DELAY IN OPENING UNCOMPAHGRE RESERVATION TO ENTRY.] pdf

1: Recent Posts | Utah Attorney General | Page 6

enactments from through , opening Reservation lands to non-Indian settlement and setting aside lands for a national forest reserve, had the effect of diminishing the Uintah Valley Reservation.

The smoke of ten thousand campfires hung like fog over the entire valley. Dale, who participated in the great land lottery of , recalls a landscape transformed by , home seekers who registered to draw for thirteen thousand acre tracts to be opened to settlement on the Wichita-Caddo-Delaware and the Kiowa-Comanche-Apache reservations. The reservations had been divided into two land districts, Lawton and El Reno, and those wanting to register were organized into companies; both individuals and companies were assigned numbers and allowed to register at one of the district offices for a quarter section in either district. Registration continued from July 10 to July 26, and once registered, hopeful homesteaders could go onto the land to locate the most desirable available quarter sections. Excluded from settlement were Indian allotments and land set apart for townsites and military, school, or other public purposes. The drawings began on July 29 and on August 6. Those whose names had been drawn began to enter, in order of number drawn, to stake their claims. Lots in each county seat Lawton, Anadarko, and Hobart were auctioned to the highest bidder. The event, which heralded the last great land opening in Oklahoma Territory and signaled approaching statehood, had been widely promoted in newspapers and was reported in leading national magazines. The opening of the Wichita-Caddo-Delaware Reservation marked the end of more than a decade of Indian resistance to the allotment in severalty of their reservation, the cession of land in excess of allotment or "surplus" lands, and the opening of the reservation to white settlement. The final agreement, signed by of the total adult male population of , provided for acre allotments eighty acres each of farm and pasture land and the determination by Congress of the amount to be paid to the tribes for surplus lands. A provision was also included that the agreement would not prejudice any pending land claims by the tribes. However, the tribes also claimed land, including some extending west to the th Meridian, which they asserted had been reserved to them when the first Wichita Reservation was established in That reserve had been assigned on lands leased by the federal government from the Choctaw and Chickasaw, who now brought suit for title to surplus lands in the former Leased District. Resistance to allotment and the pending legal suit delayed the ratification of the agreement until and the opening of the reservation until Delegations of chiefs and leading men to Washington, D. Joining the tribes in their resistance to allotment and land cession were cattlemen who leased reservation pasture and intermarried whites, who ran cattle and cultivated reservation land in excess of the proposed acre allotments. On January 12, , a Supreme Court mandate dismissed the claim of the Choctaw and Chickasaw to surplus lands on the reservation and awarded title to the tribes of the Wichita-Caddo-Delaware Reservation. In less than four months the survey and allotment of the reservation were completed. The final allotment schedule was approved on July 2, and on July 4 a presidential proclamation was issued opening the reservation to settlement by lottery rather than by the customary land run. Nine hundred fifty-seven tribal members were allotted a total of , acres and , acres were opened to settlement. Copyright and Terms of Use No part of this site may be construed as in the public domain. Copyright to all articles and other content in the online and print Encyclopedia of Oklahoma History is held by the Oklahoma Historical Society. Copyright to all of these materials is protected under United States and International law. Users agree not to download, copy, modify, sell, lease, rent, reprint, or otherwise distribute these materials, or to link to these materials on another web site, without authorization of the Oklahoma Historical Society. All photographs presented in the published and online versions of The Encyclopedia of Oklahoma History and Culture are the property of the Oklahoma Historical Society unless otherwise stated. Citation The following as per The Chicago Manual of Style, 16th edition is the preferred citation for articles:

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2: TC Electronic Delay | eBay

Holland & Hart: Ute Indian Tribe Asserts Ownership of All Federal Lands in the Uncompahgre Reservation Related This entry was posted in Recent Posts and tagged SITLA, Uncompahgre, Ute Tribe on July 19,

