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10th CIRCUIT COURT OF APPEALS RULES IN FAVOR OF UTE INDIAN TRIBE IN
LANDMARK RULING CONFIRMING TRIBAL JURISDICTION OVER MYTON
TOWNSITE LANDS

Ft. Duchesne, UT August 10, 2016

On August 9, 2016, the Ute Indian Tribe of the Uintah and Ouray Reservation secured a groundbreaking victory in the ongoing federal court litigation to protect the Tribe's homelands, sovereignty and jurisdiction. In another strongly worded and significant order of the 10th Circuit Court of Appeals, the Ute Indian Tribe has again prevented the State of Utah and its subdivisions from diminishing tribal jurisdiction and authority, this time with the Appellate Court rejecting claims by Myton, Utah which were similar to those which the Tenth Circuit had previously rejected in *Ute III*, *Ute V*, and the Court's 2015 decision in *Ute VI*. The Tenth Circuit decision in *Ute VI* represented-then and now- a sweeping victory against unlawful state government interference with tribal sovereignty and upheld long-standing federal laws that promote the inherent rights of Indian Tribes of self-determination and self-government.

The United States Court of Appeals for the Tenth Circuit began its opinion by stating that because the State of Utah and its subdivisions have refused to abide by the Tenth Circuit's prior decision, "We're beginning to think we have an inkling of Sisyphus' fate." In that analogy the Ute Indian Tribe is Sisyphus. It has been litigating this case for forty years, prevailing again and again, only to have the State of Utah and its subdivisions attempt to relitigate issues that the State lost. Throughout this ordeal of the State's making, the Ute Indian Tribe has steadfastly maintained its will to fight state encroachment, resulting in this series of victories. The Tribe's hope is that at long last the State will stop spending vast sums of its taxpayers' money based upon the State and its Counties and municipalities' stubborn refusal to accept that the Ute Indian Tribe retains jurisdiction over Ute land and people. But if not, the Tenth Circuit's decision again reminds the Tribe that its unbroken will to retain its lands, sovereignty and jurisdictional authority has resulted in this most recent victory that represents a victory for all tribes.

In its unanimous appellate decision today, the Tenth Circuit yet again stated with clarity that the Ute Indian Tribe should not be required to keep rolling the rock up the hill, that instead the State and its subdivisions are required to accept the jurisdictional boundaries which are settled by prior Tenth Circuit decisions. To underscore this, the Tenth Circuit ordered that the case be reassigned from Senior Judge Bruce Jenkins on remand because Judge Jenkins also has not complied with the Tenth Circuit's mandates in favor of the Tribe.

The Tenth Circuit's decision today was from the Ute Indian Tribes' appeal of an order by the Utah District Court holding that the original one mile square townsite of Myton was not Reservation. Agreeing with the Tribe's argument on appeal, the appellate court reversed that decision. The Court reiterated that in *Ute III* and *Ute V* the Tenth Circuit more than thirty years ago determined that land which was restored to tribal trust ownership by the United States in 1945 is Reservation. Approximately half of the land in Myton was restored to tribal trust ownership in 1945, and therefore is, under *Ute III* and *Ute V*, Reservation. But the District Court, refusing to abide by *Ute*

V, had ruled that all of Myton was non-Reservation, even those lands that were restored to trust ownership in 1945. After setting forth this history, the Court of Appeals stated: “And so . . . we face the rock and hill yet again, with the Tribe and federal government asking us to give effect to *Ute V*’s mandate by overturning the District Court ruling. We are of course obligated to do exactly that.”

The Court also rejected Myton’s assertion that it would be unfair to require Myton to abide by *Ute V*. Myton had ironically argued that the Ute Indian Tribe should be barred under the legal doctrine of laches--that the Tribe had slept on its right to assert jurisdiction until 2013. The Court of Appeals noted multiple flaws in the Myton’s argument, including that the Ute Indian Tribe has been litigating this exact issue for 40 years, with the State simply refusing to abide by the decisions that the Tribe does have jurisdiction. The Court also held, “For another thing, we don’t see how the town might have ever justifiably thought that it contained no lands qualifying as Indian country. As we’ve seen, the Department of the Interior long ago explained its view that the 1945 restoration order had the effect of returning to the Tribe’s jurisdiction land within the town’s limits.”

The Court concluded its decision by granting the Ute Indian Tribe’s motion to have the matter reassigned to a different judge upon remand. The Court of Appeals acknowledged that an order to reassign is “a step this court takes only in ‘extreme circumstance.’ But we think those exist here.” The Court noted that most of the blame for the improper attempt to relitigate settled issues lies with the State and its subdivisions, but that “the fact remains that the district court, in *Ute VI* and again today, has twice failed to enforce this court’s mandate in *Ute V* and has given us little reason to hope that things might change on remand.” (case citation omitted).

The Ute Indian Tribe’s governing body, the Tribal Business Committee, in an official statement, clarified: “Today’s decisive ruling from the 10th Circuit stands as a complete and total victory for the Ute Indian Tribe that vindicates the Tribe’s commitment to its membership to protect and preserve the Tribe’s sovereignty and jurisdiction over its homelands for the next generation. This decision means that the City of Myton will no longer be able to take unlawful actions, under color of governmental authority, to intrude upon the lives and activities of the Ute Indian Tribe or its membership. The unanimous appellate decision is a stinging rebuke to Judge Jenkins badly reasoned decision in this case that served to undermine and set aside well-established principals of Federal Indian law and the sovereignty of the Ute Indian Tribe. The Tribal Business Committee hopes that today’s decision will send a strong message to the State of Utah, Uintah County, Duchesne County, Wasatch County and the Cities of Myton and Duchesne that they will no longer be allowed to enforce their laws on our reservation or continue to harm our Tribal members through the ongoing racial profiling, police harassment and unlawful policing that has occurred on a daily basis on the Uintah and Ouray Reservation for the past several decades. After 40 years of unnecessary litigation, the time has come for the State of Utah and counties and cities within the Uintah Basin to end these constant attacks upon the Ute Indian Tribe and we hope they will no longer seek to bypass or disregard federal law and our rights as a people to govern ourselves and maintain our jurisdiction over our own lands. The Ute Indian Tribe remains committed to its goal of being a good neighbor and working with the State parties in this case on a government-to-government basis to ensure public safety for the entire Uintah Basin, however we cannot reach that goal when the State parties do not support equality for Tribal members or recognize our authority as a tribal government. It is our hope that today’s decision will bring both the Ute Indian

Tribe and the State parties a step closer to that goal, but if it does not, rest assured that the Tribal Business Committee will continue to vigorously defend and protect its jurisdiction and will remain steadfast in its commitment to protect the interests and rights of the Tribal membership and preserve our Tribal homelands.”

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 Uintah Band, the Uncompahgre Band and the Whiteriver 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 Ute Tribal Business Committee is the governing council of the Tribe. The Ute Indian Tribe is still engaged in legal battles with the state of Utah and local counties to protect the Tribe’s jurisdiction over lands that were specifically set-aside and reserved by the federal government for the benefit of the Tribe.