

Jeremy J. Patterson, *Pro Hac Vice Admission*
Jeffrey S. Rasmussen, *Pro Hac Vice Admission*
Brant Benjamin Fenner, *Pro Hac Vice Admission*

PATTERSON REAL BIRD & RASMUSSEN

1900 Plaza Drive
Louisville, Colorado 80027-2314
Telephone: (303) 926-5292
Facsimile: (303) 926-5293

Email: jrasmussen@nativelawgroup.com

Email: jpatterson@nativelawgroup.com

Email: bfenner@nativelawgroup.com

J. Preston Stieff (4764)

J. PRESTON STIEFF LAW OFFICES, LLC

311 South State Street, Suite 450
Salt Lake City, Utah 84111
(801) 366-6002

Email: jps@StieffLaw.com

Attorneys for Plaintiff Ute Indian Tribe

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UTE INDIAN TRIBE OF THE UINTAH
AND OURAY RESERVATION, UTAH

Plaintiff,

v.

STATE OF UTAH, et al.,

Defendants.

**RESPONSE/REPLY BRIEF ON SPLIT
ESTATE ISSUE**

Case no. 2:75-cv-00408-RJS (Consolidated
Action Civil Case Nos. 2:75-cv-00408,
2:13-cv-00276, 2:13-cv-01070, and 2:13-
cv-01079)

Judge Robert J. Shelby

For years, the parties to this case have been exchanging analysis on whether split estate lands are Indian Country. The Ute Indian Tribe of the Uintah and Ouray Reservation (the Tribe) provided this Court with a brief with the same analysis it has been discussing for years. Dkt 1317.

The Tribe's brief contains a detailed discussion of Judge Jenkins' prior holdings in *Ute I*¹ that split estate lands are Indian Country, and of Judge Jenkins' rejection of the State of Utah's argument to the contrary. As the Tribe discussed, the State and its subdivisions (hereinafter the State) did not appeal from that part of Judge Jenkins' decision. His decision on that point is final. It is binding, and that is the end of the inquiry. Dkt. 1317, §I.A-B.

The Tribe further discussed that the State's argument on split estate lands is just the most recent of a seemingly never-ending pattern of the State refusing to abide by the binding decisions in this case. Dkt. 1317, §I.C. The Tenth Circuit has told the State in very strong language to stop this wrongful behavior (and has told this Court to prohibit the State's wrongful behavior).

In *Ute VI*, we found that the land at issue in the prosecution in question unquestionably qualified as Indian country under the terms of *Ute V* and that Utah and the localities were indeed attempting to "undo the tribal boundaries settled by *Ute III* and *V*." *Id.* Accordingly, this court ordered the district court to issue the preliminary injunction forthwith. *Id.* ("[T]he district court should have issued a preliminary injunction and must do so now...." (emphasis added)). "[T]he time has come," we said, for the parties "to respect the peace and repose promised by settled decisions." *Id.* at 1013. Again the Supreme Court denied review. — U.S. —, 136 S.Ct. 1451, 194 L.Ed.2d 575 (2016).

Ute VII, 835 F.3d at 1260.

But the State simply will not comply.

Finally, the Tribe discussed that even if this Court were deciding the issue presented without reference to the prior decisions against the State in this matter, the result would be the

¹ The prior decisions are: *Ute Indian Tribe v. Utah* ("*Ute I*"), 521 F. Supp. 1072 (D. Utah 1981), aff'd in part, rev'd in part, *Ute Indian Tribe v. Utah* ("*Ute II*"), 716 F.2d 1298 (10th Cir. 1983); rev'd in part, aff'd in part, *Ute Indian Tribe v. State of Utah* ("*Ute III*"), 773 F.2d 1087 (10th Cir. 1985) (en banc); *Ute Indian Tribe v. Utah* ("*Ute IV*"), 935 F. Supp. 1473 (D. Utah 1996); *Ute Indian Tribe of the Uintah & Ouray Reservation v. State of Utah* ("*Ute V*"), 114 F.3d 1513 (10th Cir. 1997); *Ute Indian Tribe v. Utah* ("*Ute VI*"), 790 F.3d 1000 (10th Cir. 2015); and *Ute Indian Tribe of the Uintah and Ouray Reservation v. Myton* ("*Ute VII*"), 835 F.3d 1255 (10th Cir. 2016).

same. The split estate lands are Indian Country because: 1) the land was set aside for a tribe, and 2) the land is under federal supervision. *HRI, Inc. v EPA*, 198 F.3d 1224 (10th Cir. 2000); Dkt 1317, §II.