We apologise for any inconvenience this may cause, unfortunately in this timeframe some of our key stakeholders are not operating which impacts our ability to receive animals. It is recommended clients submit their reservations for quarantine as soon as their import permit is granted. Submitted reservations will be assessed by the facility within 7 days. Once a notification has been received advising you of the approved reservation, this is when pre-export treatments and blood tests should be conducted to comply with the import conditions and reservation date. The Mickleham Post Entry Quarantine Facility has now opened and is accepting all cat and dog, bee and horse arrivals into Australia that require post entry quarantine. The Eastern Creek Quarantine Facility is now closed. The Spotswood Quarantine Facility is only open to live bird imports. Post Entry Quarantine facility for cats and dogs Government operated cat and dog post entry quarantine services are provided in Mickleham, in Melbourne, Victoria. If there are no direct flights from your country of export into your required airport, transhipment will be required via an approved overseas transhipment arrangement. Your airline or a pet transport agent can assist you in meeting these flight requirements. Monday â€" Friday 8. They are responsible for: The importer may give permission for someone else to act as their authorised agent. Other persons may include a pet transport agency, family member or a friend. This permission must be given in writing and must include the functions they authorise the agent to undertake on their behalf. This permission can be given at any stage throughout the quarantine process, however it is preferable for these details to be provided prior to arrival of the animal. It is important that your Australian contact details be provided so that contact can be made in the event of an emergency. Fees and payments Fees Fees are subject to change without notice. The airline handling fee is charged by the local airport freight handler and the department pays this fee on your behalf. This invoice must be paid in full before your booking will be confirmed. Additional fees may be charged due to circumstances such as: If the release date falls on a weekend or public holiday all invoices must be paid in full by close of business the last business day prior to the release date. Please note personal cheques cannot be accepted. Being granted an Import Permit does not guarantee your animal a kennel or pen at the post entry quarantine facility. At times, waiting periods may apply. This will include paying for the known quarantine fees and providing the department with further details including flight and air way bill details. If there are no direct flights from your country of export into your required airport, transshipment will be required via an approved overseas transshipment arrangement. The department has determined the following flight arrival windows for animals booked for quarantine at Mickleham. If you require further information about available flights that arrive within these arrival windows, please contact your airline or shipping agent. If flights are delayed and collection is required outside the above hours, additional fees will be applied. In this case, a written request must be sent to PEQ services at least 2 weeks prior to arrival and will be assessed on a case by case basis. Department of Agriculture and Water Resources staff will notify you by e-mail that your animal has arrived safely within 24 hours of arrival. They will contact you immediately if there is an issue with your animal on arrival. Animal accommodation Animals are housed in climate controlled pens. Animals will be allocated an individual pen at the time of booking. If you are importing multiple animals, where possible, we will try to house same species i. Feeding Your animal will be fed a high quality, nutritionally balanced commercial dry food, once daily during their stay unless veterinary advice states multiple feeds are required. This statement must accompany your permit application. If approval is given for a special diet, the items will need to be sourced in Australia and provided to the facility with a copy of the veterinarian statement. Food must not be sent with your animal. Any food sent with animals will be destroyed upon arrival due to the possible biosecurity risks. All bedding, soft toys, comfort items etc that travel with the animal in their transport crate will be destroyed upon arrival as they become soiled during the journey. The department will provide bedding for cats and dogs to suit their breed and age. Visiting and exercise Visiting Under the current import conditions many animals undergo just 10 days in post entry

quarantine. In this period departmental staff are focused on providing the care your animal needs, while managing the administrative and biosecurity requirements that prepare your animal for release. Due to the short quarantine period, visiting of animals in post entry quarantine is not permitted. If your animal remains in quarantine for longer than expected, visitation may be discussed with the manager of the facility. The kennel runs in the facilities are well set up, and provide most animals with adequate room to exercise within their run. Where veterinary advice recommends additional exercise is required, departmental staff will provide this. It is recognised that some animals may require specialist grooming during the quarantine period. This requirement can be discussed with the facility manager and an appointment made. Supervision fees will apply. In the event your animal requires assessment or treatment by a veterinarian, a private nonâ€”departmental veterinarian can be called to the post entry quarantine facility to examine and treat your animal. You will be charged additional costs from the private veterinarian for these services. In the event the Department of Agriculture and Water Resources considers your animal requires veterinary attention, you or your nominated agent will be contacted immediately. If we cannot contact you or your nominated agent, the welfare of your animal will remain the priority and in emergency circumstances veterinary care will be obtained without delay. You will incur the additional costs of treatment. Private veterinary fees are not included in your quarantine fees. You are responsible for the payment of all costs associated with attendances and treatment by a private veterinarian. Animals with medical conditions The Department of Agriculture and Water Resources does not recommend the importation of sick animals. To help us care for your animal, you must inform the Department of Agriculture and Water Resources of any medical conditions your animal may have when completing your application for an import permit. If your animal has any medical requirements, please ensure you notify the Department of Agriculture and Water Resources of this when making your booking. In such circumstances, additional documentation from your treating veterinarian will be required in order to correctly manage the condition. All animals entering Australia must meet the required import conditions. The animals must be certified as fit to travel and meet all the testing requirements and residency period before departing the country of export. Medicating animals in quarantine Department of Agriculture and Water Resources staff will only administer medication under instruction from your treating veterinarian and with supporting documentation. The department will only administer medication that has been clearly labelled with the:

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3: Lands within the Uncompahgre | Utah Attorney General

That was with the Uncompahgre Reservethe portion of the reservation that had been added in The larger opening, occasioning much greater activity, came on the original Uintah Reservation in

