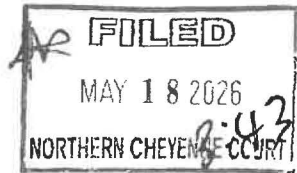


**IN THE NORTHERN CHEYENNE TRIAL COURT
OF AND FOR THE NORTHERN CHEYENNE TRIBE
LAME DEER, MONTANA 59043**



Melissa Fisher (Ashland), Eva Foote (Ashland), Gwen
Spottedhorse (Birney), Stefan Rainingbird (Busby),
Melissa Lonebear (Lame Deer), Nizhoni Friez (Lame
Deer), Donovan Limberhand (Lame Deer), Howard
Ontiveros (Muddy), Edina Redstar, Secretary, Kristi
Killsnight, Treasurer, and Ryhal Rowland, Employee
In their official capacities as lawfully elected Council
members, appointees, and employees,

Plaintiffs-Petitioners,

v.

¹ Jason Standing Elk (Ashland), Waylon Rogers
(Ashland), Llevando "Cowboy" Fisher (Birney),
Reuben Roundstone (Busby), Corey Spotted Elk
(Lame Deer), Josie "Wade" Redhat (Lame Deer),
Robert Simpson (Lame Deer), Lynwood Ewing
(Muddy), Sharlene Evans, Secretary, Terrance Limpy,
Treasurer, and Donovan Taylor (Busby),

In their capacities as purported Council members and
appointees,

Defendants-Respondents.

Case No. C2026-079.A

Judge C. Elkshoulder, Jr.

**RESPONSE TO MAY 12, 2026 ORDER TO PRODUCE EVIDENCE OF A LAWFUL
VACANCY AND CRITERIA FOR REMOVAL OF FORMER TRIBAL COUNCIL
MEMBERS PURSUANT TO ARTICLE VII, SECTION 2**

¹ Pursuant to the Court's instructions for filing on May 13, 2026, the Defendants-Petitioners have removed the names of Defendants-Respondents Larry Medicine Bull, Wesley Spotted Elk, and Roger Killsnight, In Their Capacities as Purported Chiefs, off the case name.

COMES NOW, Defendants-Respondents Jason Standing Elk (Ashland), Waylon Rogers (Ashland), Llevando "Cowboy" Fisher (Birney), Robert Simpson (Lame Deer), Lynwood Ewing (Muddy), Sharlene Evans, Secretary, Terrance Limpy, Treasurer, and Donovan Taylor (Busby) (collectively known as "Northern Cheyenne Tribal Council Members and Appointees"), by and through their legal counsel at Cedar Tree Native Law, hereby respond to the Court's May 12, 2026 Order as outlined in Paragraph 3 of the Court's Order.

INTRODUCTION

On May 12, 2026, the Court issued a sua sponte order entitled "Order Modifying the Petitioner's Filing, Removing the Chiefs [and] Order Requiring Evidence to be Filed Showing a Lawful Tribunal Was Held to Remove Petitioners [and] Order Declaring the Chiefs Declaration Ultra Vires." As evidenced in the title of the Order, the Court acted on its own in the following three ways: (1) without motion or request, removed an indispensable party from the matter; (2) without opportunity to be heard or evaluation of evidence, declared that the September 10, 2025 Declaration by the Chiefs was ultra vires (beyond the powers) as it relates to the adopted Constitution and Bylaws of the Tribe; (3) without clarity as to an intended party, ordered that all evidence be filed by 4:00 pm on May 18, 2026, to show that a lawful vacancy existed for members of the Tribal Council to be replaced, and the criteria to remove tribal council members listed in Article VII of the Amended Constitution and Bylaws of the Northern Cheyenne Tribe were properly met by and through a lawful tribunal pursuant to Article VII, Section 2.

The Rube Goldberg contraption created by this sua sponte order, in addition to other orders issued by the Court that have been issued without precision of process², has created judicial chaos

² Throughout the pendency of this case, the precise nature of this suit has been unclear. The terms complaint and petition have been used interchangeably but require different actions and rulings by

that threatens to detrimentally impact the citizens and employees of the Northern Cheyenne Tribe, whose wellbeing depends on a functioning three branch government.

