Tara Jeanne Amboh
Post Office Box 155
Neola, Utah 84053
Tephone: (385) 282-3534

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

TARA JEAN AMBOH, Plaintiff, v. DUCHESNE COUNTY, a political subdivision of State of Utah, and DUCHESNE COUNTY ATTORNEY STEPHEN FOOTE, Defendant,	Case No. 2:21-CV-00564 PLAINTIFF'S OBJECTION MEMORANDUM TO DEFENDANT DUCHESNE COUNTY ATTORNEY MOTION TO DISMISS and/or MOTION FOR JUDGMENT ON THE PLEADING, attached herein (Declaration Of Tara Amboh) Magistrate Judge Cecilia Romero

ORAL ARGUMENT NOT REQUIRED

Plaintiff Tara J. Amboh Uinta Band Utah Indian, Member of the Uinta Valley Treaty Reserve of 1861-1864, respectfully submits Plaintiff's Opposition Memorandum, to Defendant Duchesne County Attorney's Motion To Dismiss and/or Motion For Judgment On The Pleadings, as follows;

INTRODUCTION

Duchesne County Attorney Stephen Foote as the Defendant for State of Utah prosecution, and ordered Minute Sentence, Judgment, Commitment: Interference With

Arresting Officer, dated 08/12/21, Operating Vehicle Without Insurance, dated 08/12/21, before Hon. Samuel P. Chiara, for Eighth District Court Duchesne County, State of Utah, and the Minute Scheduling Conferences/Denial of Pro Se Motion: Fail To Stop At Command Of Law Enforcement, and the Interference With Arresting Officer, and the Operating Vehicle Without Insurance, dated January 29, 2021 Hon. Samuel P. Chiara, Eighth District Court with State of Utah laws in Duchesne County. Plaintiff Tara J. Amboh, a Uinta Band Utah Indian Member assured the jurisdictional boundaries on the facts of Indian Country, 18 U.S.C. 1151 defines Indian Country to include right-of-way running through the Uinta Indian Reservation. The Plaintiffs evidentiary objections and the Plaintiffs evidence to rebut State of Utah laws in Duchesne County's claimed State traffic offenses that certain ostensibly material facts are in dispute on jurisdiction and violation of Plaintiff's Indian Civil Rights based upon tribal and federal jurisdiction.

Defendant Stephen Foote Duchesne County Attorney decided to prosecute these State charges and now must face the consequences, that Plaintiff's right to Appeal

any wrongfully applied State laws in Indian Country, declared by the Order of 10th Cir. Court of Appeals in Ute Indian Tribe v. State of Utah cases on jurisdiction.

The Ninth Circuit has explained, the federalism-based injunction enforcing treaty rights should not be viewed in the same light as an objection to the more conventional structural injunction. United States v. Washington, 853 F. 3d 946, 978 (9th Cir. 2017), aff'd by an equally divided court, 138 S. Ct. 1832 (2018). In that case, thats directly on point, Washington v. Washington State Commercial Passenger Fishing Vessal Ass'n, 443 U.S. 658 (1979), in which the Court affirmed detailed injunction requiring Washington to comply with the very Treaties at issue in this case. Citing Minnesota v. Mille Lacs Band, 526 U.S. 172 (1999), in which the Court upheld the detailed injunction enforcing the treaty rights.

I. ROOSEVELT CITY CONGRESS HAS CREATED UINTA RESERVATION HAS NOT BEEN DISESTABLISHED, DEFENDANT STATE OF UTAH IN DUCHESNE COUNTY MAKE NUMEROUS MINOR ARGUMENTS THAT ARE WITHOUT THE SLIGHTEST MERIT.

The State of Utah in Duchesne County's motion to dismiss are full of red herring arguments, most of which can be disposed of with only Objection analysis.

Plaintiff Amboh Uinta Band Utah Indian Member was

cited by the Duchesne County Officer for alleged traffic offenses that occurred on U.S. 40, inside the boundary of the Uinta Valley Treaty Reserve 1861-1864, on citation issued to Plaintiff Amboh, by the State of Utah, which was recognized in 1896 as a State with Congressional Enabling Act, before becoming a State.