Receive free daily summaries of new opinions from the U. Court of Appeals for the Tenth Circuit. Court of Appeals for the Tenth Circuit - F. McElroy and Julian M. Tobin, Tobin Law Offices, P. Draney, Roosevelt City Atty. Klarquist and Martin Green, Dept. The above entitled matter was considered by the court en banc on the motion for rehearing. The result was that the majority of the Judges decided that there should be reconsideration and a different result. It will be recalled that in the dissenting opinion which was written previously, this writer agreed with the position which has been taken by District Judge Jenkins Ute Indian Tribe v. State of Utah, F. Utah , who generally ruled that the Uintah Reservation and its lands remain the property of the tribes that are involved. As to the questions whether the acts dealing with the Uintah Forest and the Uncompahgre Reservation mean that the Indians lost title to these lands, the view of this writer is contrary to the view of the trial court. The district court pointed out in its opinion that the Act of May 5, , 13 Stat. The Uintah Reservation was thus clearly established as a permanent home for the Ute Tribe. Recently the Supreme Court decision in Solem v. The first of these is when Congress uses explicit language of cession in an opening act and also gives indication of an unconditional commitment to compensate Indians for their opened lands. The other situation is " [w]hen events surrounding the passage of a surplus land act-- particularly the manner in which the transaction was negotiated with the tribes involved and the tenor of legislative reports presented to Congress--unequivocally reveal a widely-held, contemporaneous understanding that the affected reservation would shrink as a result of the proposed legislation But neither the intent behind the Indian Appropriations Act of , ch. Indeed the language used in that Act is sufficiently clear to support a finding that the Act did not disestablish or diminish the Uintah Reservation. Neither the language used in that Act nor any other aspect of it gives clear support for a finding that the Act disestablished or diminished the Uintah Reservation. Nor does the legislative history support the allegation approached. The original opinion, F. The object of this was certainly different from the conclusion that was set forth. That consent was never forthcoming. The Tribe refused all requests to give up their lands. As a result of the impasse, Congress passed additional legislation in and extending the time set for the opening of the Reservation. See Indian Appropriations Act of , ch. Finally, Congress passed the Act, opening the Reservation for non-Indian settlement under the homestead and townsite laws. This measure, which actually effected the opening of the Reservation, did not contain the public domain language used in the Act. It is not possible to find that the series of congressional enactments summarized above revealed a "baseline purpose of disestablishment," F. It is impossible to draw disestablishment conclusions or inferences from these congressional statements. An examination of the series of Congressional enactments with the proper "solicitude for the Indian tribes," Solem S. That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves, There is nothing in the Act or in its legislative history which establishes a "total surrender of tribal interests" or a "widely-held contemporaneous understanding that the affected reservation would shrink," as required by Solem, S. The act merely authorized President Theodore Roosevelt to set apart reservation lands as a forest reserve. Proclamation of July 14, , 34 Stat. There is clear evidence that Congress did not intend to extinguish the forest lands of the Uintah Reservation. That evidence is shown when the Act is contrasted with the Act of Apr. The latter clearly extinguished a portion of the reservation lands for reclamation purposes. The reclamation lands were originally set aside under the authority of the Act. This was in the same manner as the forest lands which had been set aside. Yet five years later Congress showed that it could be explicit when it dealt with the reclamation lands. Also, when Congress compensated the Utes for , acres of the forest lands in , it recognized the lands as "belonging to such Indians. Despite the fact that neither the language of the Act nor its legislative history evidences congressional intent to remove the forest lands from the Uintah Reservation, the district court and this court in its original opinion concluded that the reservation had been diminished because

withdrawal of lands for a forest reserve was inconsistent with continued reservation status. In reaching this decision, both courts stressed that the administrative authority over the forest lands was transferred from the Department of the Interior to the Department of Agriculture. Such a change in the administration of the lands, however, does not rise to the level of a subsequent event establishing clear congressional purpose to diminish, as required by Solem, S. This is said to be the least popular of the group. The position which is taken by the district court and by this court in the earlier opinion was that the entire Uncompahgre Reservation had been disestablished. However, there is a lack of evidence of this fact unless there can be disestablishment by failure to develop the area. Under the Solem standards neither the Uncompahgre Reservation nor the Uintah Reservation has been disestablished or diminished by any of the congressional enactments in question. It must be mentioned, however, that this is, for the most part, a very dry area whose highest value, in addition to agriculture, is its mineral deposits, such as gilsonite, etc. On this account, there is some interest on the part of development parties. It is interesting to note that there exists no clear expression of congressional intent to disestablish the affected areas, including this one, as contemplated by the court in Solem v. In Solem it was found that it was difficult to disestablish an Indian reservation. It went on to say Congress must "clearly evince" an intent to change boundaries before diminishment will be found. The Solem test for determining whether tracts remain a reservation emphasizes this factor. The Solem court also stated that subsequent events such as demographic transformations of the area should be examined and regarded. However, subsequent events should be assessed to a "lesser extent" than the statutory language and surrounding circumstances. We now turn to apply these principles to the and Acts. In , bills were introduced providing "for opening the Uncompahgre and Uintah Reservations. It is to be noted that these bills were never enacted. However, the Indian Appropriations Act for included H. The Secretary of the Interior is hereby directed to allot agricultural lands in severalty to the Uncompahgre Ute Indians now located upon or belonging to the Uncompahgre Indian Reservation in the State of Utah, said allotments to be upon the Uncomgahgre and Uintah reservations or elsewhere in said State. And all the lands of said Uncompahgre Reservation not theretofore allotted in severalty to said Uncompahgre Utes shall, on and after the first day of April, eighteen hundred and ninety-eight, be open for location and entry under all the land laws of the United States; excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances. We mentioned above that there is some interest due to the presence of minerals and it should be mentioned here that the land contains gilsonite and other minerals and unquestionably there is more interest in these features than in limited agricultural activites that have operated in the area. The question as to whether the statutory language of the and Acts disestablished the Uncompahgre Reservation calls for an interpretation based on historical research. The opinion read the term "restore to public domain" in the Act as an indication of a clear congressional intent to remove the Uncompahgre land from the Indians. Our conclusion is that the phrase "restore to the public domain" is not the same as a congressional state of mind to disestablish. There are several competing meanings that could be implied from the phrase "restore to the public domain. It is said that it is equally plausible that the phrase means that Indian lands would be available for settlement, but that the boundaries remain unchanged. Our reading of the statutory language of the and Acts indicates that there is no explicit language of cession, termination, or any other reference to "the present and total surrender of all tribal interests. The provisions of these acts are in sharp contrast to the statutory language in Rosebud Sioux Tribe v. See also Mattz v. Secondly, we have not found any language which promises the Indians any certain sum for their lands as in Rosebud Sioux Tribe v. As in Solem, S. We fully agree with this viewpoint. The circumstances surrounding the passage of the Acts also fail to establish a clear congressional purpose to disestablish the Reservation. Our conclusions are first, that the opening of the Uncompahgre Reservation was never formally or informally negotiated between the federal government and the Tribe of Indians. There was never an understanding on the part of the Tribe that they would lose their reservation as a result of the Act. The Uncompahgres never bargained for the termination of the exterior boundary of their reservation. For example, in Rosebud Sioux Tribe v. District County Court, U. Unlike these earlier cases, the Uncompahgre Indians had no understanding that they were losing their reservation in exchange for a specific benefit. It is true that other evidence as to "surrounding events" is ambiguous. The Cities and Counties cite newspaper