I. THE STATE’S ARGUMENT MUST BE REJECTED BECAUSE IT IS BASED UPON FABRICATED QUOTATIONS WHICH ARE CONTRARY TO THE HOLDINGS IN THE *UTE* LINE OF CASES

Utah’s primary responsive argument is the stunning fabricated “quotation” from *Ute V* on the sole issue presented to this Court. Utah’s fabricated quotation is:

The Tenth Circuit explained in *Ute V*, “Split Estate” lands are those in which “(1) the Ute Tribe holds a **subsurface** mineral estate interest (either directly or through the United States in trust) and (2) the **surface** estate of the lands have all three of the following characteristics: (i) were unallotted; (ii) were opened to non-Indian settlement under the 1902–1905 legislation; and (iii) were not thereafter returned to tribal ownership.” *Ute V*, 114 F.3d 1513, 1528.

State Br. at 8 (emphasis added).

The State asserts that based upon this “holding” on the sole issue presented, the Court must rule in favor of the State.

There are numerous flaws in the State’s argument; but first and foremost and as should be the end of the inquiry, the State simply made up its quotation from the Tenth Circuit, to fit the argument the State wanted to make to this Court. The Tenth Circuit issued no such holding. *Ute V* does not even reference split estate lands. Split estate lands were Indian Country under *Ute III* and *Ute V* left that mandate in place.

One of the reasons the Tenth Circuit in *Ute V* did not issue a holding regarding split estate lands is because the State did not raise the issue. Instead, as the Tribe has discussed, the State in *Ute V* sought to parley its wrongful actions in *Hagen* into a decision completely overturning *Ute*

III, and the State did not make an alternative, smaller, argument on split estate lands. Dkt 1317, pp. 5-9.

The Tenth Circuit’s decisions in *Ute V*, *Ute VI*, and *Ute VII* clearly bar the State from raising any new arguments or from raising any arguments that the State had raised before and lost. Under those holdings, Judge Jenkins’ decision in *Ute I* is not subject to new attacks by the State. The time for the State to have raised any such arguments was in its appeal from *Ute I*. Dkt 1317, pp. 5-9.

The State similarly asserts that in *Ute VII*:

The court confirmed that *Hagen* “remains the law of the case” and that “all lands within the original boundaries of the Uintah Valley Reservation that were not allotted to Indians are no longer Indian Country.” [*Ute VII*] at 1258-60.

This too is a fabricated quote. And here too, the actual holding in the case is directly contrary to the State’s pernicious argument. The portion of *Ute VII* that the State claims to be quoting actually states:

So, for example, she [the authoring judge in *Ute V*] explained that lands that could've been but were not allotted to nontribal members between 1905 and 1945, and that were instead restored to tribal status in 1945, *remained Indian country*.

Ute VII at 1259.

The State’s alleged quotation from *Ute VII* is a paraphrase of the expansive interpretation of *Hagen* that the State advocated for in *Ute V*, but that the Tenth Circuit rejected. Under the actual holding in *Ute V*, the vast majority of the land on the Uintah Valley Reservation which is Indian Country are lands that “were not allotted to Indians.” These lands include hundreds of thousands of acres of tribal trust land, about 1,000,000 acres of national forest lands, “mixed blood” lands, restored lands, split estate lands, and other lands. The State’s fabricated quotation is the goal the

State has been relentlessly pursuing for decades. It wanted the Tenth Circuit to issue the holding that it now fabricates—a holding that would eliminate or virtually eliminate the Uintah Valley Reservation, leaving only allotments as the remaining Indian Country. But the Tenth Circuit rejected that argument. *Ute V* at 1529; *Ute VII* at 1259.

The State’s argument regarding split estate lands in this case is based upon the holding that the State wanted the Tenth Circuit to issue in *Ute V* (and which the State now pretends the Tenth Circuit did issue.) In *Ute V*, the Tenth Circuit synthesized its prior final mandate from *Ute III* with *Hagen*, and it is that synthesis, and the limited modification of *Ute III*’s mandate, which controls in this case. The State’s attempt to reargue *Ute V* or to substitute the State’s desired holding in that case for the Tenth Circuit’s actual holding must be rejected. *Ute V*, as contrasted with the State’s rejected expansive interpretation of *Hagen*, requires this Court to confirm that split estate lands are part of the Tribe’s Reservation, notwithstanding issuance of any patents to the surface of those parcels.