After a full recitation of the factual and procedural background, the Defendants-Respondents urge the Court to bring order to this case and provide an opportunity to be heard for all litigants through process as outlined in the Northern Cheyenne Tribe's Law and Order Code.³

FACTUAL AND PROCEDURAL BACKGROUND⁴

1. The elected Tribal government for the Northern Cheyenne people was in discord in the late summer and early fall of 2025. The Traditional Chiefs of the Northern Cheyenne Tribe were watching as factions formed and government stalled. As a result of what they were observing, the Chiefs of the Northern Cheyenne Tribe, along with Headsmen of the Northern Cheyenne Tribe's military societies, met on September 10, 2025.

2. After the formal meeting, the Chiefs of the Northern Cheyenne Tribe issued a Declaration that was submitted to the Bureau of Indian Affairs on September 11, 2025, wherein the Chiefs decided to take back control of the Northern Cheyenne Tribal Government under their inherent authority after determining that the members of the Tribal Council were engaged in theft, misuse of monetary sources, and misconduct and the Northern Cheyenne Tribal Government needed assistance in stabilizing and rehabilitating the Constitutional Tribal Council. The Chiefs

the Court and the parties depending on the posture. If the action is commenced by complaint, there must be a cause of action. If there is a petition, an extraordinary writ must be available for relief. Further, a temporary restraining order, preliminary injunction, and declaratory relief have been muddled together. Each are relevant at separate steps of a proceeding. Further, one action is not determinative of another action.

³ Defendants-Respondents note that their Motion for Recusal or Disqualification filed on May 13, 2026, is still pending with the Court.

⁴ Defendants-Respondents incorporate by reference its Response in Opposition to Plaintiffs-Petitioners' Verified Complaint and Petition for Declaratory Relief, Injunctive Relief, and Writ of Quo Warranto, including attached exhibits, filed on May 6, 2026.

specifically removed the named Plaintiffs-Petitioners from their positions on Tribal Council, as appointees, and as an employee of the Tribe. No specific reference to the amended Northern Cheyenne Constitution and Bylaws was contained in the Declaration.

3. On September 12, 2025, after the recognition and directive of the Sacred Traditional Chiefs Society, Northern Cheyenne Nation's President Gene Small issued Executive Order No. 1 outlining the suspension of Tribal Council Authority and establishing the Continuity of Government amidst the Chiefs' Declaration.

4. During this unprecedented time, President Small issued a second Executive Order on September 13, 2025, establishing, among other things, strategic planning and operations and an orderly path to reorganization and re-establishment of the Northern Cheyenne Tribal Council.

5. Pursuant to the Chiefs' directive, a temporary appointed council was sworn in on September 18, 2025, until a tribal special election could be held.

6. While the Northern Cheyenne Tribal government was operating under Executive Order and Chiefs' directives, the former Northern Cheyenne Tribal Council members identified as Plaintiffs-Petitioners in this matter sought relief from the Chiefs' Declaration through a complaint in the Northern Cheyenne Constitutional Court. In an Order dated October 7, 2025, the Constitutional Court dismissed the matter due to lack of jurisdiction. The Constitutional Court noted that it only had authority through the Northern Cheyenne Law and Order Code to determine challenges to council enactments and that Tribal Council is required to be made a "party-defendant."

7. As a tribal special election drew near, the former Northern Cheyenne Tribal Council members identified as Plaintiffs-Petitioners in this matter sought a temporary restraining order to halt the special election. The temporary restraining order was denied, but the Court retained

jurisdiction to hear challenges to the procedures used to call the special election. *See Northern Cheyenne Tribal Council v. Freeman, et al.*, Northern Cheyenne Trial Court, Court File Number C2026-015.⁵

8. On October 30, 2025, the Northern Cheyenne Tribe held a special election to elect eight new members of Tribal Council. The Reservation-Wide Election Board certified the results of the election, and the new Tribal Council members were sworn in on November 1, 2025. Subsequently, a new Secretary and Treasurer were appointed.