articles from the period which refer to the Uncompahgre Reservation as the old or former Reservation. But these statements do not enjoy any official significance. We agree with the Tribe that the restoration of vacant and undisposed lands in is suggestive of continued reservation status. The conclusion to be drawn is that the surrounding events concerning the and Acts are ambiguous. They provide no substantial and compelling evidence of a congressional intention to diminish Indian lands. The inconclusive nature of this evidence leads us to the conclusion of Solem: Therefore, we hold that the Uncompahgre Reservation has not been disestablished or diminished. In summary, we conclude that there are no explicit references to boundary changes and disestablishment in the language of the or Acts. We also conclude that there is no evidence of a widely-held understanding on the part of the affected Tribe that the Uncompahgre Reservation would be disestablished. We reverse the district court holding insofar as it found the Uncompahgre Reservation disestablished and the Uintah Reservation diminished by the withdrawal of the forest lands. Utah , amply support this conclusion with respect to the Uintah Reservation as a whole. However, the district court held that Congress had extinguished that portion of the Uintah Reservation designated as a forest reserve, and all of the Uncompahgre Reservation. I write separately from Judge Doyle to amplify those points I find critical to his conclusion that the district court erred in this respect. Although both the district court and the panel decided that the reservation had been disestablished, neither court had the advantage of evaluating the issue in light of Solem v.

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4: Australian Post Entry Quarantine Facilities

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Rawlins, made an unannounced trip back to Salt Lake City on February 27, Newspaper reporters, hearing he was in town, tracked him down the next day and, note pads in hand, queried him on the status of statehood. Saying he did not know exactly why the process seemed to be delayed, Rawlins asserted his confidence that the enabling bill would nevertheless be passed during the present session. Events would prove Delegate Rawlins correct. It did not grant statehood, of course; that was still a year and a half away. Rather, it authorized the calling of a convention to draft a state constitution and in several other ways put the statehood procedure into high gear. Known for good reason as the father of Utah statehood, Joseph Rawlins nevertheless seemed much less interested in discussing statehood that early spring day than in sharing details of another measure he was sponsoring in Congress: Under provisions of his bill, certain land within the reservation would be given in severalty individual ownership to the resident Utes, and the rest of the land would then be sold in lots not exceeding acres to whoever submitted the highest sealed bid. In his proposal for severalty of Ute lands, Rawlins was marching in cadence with the reform movement of the times. Feeling that the reservation policy had been a failure, certain social thinkers, particularly in the East, began working for an Indian policy that de-emphasized tribal life-styles in favor of individualism, education, vocational training, and property ownership. Congress, responding to the call for reform, passed a series of laws in the s and 80s. Key among them was the Dawes Severalty Act of which provided for the allotment of tribal lands directly to the Indians as individuals. Lots of up to acres were to be given but only after being held in trust by the government for twenty-five years. In the meantime, the remainder of the native lands could be sold to the public, with proceeds going into an Indian education fund. The Utes were understandably nervous about severalty. Beginning with permanent white settlement of the Great Basin in , the central Utah band had seen their traditional lifeways destroyed over the next twenty years and had been forced to accept removal to the Uinta Basin reservation in the s. Then in the early s Congress enlarged the reservation by some 2 million acres and forced the relocation of two other Ute bands, the White River and Uncompahgre from western Colorado, to take up residence there. While Joseph Rawlins may have been in step with the reformers of the East, he was in bed with miners, farmers, and other capitalists in Utah. An important hydrocarbon known as gilsonite, useful for a variety of industrial purposes, and other asphalt materials had been discovered on the reservation a decade earlier, and they had immediately sparked the interest of mining companies. Utah agriculture had reached its commercial phase by the s, and speculators had noticed for some time the enclaves of promising farmland that dotted the reservation. It was a classic push-pull situation. If the concept of reform provided the framework for allotment, economic motives provided the impetus. Under these circumstances it is probably surprising that opening the reservation took as long as it did. Not until two years after statehood, when Joseph Rawlins was a U. That was with the Uncompahgre Reservethe portion of the reservation that had been added in The larger opening, occasioning much greater activity, came on the original Uintah Reservation in In the latter action alone, some 1, Indian allotments were made, and 5, homesteading permits were issued in the lottery that followed. In Congress recognized the failure of severalty and repealed the Dawes Act. Such was certainly the case in Utah. When the Indianapolis Sentinel editorialized on January 5, , that "Miss Utah comes into the family bright and smiling," it caught the spirit of euphoria that most Utahns felt upon achieving statehood. For the Utes, however, it was a time of worry over a threatening and uncertain future.