The State further misrepresents the Tenth Circuit’s decision when it asserts that the Tenth Circuit held that “lands passing in fee to non-Indians pursuant to the 1902-1905 allotment legislation are no longer within Indian Country under 1151(a).” While this is one of the few almost accurate quotations by the State, the Tenth Circuit’s actual holding is contrary to the State argument.

In the relevant portion of *Ute V*, the Court set out a two-prong test. The State quotes only the second prong, but the Court cannot consider the second prong because the State’s argument does not meet the requirement in the first prong of the legal test from *Ute V*. As the Tenth Circuit clearly discussed, the first prong is that if a parcel is held or has been restored to tribal trust

ownership, then the mandate from *Ute III* remains in place—the parcel is Reservation. *Ute V* at 1529. It is only if the parcel is *not* held in trust that we get to the second prong—the Tenth Circuit’s discussion in *Ute V* of the “four categories of *non-trust* land at issue in this case.” *Id.* (*emphasis added*). The Tenth Circuit expressly rejected the State argument that the Tenth Circuit should lift *Ute III*’s mandate for the parcels of land that were held in trust in 1997. Here, as Judge Jenkins had previously held, and as the State did not challenge, the split estate lands were trust lands, and therefore the whole of the split estate lands were Indian Country notwithstanding the issuance of any patents related to those lands. In its brief, the State uses its fabricated quotations to assert this Court should skip over the first prong—that the mandate was not lifted for parcels that *Ute I* and *Ute III* had held were held in trust, and in doing so it incorrectly seeks to evade Judge Jenkins’ decision on split estate lands and the Tenth Circuit’s refusal to lift *Ute III*’s mandate in the manner the State had requested in *Ute V*.

After skipping over the threshold issue, the State yet again seeks to re-argue the expansive interpretation of *Hagen* which the State presented in *Ute V* and which the Tenth Circuit rejected. But as the Tenth Circuit showed, we must first answer whether the parcels are held in trust. If they are, we do not get to the Tenth Circuit’s discussion of whether the parcels are Indian Country under the “four categories of non-trust lands at issue in this case.” *Id.* at 1529. The split estate lands are trust lands and therefore the mandate from *Ute III* (that the parcels are Reservation, notwithstanding issuance of any patent) was not lifted, and it still applies. *Ute V* at 1530 (citing, *inter alia*, 18 U.S.C. § 1151(a)).

The State’s quotations which it attributes to *Ute V* and *Ute VII* would have been a powerful response by the State if its fabricated quotations were true. But they are simply not true.

II. THE UNDEVELOPED ASSERTION IN SECTION III OF THE STATE BRIEF IS DIRECTLY CONTRARY TO THE SOLE DOCUMENT CITED BY THE STATE.

Section III of the State’s brief contains one paragraph, and one citation. The citation is to an EPA response to a comment which EPA received on a proposed rule. 53 Fed. Reg. 43,093, 43,097-98 (October 25, 1988).

There are numerous flaws with the State’s interpretation of that comment.

Most significantly the applicable regulation, as distinguished from a comment regarding a prior proposed rule, is 180 degrees contrary to the State’s argument. The statute and resulting regulation are law. The comment is not. The statute and regulation provide EPA with regulatory authority over oil wells on land that is Indian Country (as defined by 18 U.S.C. § 1151, which is also the definition relevant to the current matter).² In response to a comment to the prior version of the EPA’s proposed rule, EPA explained that under the regulation it was adopting, the whole of a parcel of land is Indian Country if *either* the subsurface or the surface is Indian Country. Applying that regulation here, the whole of the split estate parcel is “Indian Country” as defined by 18 U.S.C. § 1151.

Second, the State’s argument is based upon the implicit legal assertion, without any citation to legal authority, that a rule of statutory interpretation applies to an agency’s response to an individual’s comment to a proposed rule. The rules of statutory interpretation apply to statutes

² The State’s misunderstanding of the comment seems to stem in part from EPA’s odd use of the term “Indian Land,” which the State appears to view to be different from the standard term of Indian Country—the term at issue in the current case. 40 C.F.R. § 144.3 contains EPA’s definition of the term Indian Land as used in the regulations at 53 Fed. Reg 43,093. EPA defined Indian Land to mean Indian Country as used in 18 U.S.C. § 1151. *See also* 53 Fed. Reg 43084, 43,096 (noting that Indian Land as used in the regulations and Indian Country are exact synonyms). EPA’s response to the comment was therefore that the whole of the parcel was Indian Country if either the surface or the subsurface was Indian Country.