Whether Roosevelt City can continue to unlawful exercise Utah State Laws, jurisdictional matters are lacking within the Indian Country Crimes Act, 18 U.S.C. 1151, over Plaintiff Amboh Uinta Band Utah Indian is not being accused of enumerated Indian Major Crimes Act, 18 U.S.C. 1153, which are under exclusive federal jurisdiction. McGirt v. Oklahoma, 591 U.S. ___, 140 S. Ct. 2452 (2020)

The State of Utah lacked subject matter jurisdiction to prosecute Plaintiff Amboh, motion to dismiss in Utah State Court within Duchesne County was denied.

II. STANDARD OF FACTS

STANDARD OF REVIEW OF RECORD

The matter is before the Court on Defendant Duchesne County Attorney's motion to dismiss plaintiff's Complaint. Defendant Duchesne County Attorney's motion, contends that Plaintiff's claims against Defendant must

be dismissed for lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(6), because none of the alleged conduct Complained of in Duchesne County Court cite any federal statute to cover subject matter over Indian Country, 18 U.S.C. 1151, was carried out and directed by Defendants, State and County Officials.

Duchesne Court's appointed attorney was ineffective and failed to show Plaintiff Amboh's documents on tribal and federal jurisdiction that it would be illegal for Duchesne County State Court to exercise personal Indian jurisdiction under Indian Country, 18 U.S.C. 1151 Duchesne County wide.

Defendant Duchesne County Prosecutor contends that Plaintiff's claim against Defendant must be dismissed under Fed. R. Civ. P. 12(b)(6), applies to subject matter jurisdiction claims; Defendants stated, Plaintiff's allegations as speculative and inconsistent with relevant documents, the choice of law provision contained in Plaintiff's Complaint defeats Defendant's claims in this action. The Defendants has otherwise failed to state A Claim against Plaintiff with respect to any alleged theory of State liability, and for all the reasons described below. Defendant Foote's motion to dismiss

should be DENIED.

When the Federal District Court dismisses the Complaint for lack of subject matter jurisdiction and the Court does so without taking evidence, the appellate Court reviews the question de novo. Pueblo of Jemez v. United States, 790 F. 3d 1143, at 1151 (10th Cir. 2015). The Court must accept the allegations of the Complaint as true and must view the facts in the light most favorable to the Uinta Indian Plaintiff. Citing Holt v. United States, 43 F. 3d 1000, 1002 (10th Cir. 1995); Fed. R. Civ. P. 12(b)(1).

III. PLAINTIFF AMBOH UINTA INDIAN MEMBER HOLDING UINTA TREATY RIGHTS PRIOR TO ELEVENTH AMENDMENT IMMUNITY OF DUCHESNE COUNTY

The Eleventh Amendment, however, is only an arm of the State possess immunity from actions authorized by federal law. N. Ins. Co. Chatham Cnty, 547 U.S. 189, 193 (2006). The Supreme Court has consistently declined to extend Eleventh Amendment immunity to counties, even then such entities exercise the slice of the state power. Lake Country Estates, Inc. v. Tahoe Regional Planning Agency, 440 U.S. 391, 401 (1979), also Greenwood v. Ross, 778 F. 2d 448, 453 (8th Cir. 1985)(It is settled that the action against the county, the

municipality, or other lesser governmental united is not regarded as the action against the state within the meaning of the Eleventh Amendment. Also Gilliam v. City of Omaha, 524 F. 2d 1013, 1015 (8th Cir. 1975); also Thomas v. St. Louis Bd. of Police Comm'rs, 447 F. 3d 1082, 1084 (8th Cir. 2006); also Regents of the Univ. of Cal. v. Doe, 519 U.S. 425, 429 n. 5 (1997).