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5: The Tulalip Resort Casino opens on July 20, - www.enganchecubano.com

The allotment process, however, was delayed, and in , Congress passed legislation mandating the allotment of the Uncompahgre Reservation and opening the unallotted lands to entry. Act of June 7, , ch. 3, 30 Stat. 62,

Attorney, and Curtis G. In the district court, the Ute Indian Tribe "Tribe" sought to obtain a permanent injunction preventing the State of Utah, the counties of Duchesne and Uintah, and the cities of Roosevelt and Duchesne "state and local defendants" from exercising civil and criminal jurisdiction on certain lands within the original exterior boundary of the Uintah Valley Reservation in a manner inconsistent with our en banc opinion in Ute Indian Tribe v. In opposing the injunction, the state and local defendants rely on Hagen v. Notwithstanding Hagen, the district court held that it was bound under the "law of the case" doctrine to follow our mandate in Ute Indian Tribe and thus, that it was without authority to alter the existing jurisdictional boundaries as set forth in Ute Indian Tribe. In light of the inconsistency between Ute Indian Tribe and Hagen, however, the district court requested that we issue instructions on how to proceed and suggested that we construe the request as an invitation to recall our mandate in Ute Indian Tribe. Along with their appeal, the state and local defendants have filed a motion to recall, in its entirety, our mandate issued pursuant to Ute Indian Tribe. The United States as amicus curiae urges us to recall and modify the mandate in Ute Indian Tribe only to the extent that it directly conflicts with Hagen. We exercise jurisdiction pursuant to 28 U. Because we conclude that the boundaries of the Uintah Valley Reservation must be redetermined in light of Hagen, we modify our holding in Ute Indian Tribe to the extent that it directly conflicts with the holding in Hagen. INTRODUCTIONThis case is unlike other reservation diminishment cases in which courts must decide whether congressional enactments opening reservation lands to non-Indian settlement have diminished or disestablished reservation boundaries. District County Court, U. State Penitentiary, U. Over a decade ago, we answered that question when we addressed whether congressional enactments from through had the effect of diminishing the Uintah Valley Reservation. Ute Indian Tribe, F. Sitting en banc in , we held that the Reservation had not been diminished. The Supreme Court denied certiorari on December 1, Ute Indian Tribe, U. In these cases, the Utah Supreme Court concluded that the allotment legislation had diminished the Uintah Valley Reservation. In this appeal, we decide whether to modify our judgment in Ute Indian Tribe, after the time for rehearing has passed, in light of its conflict with a later, contrary decision of the Supreme Court. When non-Indians living in and around several towns within the original boundaries protested the action, the Tribe sought declaratory and injunctive relief in federal court to establish the exterior boundaries of the Uintah Valley Reservation and to restrain the state and local defendants from interfering with enforcement of the Law and Order Code within those boundaries. The Tribe argued that the original boundaries of the Uintah Valley Reservation, established by executive order in and confirmed by Congress in , continued to exist undiminished. The Tribe thus argued that it had jurisdiction over all of the lands encompassed within the original boundaries of the Reservation because such lands were "Indian country" as defined by 18 U. We therefore only briefly summarize the legislative treatment of the lands below. Legislative Treatment of Reservation Lands 1. The Uintah Valley Reservation 11 In , Congress passed legislation directing the Secretary of the Interior to make individual allotments out of the Uintah Valley Reservation by October 1, , provided that a majority of the adult male members of the Ute Indians consented. Act of May 27, , ch. The Act stated that after October 1, , "all the unallotted lands within said reservation shall be restored to the public domain " and subject to entry by non-Indians under the homestead laws. Congress delayed the allotment process, however, and extended the opening date in and again in The Act did not contain the same language restoring the unallotted and unreserved lands to the "public domain," but provided that such lands "shall be disposed of under the general provisions of the homestead and townsite laws of the United States. The National Forest Lands 12 In addition to extending the time of entry under the Act and describing the entry process, the Act authorized the President to "set apart and reserve" lands in the Reservation as a forest reserve prior to opening. Pursuant to this power, on July 14, , President Theodore Roosevelt issued a proclamation designating some 1,, acres within the Uintah Valley Reservation as an addition to the Uintah National Forest