and substantive regulations. They do not apply to regulations. *E.g.*, 5 U.S.C. § 553 (distinguishing between rules and comments, requiring vetting of rules but not requiring vetting of comments or responses to comments, and showing that comments are not regulations). In the document the State cites, EPA was responding to a naïve citizen’s comment that EPA’s definition of Indian Country (which is exactly the same as the standard definition of Indian Country, developed by case law and then codified into 18 U.S.C. § 1151) was so broad that if a tribe purchased a parcel of land outside of a reservation, the land would be Indian Country and therefore subject to tribal well regulations, not state regulations. EPA responded that the concern was unfounded because the parcel would only be Indian Country if the surface or subsurface (and therefore the whole of the parcel) was Indian Country. A tribe’s purchase of land, without more, does not change the parcel to Indian Country.

Third, whatever unstated rule of statutory interpretation the State is implicitly relying upon would not support the State’s interpretation of EPA’s response to the comment. The Tribe’s guess is that the State is referencing the rule of statutory construction against surplusage, and asserting that because the comment discusses a surface estate or a mineral estate being Indian lands, EPA was stating that one estate can be Indian Country while the other is not Indian Country. But the comment explicitly states the exact opposite. It states that if either estate is Indian lands (i.e. Indian Country), the whole of the parcel is Indian Country, and therefore the whole of the parcel is subject to the EPA’s authority over Indian Country.

III. THE STATE’S “POLICY ARGUMENTS” ARE WITHOUT MERIT FOR INNUMERABLE REASONS

The State concludes its brief with a two paragraph outline of “policy arguments.” Those arguments are incorrect.

A. THE STATE ATTEMPTS TO ANALOGIZE THE UTE RESERVATION TO THE LAND AND LEGAL HISTORY AT ISSUE IN *MURPHY V. SIRMON* IS INCORRECT.

The State asserts that *Murphy v. Sirmon*, 497 F. Supp. 2d 1257 (E.D. Okla. 2007) supports a policy argument that this Court should give the State jurisdiction over split estate lands to avoid checkerboard jurisdiction. *Murphy* is not on point; and more importantly, the State's policy arguments cannot be used to overrule the Tenth Circuit's prior decisions.

Murphy had been convicted of a gruesome murder on or near a roadway in Oklahoma and had been sentenced to death in 2000. *Id.* at 1263. His conviction was upheld on direct appeal. *Id.* In his second post-appeal petition for habeas corpus relief, filed in 2004, *id.*, Murphy raised for the first time an argument that the location of the crime was Indian Country. He asserted the land was part of an Indian Reservation, 18 U.S.C. § 1151(a), but the District Court rejected that argument based upon a prior Tenth Circuit decision that the Reservation had been disestablished. *Id.* at 1298.³ Murphy argued in the alternative that if the land was not Reservation under 1151(a), it was still Indian Country under 18 U.S.C. § 1151(c), based upon Murphy's belated research of land records which showed that: 1) the whole of the surface estate was owned by non-Indians; 2) 11/12ths of the indivisible mineral estate was owned by non-Indians; but 3) the remaining 1/12 of the minerals were in trust with the United States for the heirs of an Indian. *Id.* at 1288. He asserted the 1/12 interest in the minerals made the whole of the parcel Indian Country under 18 U.S.C. § 1151(c).

³ The District Court decision in *Murphy* was issued in 2007. Its holding that the land was not part of a tribal Reservation is very likely incorrect, but that likely error is immaterial for current purposes.

The Court held that the 1/12 individual interest in the mineral estate did not make the parcel trust land under 1151(c).

That decision is inapposite to the current case.

First, the issue in *Murphy* was whether the whole of the parcel was an “Indian allotment[], the Indian titles to which have not been extinguished.” 18 U.S.C. § 1151(c). Issuance of non-restricted patents defeats a claim that the land is non-Reservation Indian Country under 1151(c). In contrast, the issue in the current case is whether the land is Reservation, which is Indian Country under 1151(a), not 1151(c). Under 1151(a) land is Indian Country if it is “within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.” Patents of parts of that land do not defeat the land being Indian Country under 1151(a).