Plaintiff Amboh pursuant to Uinta Executive Order 3, 1861), Oct. 3, 1861 (1 Kappler 900), by President Lincoln, and Congressional Act, (May 5, 1864)(13 Stat. 63), creating the Uinta Valley Treaty Reserve; Uinta Band Utah Indian Members assert the Uinta treaty right of 1861-1864, even the establishment of the North-Eastern Uinta Reservation and Uinta Agency by Uinta Executive Order and federal Statute. The Timpanogos Tribe v. Conway, 286 F. 3d 1195 (10th Cir. 2002). The Tenth Circuit Court of Appeals held that the Eleventh Amendment did not bar the Uinta Band Utah Indian's action against the State of Utah official for declaratory relief from Utah hunting and fishing regulations.

The 10th Circuit Court of Appeals decision denying State of Utah in Duchesne County immunity in, Ute Indian Tribe v. State of Utah, 114 F. 3d 1513 (10th Cir. 1997),

that the time has come to respect the peace and maintain Uinta Valley Treaty Reserve promises. In the event 10th Circuit Court hop proves misplaced and the defendants persist in failing to respect the rulings of Ute V, they may expect to meet with sanctions in the Federal District Court. Lonsdale v. United States, 919 f. 2D 1440, 1448 (10TH Cir. 1990).

In, Williams v. Hansen, 326 F. 3d 569 (4th Cir. 2003), follows that rule. The basis for Plaintiffs jurisdiction in Williams was the denial of qualified immunity. 326 F. 3d at 574.

Indians possess inherent sovereign power to regulate not only the activities of Indians, but the conduct of non-Indians when that conduct occurs within the regulating Indian's jurisdictional authority. ICRA, 25 U.S.C. 1301(2); United States v. Lara, 541 U.S. 192 (2004)(interpreting ICRA, 25 U.S.C. 1301(1).

IV. STANDING

Article III of the Constitution limits the jurisdiction of federal courts to certain Cases and Controversies. U.S. Const. Art. III, 2, cl. 1. One element of the case-or-controversy requirement is that plaintiffs must establish that they have standing to sue.

Clapper v. Amnestu Int'l U.S.A., 568 U.S. 398, 408 (2013). To establish Article III standing. Minn. Citizens Concerned for Life v. FEC, 113 F. 3d 129, 131 (8th Cir. 1997)(quoting Lujan Defenders of Wildlife, 504 U.S. 555, 560 (1992). First, there must be an injury in fact. Plaintiffs contention that particular conduct is illegal. Warth v. Selden, 422 U.S. 490, 500 (1975).

To establish injury in fact, the plaintiff must show that he or she suffered an invasion of the legally protected interest that is concrete and particularized and actual or imminent. Spokeo, Inc. v. Robins, 136 S. Ct. 1540, 1548 (2016). Importantly, courts have long recognized that Indians have legally protected rights in their sovereignty and, that infringement of those rights confer standing. Moe v. Confederated Salish & Koonenai Tribes of Flathead Reservation, 425 U.S. 463, 468 n. 7 (1976)(the Indians discrete claim of injury to Indian self-government can confer standing in the case involving the state's imposition of taxes. Mashantucket Pequot Tribe v. Town of Ledyard, 722 F. 3d 457, 463 (2nd Cir. 2013)(actual infringement on Indian's sovereignty constitutes the concrete injury suffered to confer standing); Quapaw Tribe of Okla. v. Blue Tee Corp., 653

F. Supp. 2d 1166, 1179 (N.D. Okla. 2009)(Indians, like States and other governmental entities, have standing to sue to protect sovereign or quasi-sovereign interest), the Indians has the legally protected interest in exercising its inherent sovereign law enforcement authority. Bishop Paiute Tribe v. Inyo County, 862 F. 3d 1144, 1153 (9th Cir. 2017); also Confederated Tribes & Band of the Yakama Nation v. Yakima Cnty., 963 F. 3d 982, 989 (9th Cir. 2020).