Reserve. Proclamation of July 14, , 34 Stat. The proclamation also declared that the unallotted lands in the Uintah Valley Reservation, which were not otherwise reserved, would "be opened to entry, settlement and disposition under the general provisions of the homestead and townsite laws. The Uncompahgre Reservation 13 In , Congress passed legislation providing for the allotment of the Uncompahgre Reservation to individual members of the Tribe. The legislation stated that all unallotted lands "shall The allotment process, however, was delayed, and in , Congress passed legislation mandating the allotment of the Uncompahgre Reservation and opening the unallotted lands to entry. Act of June 7, , ch. Ute Indian Tribe I: Utah hereinafter "Ute Indian Tribe I ". The court recognized that the language of the Act directing that all unallotted lands "be restored to the public domain" would have diminished the Reservation had the unallotted lands then been opened for settlement. The court concluded, however, that the Act superseded the Act. Unlike the Act, the Act provided only that the unallotted lands were to "be disposed of under" the homestead and township laws. The district court reasoned that the new language indicated that Congress did not intend to diminish the Reservation. The district court therefore concluded that the unallotted lands remained part of the Uintah Valley Reservation. Likewise, the district court concluded that the language in the Act restoring unallotted reservation lands "to the public domain" showed a clear congressional intent to disestablish the Uncompahgre Reservation. Ute Indian Tribe II: The Court of Appeals Panel Decision 18 In a two-judge majority opinion, a panel of this court affirmed the district court opinion in part and reversed in part. Ute Indian Tribe v. The panel held that none of the lands in question remained within the original reservation boundaries. Thus, the panel held that the allotment legislation had diminished the Uintah Valley Reservation. The panel concluded that Congress intended to withdraw the National Forest Lands, id. The Court of Appeals En Banc Decision 22 On rehearing en banc, a majority of the court held that all of the lands at issue retained their reservation status. The en banc court concluded that the allotment legislation did not have the effect of diminishing or disestablishing the Uintah Valley Reservation. Similarly, the court held that the withdrawal of the National Forest Lands did not diminish the Uintah Valley Reservation, id. Further, the court found no legislative history or other contemporary historical evidence sufficient to support a finding of diminishment or disestablishment as to any of the lands in question. Thus, the court held that all the lands retained their reservation status and remained Indian country, subject to the jurisdiction of the Tribe and the federal government. Thereafter, the Supreme Court denied certiorari. The cases arose as a result of state felony prosecutions against three Indians for crimes committed in Myton and Roosevelt, Utah, two towns within the original boundaries of the Uintah Valley Reservation. The defendants challenged the prosecutions on the basis that the state trial court lacked jurisdiction over their crimes because the defendants committed their crimes in "Indian country" as defined by 18 U. The defendants argued that under our en banc decision in Ute Indian Tribe III, the towns remained within the Reservation and thus within Indian country. The State of Utah, on the other hand, argued that our holding in Ute Indian Tribe III was wrong, that the Reservation had been diminished, and that the towns were outside the Reservation and thus outside Indian country. The Utah Supreme Court agreed with the State, and held that because the Reservation had been diminished, the state trial court properly exercised criminal jurisdiction over the defendants. The Court did not address the National Forest Lands or the Uncompahgre Reservation, neither of which was before the Court for consideration. Ute Indian Tribe IV: The District Court Decision 29 Immediately after the Utah Supreme Court issued its slip opinions in the state criminal cases, the Tribe filed a motion in federal district court seeking a permanent injunction preventing the state and local defendants from enforcing or relying upon Perank, Coando, and Hagen in any way. On August 31, , the state and local defendants and the Tribe entered into a stipulation, under which the state and local defendants agreed to refrain from enforcing the Utah Supreme Court decision in Perank or exercising jurisdiction in any manner inconsistent with the en banc decision in Ute Indian Tribe III, pending a decision on the merits in the district court. The district court incorporated the stipulation into an order dated September 2, "Injunction Order". On February 23, , the Supreme Court issued its decision in Hagen. In a comprehensive and detailed opinion, the district court fully addressed the binding effect, as between the parties, of our earlier en banc decision in Ute Indian Tribe III, as well as the extent of direct conflict between Ute Indian Tribe III and Hagen. Rather than finally deciding these issues, however, the district court held that it was bound under "law of the case" rules to

enforce the mandate in Ute Indian Tribe III. In lieu of a final resolution of the dispute, the district court requested that we issue instructions on how to proceed and suggested that we construe the request as an invitation to recall our mandate in Ute Indian Tribe III. The court also concluded that the Injunction Order, as modified, should remain in effect to allow the state and local defendants to prosecute criminal felonies occurring on former Uintah Valley Reservation lands. On the other hand, the state and local defendants argue that we should give effect to the contrary boundary determination in Hagen by recalling the mandate in Ute Indian Tribe III in its entirety and reinstating the original Tenth Circuit panel opinion. After concluding that the district court properly followed our mandate, we nevertheless decide whether to modify Ute Indian Tribe III in light of the inconsistent boundary determination in Hagen. Finally, after concluding that Ute Indian Tribe III should be modified, we decide whether to recall our mandate in its entirety or modify our en banc opinion only to the extent that it directly conflicts with Hagen. Because of the importance of finality, we conclude that Ute Indian Tribe III should be modified only to the extent that it conflicts with Hagen. Whether the district court was bound by the mandate in Ute Indian Tribe III to continue the Injunction Order, and whether this court is bound by principles of finality to enforce our prior boundary determination, are separate inquiries. We address each question in turn. We review questions of law decided by the district court de novo. Under that doctrine, once a court decides an issue, the same issue may not be relitigated in subsequent proceedings in the same case. An important corollary of the doctrine, known as the "mandate rule," provides that a district court "must comply strictly with the mandate rendered by the reviewing court. Natural Gas Pipeline Co. The defendants maintain that because Hagen was "intervening" i. The defendants contend that the district court, by failing to do so, wrongfully continued to enjoin their exercise of jurisdiction pursuant to Hagen. In short, the intervening-change-in-law exception does not apply where, as here, the case in which the erroneous ruling occurred is no longer sub judice--that is, where the case has become final. See Colorado Interstate Gas, F. City of Wichita, F. Our ruling left nothing for the district court to address beyond the "ministerial dictates of the mandate. In other words, the case was no longer sub judice after December 9, As of that date, the district court was without authority to depart from an appellate mandate based on a later change in law. Because Ute Indian Tribe III proceeded to a final decision, a later change in law could not "reopen the door already closed. Accordingly, we hold that the district court properly followed our mandate in Ute Indian Tribe III by continuing to enjoin the state and local defendants from exercising jurisdiction pursuant to Hagen. In deciding this question, we first discuss whether an appellate court has the power to modify a mandate and the circumstances in which exercise of that power is appropriate. With these circumstances in mind, we next determine whether we are precluded by the principles of collateral estoppel or res judicata from departing from the boundary determination of Ute Indian Tribe III. Finally, after concluding that we are not bound by the traditional principles of finality, we directly confront the relative importance of finality and uniformity in the context of this case. In this circuit, as in all circuits that have addressed the issue, "an appellate court has power to set aside at any time a mandate that was procured by fraud or act to prevent an injustice, or to preserve the integrity of the judicial process. Although the rule is stated in broad terms, the appellate courts have emphasized that the power to recall or modify a mandate is limited and should be exercised only in extraordinary circumstances. As the Third Circuit explained, "[P]arties should be afforded ample opportunity to litigate their claims, but once a final disposition is reached they should not expect that the good offices of the court will be available for a chance to press their claims anew. Collateral Estoppel and Res Judicata 45 In seeking permanent injunctive relief against the state and local defendants, the Tribe contends that collateral estoppel and res judicata preclude the state and local defendants from relying on Hagen.