9. On or about February 10, 2026, four Tribal Council members were removed from their positions for Constitutional Code of Ethics violations. After removal, the Tribal Council was comprised of six members. *See Exhibit 5.*

10. On or about April 6, 2026, the Chiefs appointed Defendant-Respondent Donovan Taylor to fill a vacancy for the Busby District to ensure adequate representation for the district. Although the Traditional Chiefs acted to fill the vacancy, the Chiefs utilized the provisions of the Northern Cheyenne Constitution and Election Code to fill the vacancy. *See Exhibit 6.*

11. Currently, the Tribal Council is comprised of seven members from the Reservation districts. Three vacancies for Tribal Council exist. Pursuant to the Constitution and the Election Code, a general election is expected to be held in November 2026 to fill seats created by vacancies or expired terms as outlined in the October 30 special election.⁶

12. Between November 1, 2025, and April 29, 2026, the Tribal Council exercised their enumerated powers as provided in the Northern Cheyenne Tribe's Constitution to ensure and

⁵ Defendants-Respondents have sought the Court records in this file. However, Defendants-Respondents are unaware of any challenge to the election after October 30, 2026.

⁶ Pursuant to the Northern Cheyenne Constitution and Election Code, five Tribal Council seats will be open in the 2026 General Election.

promote the best interests of the Northern Cheyenne people. In conjunction with Tribal Council, the Chiefs continued to monitor the situation under their inherent authority.

13. Sometime between April 7, 2026, and April 15, 2026, the above-named Plaintiff-Petitioners filed a Verified Complaint and Petition for Declaratory Relief, Injunctive Relief, and Writ of Quo Warranto.⁷ In their Complaint and Petition, Plaintiff-Petitioners seek relief in the form of an order declaring the Declaration of the Chiefs of the Northern Cheyenne Tribe dated September 10, 2025, void; injunctive relief enjoining the Defendants-Respondents Northern Cheyenne Tribal Council Members and Appointees from acting as Tribal Council members; and issuance of a writ of quo warranto requiring Defendants-Respondents to show that lawful authority exists for them to hold their seats on Tribal Council.

14. In conjunction with Plaintiffs-Petitioners' Complaint and Petition, Plaintiff-Petitioners filed a Motion for a Temporary Restraining Order, Expedited Hearing, and Preliminary Injunctive Relief. Plaintiffs-Petitioners claimed that harm was on-going because the Tribal Council was unlawfully exercising governmental authority, thereby disrupting the Tribal government and creating confusion concerning lawful authority. Plaintiffs-Petitioners roughly utilized the legal framework for a preliminary injunction, rather than temporary restraining order, under Section 4.4.9(E) of the Northern Cheyenne Revised Law and Order.

15. Without notice and opportunity to respond from Defendants-Respondents, this Court issued an Order Granting a Temporary Restraining Order and Scheduling a Hearing on Preliminary Injunction on April 15, 2026. Within its order, the Court seemingly determined the merits of the case and the preliminary injunction. The Court then directed that the current Northern

⁷ The document received by the Northern Cheyenne Tribal Council Members and Appointees has two dated Northern Cheyenne filed stamps on the document. The first, dated April 7, 2026, at 4:00 p.m., is crossed out. The second, dated April 15, 2026, at 8:40 am, does not contain any markings.

Cheyenne Tribal Council and its Appointees were enjoined from acting as Tribal Council Members. Further, although not specifically stated, Plaintiffs-Petitioners believed that the Court ordered their return to Tribal Council and staff positions from which Plaintiffs-Petitioners were removed on or about September 10, 2025.

16. On April 20, 2026, this Court issued a Sua Sponte Order Placing a Stay on Temporary Restraining Order to Protect the Health, Welfare, and Safety of the Public. Within the stay order, this Court further reassigned the matter to a Judge Pro-Tem and granted authority to the Judge Pro-Tem to further review the matter.⁸

17. On April 30, 2026, this Court issued sua sponte an Order Lifting a Stay on Temporary Restraining Order and Order Vacating and Modifying the April 15, 2026 Temporary Restraining Order *Addendum*.⁹ In the Court's order, the Court indicated that a modification was necessary while the merits of Plaintiffs-Petitioners position are pending before the Court. After articulating a series of Conclusions of Law further described below, the Court modified the temporary restraining order by ordering that no party "shall act, purport to act, or hold themselves out as a member of the Northern Cheyenne Tribal Council . . ." Further, the Court noted that the order "does not include nor does it pertain to the normal operations of the Northern Cheyenne Tribal Programs and Services." Finally, as part of its Order, the Court ordered that "[r]espondents shall file their responses to Petitioners' complaint . . . on May 6, 2026. . ."¹⁰

⁸ Although the temporary order, including timelines provided therein, were stayed by this Court, motions continued to be filed in the matter by opposing counsel leading to confusion regarding the scope of the Order Staying the Temporary Restraining Order.