V. DEFENDANT STATE OF UTAH IN DUCHESNE COUNTY PROSECUTORIAL IMMUNITY

The absolute prosecutorial immunity does not extend to the prosecutor's administrative duties and those investigatory functions that do not relate to an advocate's preparation for the initiation of the prosecution or for judicial proceedings. Stockley v. Joynce, 963 F. 3d 809, 817 (8th Cir. 2020)(quoting Buckley v. Fitzsimmons, 509 U.S. 259, 273 (1993)). prosecutors are not entitled to absolute immunity for their actions in giving legal advice to the police, because providing advice to the police is not the function closely associated with the judicial process.

The absolute prosecutorial immunity does not extend

to actions for declaratory and injunctive relief. Supreme Court v. Consumers Union of United States, 446 U.S. 719, 736 (1980)(Prosecutors enjoy absolute immunity from damages liability, but they are natural target for 1983 injunctive suit, and Heartland Acad. Cmty. Church v. Waddle, 427 F. 525, 531 (8th Cir. 2005)(citing and quoting Consumers Union for the proposition that prosecutors, as state enforcement officers, are natural targets for 1983 injunctive suits); Bishop Paiute Tribe v. Inyo Cnty., No. 1:15-cv-00367-DAD-JLT, 2018 U.S. Dist. LEXIS 4643, at *21 (E.D. Cal. Jan. 10, 2018)(holding that absolute prosecutorial immunity defense was unavailable in suit arising under federal common law and seeking only injunctive and declaratory relief).

District Court within the Eighth Circuit have also held that absolute prosecutorial immunity does not apply in an action for declaratory and injunctive relief. Rickter v. Smith, No. C16-4098-LTS, 2018 U.S. Dist. LEXIS 215431, at *21 (N.D. Iowa Dec. 21, 2018)(absolute immunity bars recovery of money damages only); Kertenback v. S.D. AG, 2018 U.S. Dist. LEXIS 5208, at *7 (D.S.D. Mar. 29, 2018)(Immunities, i.e., absolute, prosecutorial or qualified immunity are not the bar to plaintiffs

action for injunctive and declaratory relief under Section 1983; Hayden v. Nev. Cnty., No. 08-4050, 2009 U.S. Dist. LEXIS 22004, at *11 (W.D. Ark. Mar. 6, 2009) (absolute immunity does not protect the prosecutor from claims for injunctive relief). Plaintiff Amboh seeks declaratory and injunctive relief.

VII. THE DEFENDANT STATE OF UTAH FOR DUCHESNE COUNTY ASSERTION THAT THE PLAINTIFF AMBOH NEVER CONTESTED THE DEFENDANT STATE OF UTAH IN DUCHESNE COUNTY'S PROSECUTION OF UINTA BAND UTAH INDIAN MEMBER.

The State of Utah in Duchesne County asserts the issue here is the prosecution of Uinta Band Utah Indian Member. The State of Utah for Duchesne County offers absolutely no factual support for its sweeping assertion of history. In any event, the State of Utah for Duchesne County is plainly wrong: The Plaintiff filed Ute Tribe v. Utah in 1975, was litigated against the Defendant State of Utah.

The case was before the Tenth Circuit Court of Appeals in Ute Indian Tribe v. Utah (Ute III), 773 F. 2d 1087 (10th Cir. 1985)(en banc), cert. denied, 479 U.S. 994 (1985)(Roosevelt does not exist); Ute Indian Tribe v. Utah (Ute V), 114 F. 3d 1513 (10th Cir. 1997), cert. denied, 522 U.S. 1107 (1998); and Ute Indian Tribe v.

Utah (Ute VI), 790 F. 3d 1000 (10th Cir. 2015).