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6: delay | Definition of delay in English by Oxford Dictionaries

Besides extending the time of entry under the Act and describing the entry thereunder, the Act also provided that before the opening the President was authorized to set apart and reserve lands in the reservation as an addition to the Uintah Forest Reserve. 33 Stat.

State of Utah F. Martin Seneca, Washington, D. Jensen and Michael M. Tobin of Tobin Law Offices, P. Draney, Roosevelt City Atty. Klarquist and Martin Green, Attys. Advertisement 1 These appeals concern the continued existence of the Uncompahgre and Uintah Indian reservations. The Ute Tribe in Utah fashioned a Law and Order Code which purported to exercise jurisdiction over all the lands within the original Uintah reservation created by executive order in as well as the Uncompahgre Indian reservation created in , both in Utah. The State of Utah and several Utah counties and cities questioned tribal jurisdiction over much of this land arguing that a great deal of the Uintah reservation and the whole of the Uncompahgre reservation had been disestablished and was no longer "Indian Country. The trial court heard extensive testimony and performed an exhaustive study of legislative and administrative materials relating to the history of both the Uintah and Uncompahgre reservations. The transcript and the record comprise several thousand pages. Thus Congress had removed a 7,acre tract known as the Gilsonite Strip in , had removed 1,, acres of land for National Forest purposes in , and had also withdrawn 56, acres of land for a reclamation project in In the Uintah reservation was increased by , acres by the addition of the Hill Creek Extension. Except for these specific Acts of Congress, the trial court held that all lands within the original boundaries of the Uintah reservation remained "Indian Country. These were, however, within the exterior boundaries of the reservation. Rosebud Sioux Tribe v. The conclusions of the trial court on this point are persuasive, but are not considered to be findings of fact. Four such cases are especially significant to our problem. The Court held that the North half of the reservation had been disestablished, but the South half remained in reservation status. The Act of Congress said to have disestablished the North half declared that it should be "vacated and restored to the public domain. The relevant acts with regard to the South half of the reservation allotted the land pursuant to the Congressional policy expressed in the General Allotment Act of , 24 Stat. The Court also mentioned subsequent legislative and administrative history of the South half of the reservation to support its conclusion that it was still a reservation. On these grounds the Court held that the South half of the reservation retained its status as Indian Country. The Court made it clear that the allotment of lands within the reservation to resident Indians was consistent with reservation status and an opening for settlement in addition did not disestablish. Thus a more explicit indication of Congressional intent was necessary to disestablish. However, the Court did not rest its decision on the fact that the unequivocal language of vacation and restoration to the public domain that had been present in Seymour was absent in Mattz. Clearly the Court was unwilling to suggest that there were any special recitations the absence of which would mean that a reservation continued. In addition to considering the historical background of the reservation and the legislative history, the Court observed that several bills which contained clear language of disestablishment passed the House of Representatives but did not pass in the Senate. The Court interpreted the repeated failure of those bills as a sign of Congressional intent that the reservation continue. Thus the crucial point was not simply that the final Allotment Act for the Klamath River reservation lacked language of disestablishment, but that Congress had never at any stage permitted such language to be passed into law. It is important that in Mattz the Court stated that an opening of a reservation for settlement did not necessarily disestablish the reservation. This was referred to in the Rosebud opinion hereinafter considered. The settlement by Indians and non-Indians was considered to be of benefit to the Indians. Advertisement 8 The Court in Mattz discussed the subsequent jurisdictional history of the reservation as an illustration for its holding of continued reservation status rather than as a foundation for that holding. No detailed analysis of legislative intent was undertaken at the time of the Acts said to constitute disestablishment for any of these cases. District County Court, U. The Court held that it did not, based also on the express Indian cession of the land. This feature of the DeCoteau case has no application to the case at bar but DeCoteau is important as to the significance of the phrase "public domain. The position of the two phrases

