistence, and spiritual harms, and the monetary difference between Tabby Mountain's market value and Plaintiff's high bid.

b. A declaration that SITLA's decision not to sell Tabby Mountain to Plaintiff was based on unlawful racial discrimination in violation of 42 U.S.C. §§ 1981, 1982, and the Equal Protection Clause of the Fourteenth Amendment.

c. A declaration that Plaintiff was the highest qualified bidder and would have obtained Tabby Mountain but-for Defendants' unlawful discrimination.

d. A declaration that to remedy these violations, SITLA is required to sell the land to Plaintiff for \$46,976,000, or such lesser amount as may be required to offset damages to Plaintiff and its members.

e. A declaration that the attempted passage of HB 204 and enactment of HB 262, as applied to the facts alleged, were motivated by discriminatory purpose, and are unconstitutional and in violation of 42 U.S.C. §§ 1981, 1982, and the Equal Protection Clause.

f. An injunction lifting SITLA's suspension of Tabby Mountain, ordering Defendant SITLA Director Michelle McConkie, Advocacy Committee Director Kim Christy, and Advocacy Committee Vice-Chair Paula Plant to complete the sale to Plaintiff, and prohibiting Defendants

SITLA Director Michelle McConkie, DNR Director Joel Ferry, Advocacy Committee Director Kim Christy, Advocacy Committee Vice-Chair Paula Plant, SITLA Chief Legal Counsel Mike Johnson, and State Representatives Casey Snider and Mike Schultz from further delaying or obstructing the sale on discriminatory or pretextual grounds.

g. An injunction enjoining enforcement of HB 262 and prohibiting Defendants State Representatives Casey Snider and Mike Schultz from proposing legislation, statutes, or statutory amendments that would limit Plaintiff's ability to bid on or purchase properties from any state entities.

h. An award of actual and punitive damages in an amount to be proven at trial.

i. An award of costs and disbursements incurred in this lawsuit, including attorney's fees under 42 U.S.C. § 1988, and any other applicable statutes or general principles of law and equity.

j. An award of such other and further relief, at law and in equity, as the Court determines to be just and proper.

Dated: November 26, 2025.

PATTERSON REAL BIRD & RASMUSSEN LLP

/s/ Gabriel S. Dumea

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