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Ute Indian Tribe Asserts Ownership of All Federal Lands in the Uncompahgre Reservation

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On March 8, 2018, the Ute Indian Tribe of the Uintah and Ouray Reservation (the "Tribe") filed a lawsuit in the United States District Court for the District of Columbia against the United States, the Department of the Interior (the "DOI"), and the DOI's top two officials in their official capacity, seeking to establish the Tribe's beneficial ownership of all federal lands within the exterior boundaries of the Uncompahgre Reservation located in northeastern Utah (the "Reservation"). *Ute Indian Tribe of the Uintah and Ouray Indian Reservation v. United States of America*, No. 1:18-cv-00546 (D. D.C.). Among other things, the Tribe's complaint alleges that the United States has violated (and continues to violate) federal law by treating Reservation lands as though they are owned by the United States outright, rather than in trust for the Tribe. The Tribe claims that, as a result, the United States has been "wrongfully appropriating revenue" relating to the sale or leasing of lands within the Reservation (for example, sales to the Utah School and Institutional Trust Lands Administration, "SITLA," and leases for natural resource extraction); and that the defendants' employees have been trespassing upon lands within the Reservation to the extent they have entered those lands without the Tribe's authorization or for reasons other than on behalf of the Tribe. The potential revenue involved is claimed to be in the hundreds of millions of dollars. The lawsuit only involves federal lands within the Reservation and does not affect lands owned by SITLA, by private parties, or lands owned by Indian allottees.

There is a long line of cases dealing with the Tribe's jurisdiction within the boundaries of the Reservation, but title to lands within the Reservation was not an issue in those cases, and the United States was not a party to those cases. After the last case in that series was decided,¹ the Tribe asked the Secretary of the Interior to restore the lands within the Reservation to the Tribe pursuant to section 3 of the Indian Reorganization Act (the "Act"). The DOI rejected the request based on a Solicitor's Opinion (M-37051) which, after an extensive analysis, concluded that the Tribe never had a compensable ownership interest in lands within the Reservation, so the Reservation had no interest to be restored under section 3 of the Act. The Tribe filed its complaint following the issuance of the Solicitor's Opinion.

Among other things, the Tribe's complaint seeks:

- An injunction prohibiting the United States from treating lands within the Reservation as though they are owned by the United States outright;
- An order quieting title in the name of the United States in trust for

the Tribe; and

- An injunction prohibiting the defendants' employees from accessing lands within the Reservation without authorization.

Although valid existing rights (such as oil and gas leases that have already been issued by the Bureau of Land Management on lands within the Reservation) will probably not be impacted by this litigation, a successful outcome for the Tribe could impact future leasing within the boundaries of the Reservation and result in the payment of substantial funds from the United States to the Tribe. It is anticipated that the United States will vigorously defend the lawsuit.

Clients who would like to discuss the details of this case or arrange for periodic updates relating to this case should contact A. John Davis, Andy LeMieux, or any other member of the oil and gas group in Holland & Hart's Salt Lake City office.

¹*Ute Indian Tribe of the Uintah and Ouray Reservation v. Utah*, 790 F.3d 1000 (10th Cir. 2015) (commonly known as "Ute VI").

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