



THE TENTH CIRCUIT DELIVERS THE UTE TRIBE A COMPLETE AND UNEQUIVOCAL VICTORY IN ITS LEGAL BATTLE WITH THE STATE OF UTAH AND ITS COUNTIES

Ft. Duchesne, UT —June 16, 2015.

In language that was scathingly critical of the State of Utah and three of its counties, the U.S. Circuit Court of Appeals for the Tenth Circuit today delivered the Ute Tribe a full and unequivocal victory in the Tribe's efforts to enforce the Tenth Circuit's 1985 and 1997 federal court rulings that define the boundaries of the Tribe's Uintah and Ouray Reservation (referred to as *Ute III* and *Ute V* rulings).

The Tenth Circuit described the State and counties' efforts to relitigate the Tribe's reservation boundaries through the Utah state courts as both a "campaign of relitigation" and an "invasion of tribal sovereignty—as serious as any to come our way in a long time." In a 27-page written opinion the Tenth Circuit emphasized the finality of its earlier *Ute III* and *Ute V* rulings, saying that for any legal system to be functional, "both sides" to a legal dispute "must accept—or, if need be, they must be made to respect" settled legal rulings. "Most people know and readily assent to all this," the Tenth Circuit said, adding, "So it's pretty surprising when a State and several of its counties need a reminder."

The Tenth Circuit ruling stems from two federal lawsuits filed by the Tribe more than two years ago, in April 2013, seeking to enjoin the State of Utah and its counties from prosecuting tribal members through Utah state courts for offenses committed within the Uintah and Ouray Reservation. The Tribe maintains that the State and counties are using the state prosecutions as an "end run around" the *Ute III* and *Ute V* rulings, essentially ignoring the federal court rulings and asking Utah state courts to repudiate and nullify the *Ute III* and *Ute V* rulings.

The Tenth Circuit agreed with the Tribe's assessment, saying that although the State of Utah and its counties "may fervently believe" *Ute III* and *Ute V* rulings "drew the wrong boundaries ... that case was resolved nearly twenty years ago, the Supreme Court declined to disturb its judgment, and the time has long since come for the parties to accept it." The Tenth Circuit said the State of Utah had failed to identify "any legitimate state interest advanced by its attempt to relitigate boundary decisions by prosecuting Indians for crimes in Indian country."

The Tenth Circuit specifically rejected the State's argument that the State is free to prosecute tribal members for traffic offenses committed on rights-of-way through the Reservation.

Speaking on behalf of the Tribe's entire six-member Business Committee ("tribal Council), Chairman Shaun Champoos says the Tribe welcomes the Tenth Circuit ruling and the ruling's emphatic vindication of the Tribe's sovereignty. Chairman Champoos called the State and counties' actions "a direct attack on the Tribe's sovereignty, our way of life, and our tribal lands."

The Tribe had appealed to the Tenth Circuit from two separate rulings issued by U.S. District Court Judges Dee Benson and Bruce S. Jenkins.

Judge Benson had denied the Tribe's request for a preliminary injunction against the State's prosecution of a tribal member for a traffic offense on State Road 35 within the National Forest lands of the Reservation. In a separate action Judge Jenkins had rejected the Tribe's assertion of tribal sovereign immunity as grounds for dismissing counterclaims filed against the Tribe by the State of Utah, Duchesne County, and Uintah County.

The Tenth Circuit ruled in favor of the Tribe on both appeals, directing the district court to "enter appropriate preliminary injunctive relief forthwith," and to dismiss the counterclaims filed against the Tribe.

The Tribe had requested sanctions against Uintah County for its actions in filing a frivolous cross-appeal. Although the Tenth Circuit denied the Tribe's request for sanctions, the Tenth Circuit issued a cautionary warning to Uintah County and the other State defendants, saying the Court hoped its ruling will send the message "that the time has come to respect the peace and repose promised by settled [court] rulings." The Tenth Circuit added "In the event our hope proves misplaced and the [State] defendants persist in failing to respect the rulings of *Ute V*, they may expect to meet with sanctions in the district court or in this one."

"The Ute Tribe is hopeful that the State and counties will heed this warning and follow the Tenth Circuit mandates and opinion issued today," said Chairman Shaun Champoos.

While the Tribe welcomes the ruling, Chairman Champoos said the protracted litigation was very costly for the Tribe and he said the Tribe was disappointed by the failure of the federal government—the Tribe's trustee—to provide the Tribe with assistance in defending the Tribe's sovereignty and reservation boundaries. "The Ute Indian Tribe had to do it alone without the help of its trustee in defending its sovereign authority to exercise governmental authority over its land and its people within its Reservation boundaries," said Champoos. "We are proud we were able to secure this great victory on our own."

Even before taking legal action and while the lawsuits were pending, the Tribe made multiple offers to meet with Utah Governor Gary Herbert and county officials to discuss matters relating to criminal enforcement across tribal-state boundaries and other jurisdictional issues. Chairman Champoos reaffirmed that the Tribe remains willing to meet with State and county officers to work cooperatively towards resolving inter-jurisdictional issues. "Although the Tribe is willing to work cooperatively with the state and counties, the Tribe will only do so on a government-to-government basis, and only in an environment of mutual respect by all parties," said Chairman Champoos. "Now that the Tenth Circuit has spoken, it is our hope that the law is clear with respect to the Tribe's authority, and we hope the spirit of the law can be carried out in future negotiations with our state and county counterparts."

Chairman Champoos also said the Tribe's prior Council is to be commended for its action in authorizing the litigation. As a result of tribal elections, a new tribal Council was sworn into office just last month.

The Tribe was represented in the litigation by the law firm of Fredericks Peebles & Morgan LLP, a firm that specializes in representing Indian tribes and tribal entities.

About the Ute Indian Tribe - The Ute Indian Tribe resides on the Uintah and Ouray Reservation in northeastern Utah. Three bands of Utes comprise the Ute Indian Tribe: the Whiteriver Band, the Uncompahgre Band and the Uintah Band. The Tribe has a membership of more than three thousand individuals, with over half living on the Uintah and Ouray Reservation. The Ute Indian Tribe operates

its own tribal government and oversees approximately 1.3 million acres of trust land which contains significant oil and gas deposits. The Tribal Business Committee is the governing council of the Tribe.

About Fredericks Peebles & Morgan LLP - Fredericks Peebles & Morgan LLP serves as general counsel to the Ute Indian Tribe of the Uintah and Ouray Reservation of Northern Utah, and is dedicated to the representation of American Indian tribes and Native American organizations throughout the United States. Legal services include a wide spectrum of services related to Indian concerns in the areas of business transactions, litigation and governmental affairs.