suggests that "returned to the public domain" is synonymous with "stripped of reservation status. The facts of Rosebud are similar to those of other disestablishment cases. The language on which the Court relies in finding disestablishment of the reservation in Rosebud does not contain a phrase analogous or similar to "vacated and restored to the public domain" of Seymour. Rosebud involved unilateral action by Congress rather than cession by the Indians. Rosebud lays out what the Court terms some "well-established legal principles. This eliminated the notion that Congressional action with regard to an Indian reservation involved some sort of implied contract. After Lone Wolf in established that Congress could act unilaterally toward Indian lands and reservations, the only relevant inquiry became Congressional intent. This prevailed in Rosebud where the Congressional action under discussion was the ratification of an agreement with the Indians. It is significant to our problem that the Court in Rosebud held that a beneficial interest retained in the lands opened does not preserve to the reservation its original size and shape. The Court said of this in Rosebud: Arnett, as discussed above, the Court rejected the contention that bills passed in one House of Congress but not the other, could be an indicator of Congressional intent. Rosebud gives a contrary signal as Congress had failed to ratify a agreement which would have disestablished the reservation but ratified a similar agreement in The Court observed that the agreement would unquestionably have changed the reservation boundaries had it been ratified. The ratification the Court stated evinced a continuity of purpose and language with the attempt. Therefore, the agreement even though not ratified demonstrated "an unmistakable baseline purpose of disestablishment. This line of reasoning modifies Mattz in explaining techniques of determining Congressional intent. Under Rosebud, if the language of an earlier bill is sufficiently unequivocal, and a later Act can be shown to have accomplished the intended purpose of the first, then the first gains validity as an indicator of Congressional intent even though it did not pass both Houses. This analysis has important application in the case at bar. All the same, the Court does not rely heavily on that history, but mentions it only after having arrived at a conclusion of disestablishment on the basis of legislative history and statutory construction. However, a phrase such as "vacated and restored to the public domain" seems to be a sufficient though not a necessary factor in disestablishment. DeCoteau implies that language restoring the reservation to the "public domain" may be enough to constitute disestablishment. The subsequent legislative and administrative history is sometimes used to support an interpretation of an Act. Finally, considerations of jurisdictional history and contemporary opinion on reservation status seem to be relied upon only where they are unequivocal. More often, they are discussed to demonstrate that they are not necessarily contrary to the conclusion already reached on the basis of statutory language and history. Suquamish Indian Tribe, U. Mattz refers to the "surrounding circumstances. It is apparent that such policy does not follow an unwavering line, and may not appear in a very obvious way. However, in the case before us there was a very clear and drastic policy change which was put into operation throughout the West in all the larger Indian reservations. This was the General Allotment Act of , 24 Stat. This expressed the policy of replacing the reservations with allotments of a tract of land to each Indian to be owned individually. He had been active in groups seeking to improve the life of the Indians. It will thus put the relations between the Indians and their white neighbors in the Western country upon a new basis, by gradually doing away with the system of large reservations, which has so frequently provoked those encroachments which in the past have led to so much cruel injustice and so many disastrous collisions. Their occupation is gone; they have all vanished, the work for which they have been created You are not mending this fabric; you are taking it down stone by stone Concurrently with Senator Dawes but separately there were present in a myriad of forms the forces of expansion always seeking the development of the West and especially seeking more land in the West. These forces were likewise effective in Congress at the time here concerned. We must instead decide what Congress in fact did. The two reservations when created contained some 4,, acres. In , when Congress was considering legislation concerning the reservations, there were about 1, Utes in the three bands. There are now about 1, enrolled members of the tribe. Nearly all of these live on the trust lands that is on allotments and tracts reserved for tribal use. Federal programs and services appear to be available to all regardless of the outcome of this case. About 90 percent of the population of a reservation so constituted would live in these towns. Most of the lands opened for settlement are in Duchesne County. About Indians live there, but all are not members of

the tribe. The basic dispute is to the non-Indian owned portions of the original reservations, and the National Forest portion. Most of them by had moved to the Uintah reservation, and they had taken allotments on that reservation rather than on the Uncompahgre. The first is part of the Indian Appropriations Act of , which contains this language: That the President of the United States is hereby authorized and directed to appoint a commission of three persons to allot in severalty to the Uncompahgre Indians within their reservation, in the territory of Utah, agricultural and grazing lands That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah Indian Reservation, in the territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and if possible, procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by Act of Congress. The land reported as unsuitable shall "thereupon" be restored to public domain by proclamation. The use of the then universally recognized term "public domain" in designating the eventual status of the land is of critical importance. The status of "public domain" there demonstrates an intent to disestablish. Land to be in the "public domain" is inconsistent with reservation status or any particular use status. When public land is designated to be used for a particular purpose the land no longer remains in the "public domain. Thus the creation of an Indian reservation or a forest or other particular use from public land removes it from the public domain. Missouri, Kansas and Texas Ry. United States, 92 U. The "public domain" is a well-recognized description of the status of the land. It was probably more generally recognized at the time the acts in issue were passed than it is now. It is clear that the creation of an Indian reservation from "public lands" removes the subject lands from the public domain.

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7: Ute Severalty: Reform vs. Reality - Utah Department of Heritage and Arts

OLE DB provider "SQLNCLI11" for linked server "SQL" returned message "Unable to complete login process due to delay in opening server connection". Msg , Level 16, State 1, Line 1 Cannot initialize the data source object of OLE DB provider "SQLNCLI11" for linked server "SQL".

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8: Changing Entry Time Delay on ADT Safewatch Pro | Electronics Forums

The price includes: skip the line early entry on pre-opening time, audio guide, buffet breakfast with reserved table. Reservation is mandatory. Reservation is mandatory. In case of bad weather, breakfast will be served in one of the dining areas located inside the Museums.

9: F2d Ute Indian Tribe v. State of Utah | OpenJurist

That's where the Delayed Enlistment Program (sometimes called the Delayed Entry Program) comes in. It is also called the Future Soldiers Program in the Army.

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