Whether under the doctrine of state decisis, re judicata, or collateral estoppel, as matter of law and matter of equity. Brooks v. Barbour Energy Corp., 804 F. 2d 1144, 1146 (10th Cir. 1986)(permanenly enjoining the state court relitigating matters litigated in federal court proceeding); also G.C. and K.B. Investments, Inc. v. Wilson, 326 F. 3d 1096, 1106-07 (9th Cir. 2002) (permanently enjoining litigates from attempting to circumvent the federal court ruling through Hawaii State Courts); Kidder, Peabody & Co., v. Maxus Energy Corp., 925 F. 2d 556, 565 (2nd Cir. 1991)(permanenly enjoining the litigant from relitigating federal securities claims, no matter how denominated); Royal Ins. Co. of Am. v. Quinn-L Capital Corp., 960 F. 1286, 1297 (5th Cir. 1992) (enjoining the state court relitigating of issues adjudicated in earlier federal court action); Browning Debenture Holders Committee v. DASA Corp., 454 F. Supp. 88, 97 (S.D. New York 1978)(permanenly enjoining the litigate from starting this six-year-old action over again in the new forum), aff'd 605 F. 2d 35 (2nd Cir. 1978).

A. THE YOUNGER ABSTENTION ARE NOT JURISDICTIONAL

BAR AND THEREFORE CANNOT BE RAISED.

Defendant State of Utah for Duchesne County moved to dismiss, because the issues are not jurisdictional. They cannot. Sprint Comm'ns, Inc. v. Jacobs, 134 S. Ct. 584, 591 (2013)(Younger Abstention is not jurisdictional); Ohio Bureau of Empl. Servs. v. Hodory, 431 U.S. 471 (1977)(The Supreme Court declined to decide Younger abstention sua sponte); Swisher v. Brady, 438 U.S. 204, 213 n. 11 (1978)(same). Tyler v. Russel, 410 F. 2d 490 (10th Cir. 1969)(Anti-Injunction Act 28 U.S.C. 2283 is not jurisdictional and only to the form of relief permitted); In re Mooney Aircraft, Inc., 730 F. 2d 367, 5th Cir. 1984 (same). The federal courts have repeatedly rejected.

The Uinta treaty provision guaranteeing the right, in common with the citizens of the United States, to travel upon all public highways was held to confer immunity from state truck license and permit fees for treaty Indians hauling goods to market. Cree v. Flores, 157 F. 3d 762 (9th Cir. 1998).

The 10th Circuit Court has consistently recognized that Indians retain attributes of sovereignty over both members and the territory . . . . and Indian sovereignty

is dependent on, and subordinate to, only the Federal Government, not State of Utah. California v. Cabazon Band of Mission Indians, 480 U.S. 202, 207 (1987)(quoting United States v. Mazurie, 419 U.S. 544, 557 (1975)). Jurisdictional status of land implicates not only ownership, but also the core sovereignty interest of Indian Indians and the federal government in exercising civil and criminal authority over Indian territory. HRI, Inc. v. EPA, 198 F. 3d 1224, 1245-46 (10th Cir. 2000), abrogated in part on other grounds, 562 F. 3d 1249 (10th Cir. 2009).

There is the presumption against state jurisdiction in Indian Country. Cabazon, 480 U.S. at 216 n. 18; also Cheyenne-Arapaho Tribe of Oklahoma v. State of Oklahoma, 618 F. 2d 665, 668 (10th Cir. 1980).

The word, all land and notwithstanding the issuance of any patent are terms that were intended by Congress to avoid checkerboard jurisdiction. Seymour v. Superintendent, 368 U.S. 351, 358 (1962), accord Moe v. Confederated Salish & Kootenai Tribes, 425 U.S. 463, 477-79 (1976).

Under federal law the state can assume criminal jurisdiction over Indians in Indian Country only

with the consent of the Indians affected by the assumption. Assumption by State of criminal jurisdiction, 25 U.S.C. 1321(a)(1). Reads in pertinent part:

> 25 U.S.C. 1321(a)(1). The consent of the United States is hereby given to any State not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian Country situated with such State to assume, with the consent of the Indian tribe occupying the particular Indian Country or part thereof which could be affected by such assumption . . . .

In the absence of Indian consent, state jurisdiction over crimes non-Indian . . . . and victimless crimes by non-Indians. State v. Valdez, 65 P. 3d 1191 (Utah App. 2003)(quoting Solem v. Bartlett, 465 U.S. 463, 465 n. 2 (1984)).

