

Prepared Statement

Hon. Melvin J. Baker, Chairman

Southern Ute Indian Tribe

U.S. House of Representatives

Committee on Natural Resources Hearing

“Examining the History of Federal Lands and the
Development of Tribal Co-Management”

March 8, 2022

Chairman Grijalva, Ranking Member Westerman and members of the Committee.

My name is Melvin J. Baker. I am the elected Chairman of the Southern Ute Indian Tribal Council, the governing body of the Southern Ute Indian Tribe.

Thank you for the invitation to speak to you today regarding Tribal participation in the management of areas of cultural significance and the opportunity to acquire public lands that may benefit Tribes. The Southern Ute Indian Tribe has extensive experience working with our federal and state partners in the maintenance and management of lands in which we have a mutual interest. We believe that experience will benefit the Committee.

By way of background, the Southern Ute Indian Reservation consists of approximately 700,000 acres of land located in southwestern Colorado. Approximately 311,000 surface acres of that land is held in trust by the federal government for the benefit of the Tribe. The Reservation is checkerboarded with federal and state governments, as well as private landowners, holding interests in Reservation land. The Tribe, with just under 1,500 members, is a leader in Indian Country with a demonstrated and sterling record of foresight and business acumen. The Tribe is the only Indian Tribe in the nation with a AAA+ credit rating, which was earned through years of steady governance and successful and prudent business transactions.

However, like many Reservations today, the Southern Ute Indian Reservation was once much larger. The Utes were forced off their original Treaty protected lands to their present Reservation.

In 1874, Congress approved an agreement between the United States and the Ute Indians in Colorado, known as the Brunot Agreement of September 13, 1873.¹ Pursuant to the Brunot Agreement, the Utes were forced to cede certain lands to the United States but reserved a right to hunt, fish and gather on that land. This land, which consists of 3.7 million acres on which the present day Southern Ute and the Ute Mountain Ute Tribes reserved their rights, has come to be known as the Brunot Area.

While these off-Reservation rights were protected by federal Treaty, history shows that the federal government often did not honor those rights. Today, over 27% of the lands over which the Tribes could exercise their reserved rights have, in effect, been lost. Many of those lands currently are under the control of federal and state agencies, municipalities, and private landowners.

Yet even today, almost 150 years after the Brunot Agreement and despite the Supreme Court's continuing recognition of the enforceability of Tribal Treaties, the Southern Ute Indian Tribe faces a constant battle to protect its Treaty protected lands. We frequently encounter proposed land swaps, where the federal government considers exchanging federally-owned land for land held by private landowners or state or municipal governments. At times, the land the federal government wants to transfer is within the Brunot Area and the Tribe must intervene to protect its Treaty rights, an expensive and time-consuming endeavor..

The Southern Ute Indian Tribe is well known and respected for its expertise in exercising its self-determination in managing its natural resources, including its energy interests. However, it also has a long history of coordinating with federal, state and local governments in the management of land and cultural resources in which governmental interests may overlap. This is particularly essential in a checkerboarded Reservation like Southern Ute where such governmental interests must co-exist.

A prime example is that in September 2008, the Southern Ute Indian Tribe executed a memorandum of understanding with the State of Colorado so that

¹ Act of April 29, 1874, ch. 136, 18 Stat. 36 (1874).

they could cooperatively manage the wildlife resources in the Brunot Area. Under that Memorandum, the Tribe and the State agreed to develop, adopt, and enforce basic regulations including opening and closure dates by species, designated hunting units, bag and possession limits, firearms requirements, and other general requirements deemed necessary for the management and harvest of game species. Moreover, it identified how civil and criminal jurisdiction over violations is allocated. This Memorandum ensures, on a cooperative basis, how wildlife resources are preserved and protected for both tribal and non-tribal purposes.

Similarly, the Southern Ute Tribe has been designated for Treatment as a State status by the EPA with respect to regulation of air quality on the Reservation. In order to receive that designation, an intergovernmental agreement was entered into by the Tribe and the State for the cooperative development of air quality standards, rules and regulations on the Reservation, once again with an allocation for civil and criminal jurisdiction based on that government-to-government relationship.

The key with respect to the effectiveness of these Agreements is placing Tribes on an equal footing with other governmental interests in the ownership and management of these lands and cultural resources. The Department of Interior has emphasized that Tribes must be participants in the management of their resources. We agree with this position. It is essential that Tribes have not only a voice in the management of their cultural resources on federal lands but actually have an opportunity to administer them. On the Southern Ute Indian Reservation is the Chimney Rock National Monument, currently managed by the U.S. Forest Service. This is a site of cultural importance to the Tribe and there is no reason why it should not be under Tribal administration. Likewise, when federal lands are sold, Tribal interests should be considered. This is particularly important to a Tribe like Southern Ute where the acquisition of land adjacent to the Reservation may be important to the maintenance of the Reservation's wildlife and the protection of its cultural resources.

Once again, we appreciate the opportunity to comment on the importance of Tribal participation in these land management decisions and look forward to any questions from the Committee.

Melvin J. Baker, Chairman

Southern Ute Indian Tribe