



SOUTHERN UTE INDIAN TRIBE

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Statement on decision in Southern Ute Indian Tribe and Ute Mountain Ute Tribe v. Polis

Southern Ute Indian Reservation – Yesterday, an opinion was issued in the lawsuit filed by the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe against Governor Jared Polis and the Colorado Division of Gaming regarding the ability of the Tribes to engage in sports betting in Colorado, in accordance with the Tribes’ respective Gaming Compacts with the State. The Hon. Gordon Gallagher dismissed that lawsuit, issuing an opinion holding that the State is immune from suit under the Eleventh Amendment. The Southern Ute Indian Tribe is providing the following statement regarding the decision:

“The Tribe respects Judge Gallagher and appreciates the time he has given this issue. We believe a different result is mandated by federal law and will be evaluating how to move forward in the coming weeks.”

The Southern Ute Indian Tribe’s Gaming Compact with the State is unmistakably clear – the Tribe can engage in all Class III Games “that are explicitly authorized by the laws of the State.” Colorado explicitly authorized sports betting, a Class III game, throughout the state. But the State immediately stymied the ability of the Tribes to engage in that activity despite clear authorization under the Gaming Compacts, and instead, elected to benefit out-of-state gaming interests over its relationship with the Tribes. When the Tribes sought to challenge that conduct, the Administration chose to hide behind its immunity. These actions by the Polis Administration in refusing to honor the Gaming Compacts entered into with Colorado’s two federally-recognized Tribes represents one of the lowest points in State-Tribal relations in recent history.

Meanwhile, a bitter irony is playing out in southwest Colorado today. Sports betting revenue is collected by the State for the protection of the State’s water resources. In December of 2024, the State of Colorado experienced the largest gasoline spill in the State’s history – currently estimated to be 97,000 gallons. It

occurred within the boundaries of the Southern Ute Indian Reservation on land over which the State claims jurisdiction. The contamination has continued to expand, has ruined the underlying groundwater, and is approaching the Animas River. One landowner after another has had to abandon their home due to contamination.

The State's response to the devastating impacts on Colorado water resources and citizens has been lackluster, and the Polis Administration largely silent. In fact, a call scheduled by the Governor's office for yesterday with the Tribe to discuss the spill turned into a no-show situation. Despite all parties being present, including representatives of the Colorado Department of Public Health and Environment and the Colorado Commission of Indian Affairs, the Governor did not appear and after 30 minutes, the call was cancelled. We are confident that had this spill been in Denver instead of a remote, rural part of the state, the response would have been more robust.

The Southern Ute Indian Tribe has expended its own resources to ensure the local waterways and resources are protected in our region. It has done so without a single dollar of the millions of dollars in revenue the State has collected from sports betting, and without the benefit of additional revenue from tribally-run sports betting that could have been relied upon had the Gaming Compact been honored. Yesterday's cancelled call between Governor Polis and Chairman Baker reflects an alarming lack of urgency on the Governor's part to work cooperatively with the Tribe on this spill – it brings to mind the troubling legacy of how states have historically disregarded Tribal relations, an approach that is wholly unacceptable in today's society.

The history of relations between Tribes and the state and federal governments is one of broken Treaties and agreements. The Polis Administration's conduct is a reminder that those things we think are an artifact of a distant past still exist today.