V. THE DEFENDANTS MUST BE ENJOINED FROM EXERCISING CRIMINAL JURISDICTION OVER TARA J. AMBOH FOR ALLEGED OFFENSE THAT OCCURRED IN INDIAN COUNTRY

The U.S. Constitution guarantees the right of each citizen to be free from unreasonable searches and seizures. U.S. Const. Amend. IV. An arrest of an Uinta Indian on Uinta Indian land by the state officer is unconstitutional because the warrantless arrest executed outside the arresting officer's jurisdiction is analogous to the warrantless arrest without probable cause. Ross v. Neff, 905 F. 2d 1349, 1354 (10th Cir. 1990); also Bishop

Paiute Tribe v. County of Inyo, 275 F. 2d 893 (9th Cir. 2002)(extra-territorial search of Indian officers by California district attorney and county sheriff was unconstitutional), rev'd on other grounds sub nom., Inyo County v. Paiute-Shoshone Indians, 538 U.S. 701 (2003); United States v. Foster, 566 F. Supp. 1403, 1411-12 (D.D.C. 1983)(extra-territorial arrest was illegal); District of Columbia v. Perry, 215 A. 2d 845, 847 (D.C. 1996)(extra-territorial arrest was illegal); South Dakota v. Cummings, 679 N.W. 2d 484 (S.D. 2004)(state deputy in fresh pursuit could not pursue Indian member onto the Pine Ridge Reservation for an off-reservation speeding violation); Farmington v. Bellally, 892 P. 2d 629 (N.M. App. 1995)(disallowing arrest after pursuit).

That the injunction, if issued, will not adversely affect the public interest. Prairie Band Potawatomi Nation v. Wagnon, 476 F. 3d 818, 822 (10th Cir. 2007). The only difference between the requirements for preliminary injunction requires the showing of the substantial likelihood of success on the merits.

The Indians prevails on the merits because the State of Utah for Duchesne County and political subdivisions and municipalities have no criminal

jurisdiction over Native Americans inside the Indians reservation. United Keetoowah Band of Cherokee Indians v. State of Oklahoma, 927 F. 2d 1170, 1182 (10th Cir. 1991)(affirming a permanent injunction enjoining the Tulsa County District Attorney from exercising criminal jurisdiction over a single Indian Allotment in Tulsa County); Seneca-Cayuga Tribe of Oklahoma v. State of Oklahoma, 874 F. 2d 709, 716 (10th Cir. 1989)(affirming preliminary injunction to enjoin the State of Oklahoma from exercising state criminal jurisdiction over tribal gaming operations); Longley v. Ryder, 602 F. Supp. 335 (W.D. La. 1985)(holding the State of Louisiana lacks criminal jurisdiction to prosecute Native Americans for offenses committed on tribal trust lands).

Plaintiff Amboh has made sufficient showing of irreparable harm for false imprisonment with illegal State charges and State impounding Indian vehicle as the matter of law. In Kiowa Indian Tribe of Oklahoma v. Hoover, 150 F. 3d 1163, 1171 (10th Cir. 1998), the Tenth Circuit reversed the district court's refusal to enjoin proceedings in an Oklahoma State Court that threatened the seizure of Indians property and assets. Significantly, Indians are irreparably harmed when they

suffer an unlawful deprivation of their jurisdictional authority. Comanch Nation v. United States, 393 F. Supp. 2d 1196, 1205-06, 1210-11 (W.D. Okla. 2005). The Tenth Circuit has repeatedly stated that enforcing state criminal jurisdiction on Indian land is an invasion of Indian sovereignty constituting irreparable injury. Wyandotte Nation v. Sebelius, 443 F. 3d 1247, 1255-56 (10 Cir. 2006). State encroachments on Indian sovereignty constitute an irreparable injury because the harm to Indian self-government is not easily subject to valuation, but more importantly, because monetary relief might not be available because of the state's sovereign immunity. Prairie Band of Potawatomi Indians v. Pierce, 253 F. 3d 1234, 1250 (10th Cir. 2001); also Choctaw Nation of Oklahoma v. State of Oklahoma, 724 F. Supp. 2d 1182, 1187 (W.D. Okla. 2010)(remedies at law are inadequate to remedy illegal assertions of state jurisdiction in Indian Country); Winnebago Tribe of Nebraska v. Stovall, 205 F. Supp. 2d 1217, 1222 (D. Kan. 2002)(monetary damages are not sufficient to undo the damage caused by illegal seizures of property and encroachments on Indian sovereignty).