Second, the State’s policy argument is based upon the Eastern District of Oklahoma Court’s discussion of practical difficulties that were present in *Murphy* but that are not present in the current case. Five years after *Murphy* was convicted, he asserted that the land was Indian Country under 1151(c) based upon research of land and estate records. As the Tribe discussed in its opening brief, the parties in this matter have *already* identified and mapped the split estate lands. Here, all of the subsurface of the split estate parcels is owned by the Tribe, and because the land is Reservation under 1151(a), its status as Reservation will not change regardless of subsequent actions by heirs, owners, subsequent patents, etc.

Third, and most concerning for the Tribe, the State is wrongly seeking to benefit from its own improper actions in *Hagen* and to use “policy concerns” to re-argue one of the issues the State lost in *Ute V*. The State correctly notes (albeit with incorrect quotations and incomplete attribution)

that checkerboarding of jurisdiction on Indian Reservations creates practical difficulties, and that courts therefore seek to avoid checkerboarding. That is, in part, why 18 U.S.C. § 1151(a) provides that land on a Reservation remains Reservation notwithstanding the issuance of any patents. If patents altered jurisdiction, all large reservations in the United States would have checkerboarded jurisdiction similar to that on the Uintah Valley Reservation. In *Ute III*, the Tenth Circuit issued an order which did not result in checkerboarding on the Uintah Valley Reservation. But the State then wrongly went to its State Court, and its Court wrongly failed to apply the mandate rule to the State. The result was *Hagen*, and then the Tenth Circuit's synthesis, in *Ute V*, of *Hagen* and *Ute III*.

The State sought Supreme Court review of that synthesis from *Ute V*, but the State petition was denied and the synthesis from *Ute V* became final. It is that synthesis—caused by the State's wrongful actions—which created a checkerboard of jurisdiction. This Court's decision *will not and cannot change that checkerboarding*. It was created by the decision in *Ute V*, which was based upon application of the mandate rule to the unique procedural history in the proceeding decades of litigation. The State's claimed concern about checkerboarding is immaterial. Instead, the sole issue is whether lands which the parties have already identified as split estate lands on an already checkerboarded landscape are in the part of the checkerboard that is tribal/federal jurisdiction or part of the checkerboard which is non-tribal. It is enormously important to the Tribe that its mineral lands are within tribal/federal jurisdiction, but the practical steps for implementing the decision will be to have the identified split estate lands colored on a map consistent with the Court's decision. Unlike in *Murphy*, there are no practical difficulties with reaffirming that split estate lands Indian Country.

Fourth, although the State's implicit argument that this Court can avoid checkerboarded jurisdiction on the Uintah Valley Reservation is incorrect and although a policy argument cannot be used to overturn the prior decisions in this case, the State's policy argument is agnostic on the merits issue in this case. The State's policy arguments is:

Premise 1: courts should avoid checkerboarded jurisdiction where possible.

Conclusion: The Court should transfer jurisdiction over split estate lands to the State.

The argument is illogical. The unstated implicit second premise is that this Court can avoid checkerboarded jurisdiction—a premise that is false. It is about 30 years too late to avoid checkerboarded jurisdiction in the Uintah Valley Reservation. The implicit third premise is an appeal to bias. A court could avoid checkerboarding by deciding in favor of tribal/federal jurisdiction or by deciding in favor of state jurisdiction, but the State wrongly asserts that the only way to avoid the problems from checkerboarded jurisdiction would be to rule in favor of the State.

Although the policy argument against checkerboarded jurisdiction is agnostic regarding which side would prevail, other sources of law are not agnostic. All other law provides that land can only be removed from a Reservation by a clear and unequivocal act of Congress. *E.g.*, *Nebraska v. Parker*, 577 U.S. 481, 487-88 (2016) (“[O]nly Congress can divest a reservation of its land and diminish its boundaries,” and its intent to do so must be clear.”) (quoting *Solem v. Bartlett*, 465 U.S. 463, 470 (1984)). Policy arguments cannot trump that rule of law. Additionally, *Ute III* and *Ute V* provide the applicable holding for every parcel of land on the Tribe's Reservation, and *Ute III*'s mandate controls except as lifted by *Ute V*. Policy arguments cannot trump the mandates in this case.

The State is now seeking to further benefit from its improper action in *Hagen* by arguing that because its improper actions resulted in checkerboarded jurisdiction on the Uintah Valley Reservation, the Court should give the State jurisdiction over even more land to diminish the impact of the checkerboarding that the State wrongly created. If policy arguments were significant, they run against the State's arguments.

B. THE STATE ATTEMPT TO REGULATE TRIBAL MINERAL DEVELOPMENT IS CONTRARY TO TRIBAL TRUST OWNERSHIP OF THE MINERALS AND CONTRARY TO PUBLIC POLICY CONTAINED IN FEDERAL STATUTES WHICH PROVIDE FOR TRIBAL AND FEDERAL REGULATION OF TRIBAL MINERAL DEVELOPMENT.

Hidden in the State's argument is one of its primary goals—to control any development of tribal minerals, and to be able to hold tribal minerals hostage unless the Tribe complies with state mineral laws and other laws.

At the time it filed its opening brief, the Tribe expected that the State would argue for a three-dimensional analysis of regulation of split estate lands: that if the primary impact was below the surface, the Tribe/United States would have regulatory control, but if the primary impact was on the surface, the State would have control. While the scope of the argument made by the State in its opening brief is ambiguous, it is not based upon the three-dimensional analysis that the Tribe expected. Instead, the State seems to have now shifted to an argument that because any activity would occur on the surface, the State would have complete control. It now appears that the State is arguing that it would have authority to regulate well spacing; regulation of fracking and other downhole activities, licensing and regulation of businesses engaged in production of tribal minerals, applications for permits to drill, access to monitor drilling safety, all other regulatory control, etc.

The State's broader argument that it would regulate mineral related activities on the surface of split estate lands is barred by supreme federal law which establishes that all regulation of tribal mineral production is subject to tribal or federal regulation. The Tribe discussed those supreme laws at page nineteen of its opening brief. As it has in the past, the State is now looking for a bigger win, but its current argument is barred by federal supremacy and federal laws that plainly provide for tribal and federal regulation, to the exclusion of state regulation, over tribal minerals.

CONCLUSION

The whole of the parcels of split estate lands are Reservation under *Ute I*, *Ute III*, and *Ute V*. *Ute I* held they were Reservation lands. In *Ute III*, the State, going for the big win, chose not to raise in the alternative any argument regarding split estate lands, and the mandate from *Ute III* covered split estate lands, and held they were Reservation. The State also did not raise any separate argument regarding split estate lands in *Ute V*, and *Ute III*'s mandate covering split estate lands was not disturbed in *Ute V*. In *Ute VI* and *Ute VII*, the State asserted that it should not be required to abide by the decisions in *Ute I*, *Ute III* and *Ute V* because it did not agree with the decisions. It also asserted that if its attorneys could come up with some new argument that prior State attorneys had not raised in prior appeals or in other prior rounds of this litigation, the Tenth Circuit's mandates did not apply to those new arguments. The Tenth Circuit rejected the State's theory that the State can raise arguments serially over decades of litigation. This Court should follow that decision.

The only new wrinkle is that the State cannot come up with an argument to get around the Tenth Circuit's actual mandates and holdings, and that the State has chosen to re-write the Tenth

Circuit's decisions, using fabricated quotations. That new wrinkle does not change the result. It does not change the Tenth Circuit's decisions

DATED this 19th day of December 2025.

Respectfully submitted by,

s/ Jeffrey S. Rasmussen

Jeffrey S. Rasmussen, *Pro Hac Vice Admission*
Jeremy J. Patterson, *Pro Hac Vice Admission*
Brant Benjamin Fenner, *Pro Hac Vice Admission*
PATTERSON REAL BIRD & RASMUSSEN LLP
1900 Plaza Drive
Louisville, Colorado 80027-2314
Telephone: (303) 926-5292
Facsimile: (303) 926-5293
Email: jrasmussen@nativelawgroup.com
Email: jpatterson@nativelawgroup.com
Email: bfenner@nativelawgroup.com
Attorneys for Plaintiff Ute Indian Tribe of
the Uintah and Ouray Reservation

s/ J.Preston Stieff

J. Preston Stieff (Bar No. 04764)
J. PRESTON STIEFF LAW OFFICES, LLC
311 South State Street, Suite 450
Salt Lake City, Utah 84111
Telephone: (801) 366-6002
Email: jps@StieffLaw.com
Attorneys for Plaintiff Ute Indian Tribe of
the Uintah and Ouray Reservation

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of December 2025, a copy of the foregoing RESPONSE/REPLY BRIEF ON SPLIT ESTATE ISSUE was filed electronically. Notice of this filing will be sent to the parties of record through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

/s/ Jeffrey S. Rasmussen
Jeffrey S. Rasmussen, *Pro Hac Vice*