The Indians suffer unconstitutional deprivations of

their liberty and/or property. Seneca-Cayuga Tribe of Oklahoma v. State of Oklahoma, 874 F. 2d 709, at 710, 716 (the disclaimer in the Oklahoma Enabling Act - identical to Utah Enabling Act of 1894 - disclaims both proprietary and governmental authority); Indian Country, U.S.A., Inc. v. Okla. Tax Comm'n., 829 F. 2d 967, 976-81 (10th Cir. 1987)(same), Permanently enjoining state court jurisdiction over Indian Country tort lawsuits on the Tribe's motion for summary judgment. Swimming Tribe v. Bd of County Commissioners of Miami County, 441 F. Supp. 374 (N.D. Ind. 1977)(permanently enjoining state taxation of Indian individual); United States v. Bennett County, South Dakota, 265 F. Supp. 249 (D.S.D. 1967)(permanently enjoining the County from opening the roadway in the Pine Ridge Indian Reservation); United States v. Fraser, 156 F. Supp. 144 (D. Mont. 1957)(permanently enjoining livestock trespass on Indian lands).

There is the strong public interest in requiring the State of Utah for Duchesne County to stop violating Uinta Indians rights under the Fourth and Fourteenth Amendments of the Constitution. There is also the strong public interest in expecting to abide by and show due respect for the decisions of the Tenth Circuit in Ute

Indian Tribe v. State of Utah (Ute V), and (Ute III).

In disestablishment cases, this Court asks whether Congress has eliminated reservation that the United States promised by treaty to preserve and that Uinta Band Utah Indians sacrificed land and blood to obtain. The test is therefore - as one would expect - stringent, and laser-focused on statutory text. Nebraska v. Parker, 136 S. Ct. 1072 (2016), makes that clear.

B. CONGRESS DID NOT DISESTABLISH THE UINTA VALLEY TREATY RESERVE IN THE RELEVANT STATUTES. This Court Will Not Find Disestablishment Absent Clear Statutory Text.

The standard is stricter still because of the cannons of construction applicable in Indian law, rooted in the unique trust relationship with Indians. Oneida Cty. v. Oneida Indian Nation of N.Y., 470 U.S. 226, 247 (1985). Treaties are construed liberally in favor of the Indians, and the Court refused to find that Congress has abrogated Indian treaty rights absent explicit statutory language. Minnesota v. Mille Lacs Band of Chippewa Indians, 526 U.S 172, 202-03 (1999). The same canon applies to statutes. Cty. Of Yakima v. Confederated Tribes & Bands of Yakima Indian Nation, 502 U.S. 251, 269 (1992).

CONCLUSION

Based on all the reasons discussed herein, the Court should issue the preliminary injunction to enjoin Defendant State of Utah for Duchesne County's illegal prosecution of Plaintiff Amboh, Uinta Band Utah Indian for alleged State offenses:

Respectfully submitted this 6th of January, 2023,

Tara J. Amboh
Uinta Band Utah Indian Member

Tara J. Amboh
Post Office 155
Neola, Utah 84053
(435) 724-4461

January 6, 2023

United States District Court
Office of Clerk
351 South West Temple
Salt Lake City, Utah 84101

RE: Amboh v. Duchesne County, et al.,
No. 2: 21-cv-00564

Following have filed the foregoing; **PLAINTIFF'S OBJECTION MEMORANDUM TO DEFENDANT DUCHESNE COUNTY ATTORNEY MOTION TO DISMISS and/or MOTION FOR JUDGEMENT ON THE PLEADING attached herein (Declaration of Tara Amboh)**, which are hereby filed for the court.

Respectfully submitted.

Tara J. Amboh