⁹ The Court originally issued an Order Lifting a Stay on Temporary Restraining Order and Order Vacating and Modifying the April 15, 2026 Temporary Restraining Order on April 29, 2026. The April 29, 2026 Order and the April 30, 2026 Order are identical in substance. The only non-substantive modification is noted line number 74 on page 3.

¹⁰ Again, the characterization of this matter before the Court was conflated. Namely, is the action a Complaint (Plaintiffs and Defendants) or Petition (Petitioners and Respondents).

18. As the Respondents were filing responses, the Court issued an Order on May 6, 2026, setting an unspecified hearing on May 20, 2026.¹¹

19. Between May 6 and May 15, the parties continued to file motions and responsive pleadings. Prior to May 15, only one of the motions was addressed by the Court without a hearing. The motion, a Motion to Dismiss for Lack of Subject Matter Jurisdiction, was filed by the three named Traditional Chiefs identified in the initial pleading by Plaintiffs-Petitioners.

20. On May 8, 2026, the Court denied the Motion to Dismiss for Lack of Subject Matter Jurisdiction based on the provision of the Revised Law and Order Code of the Northern Cheyenne Tribe that provided subject matter jurisdiction over civil and criminal matters arising under tribal customs and traditions. *See* Title 2, Chapter 2, § 2.2.4(E).

21. Subsequently, on May 12, 2026, the Court issued its sua sponte order entitled “Order Modifying the Petitioner’s Filing, Removing the Chiefs [and] Order Requiring Evidence to be Filed Showing a Lawful Tribunal Was Held to Remove Petitioners [and] Order Declaring the Chiefs Declaration Ultra Vires.” Without hearing or opportunity to be heard, the Court acted on its own to remove an indispensable party from the matter; to declare that the September 10, 2025 Declaration by the Chiefs was ultra vires (beyond the powers) as it relates to the adopted Constitution and Bylaws of the Tribe; and order that all evidence be filed by 4:00 pm on May 18, 2026, to show that a lawful vacancy existed for members of the Tribal Council to be replaced, and the criteria to remove tribal council members listed in Article VII of the Amended Constitution and Bylaws of the Northern Cheyenne Tribe were properly met by and through a lawful tribunal pursuant to Article VII, Section 2.

¹¹ The Court canceled this hearing on May 15, 2026, during a hearing on the Defendants-Respondents Motion for an Order to Show Cause.

As outlined below, the Defendants-Respondents note that a lawful vacancy is not only created by Article VII, Section 2. Rather, a whole reading of the Northern Cheyenne Tribe's Constitution and Bylaws, as amended in 1996, provides for other bases for the creation of vacancies. A full hearing is required on the merits of this Complaint or Petition to adequately address the issues presented in this matter.¹²

EVIDENCE OF LAWFUL VACANCY AS ORDERED BY THE COURT

As outlined in its order, the Court has ordered that "any and all evidence be filed by 4:00 pm on May 18, 2026 to show this Court that a lawful vacancy existed for members of the Tribal Council to be replaced, and the criteria to removal tribal council members listed in Article VII of the Amended Constitution and Bylaws of the Northern Cheyenne Tribe were properly met by and through a lawful tribunal pursuant to Article VII, Section 2." The Defendants-Respondents provide as follows:

- A. THE COURT HAS REMOVED AN INDISPENSABLE PARTY WITHOUT MOTION OR AN OPPORTUNITY TO BE HEARD.

All actions that occurred between September 10, 2025, and present have flowed from the Declaration issued by the Traditional Chiefs wherein they assumed inherent authority and removed the Plaintiffs-Petitioners from their position. The Plaintiffs-Petitioners sought action to attack the Chiefs' Declaration. The Court, without motion or an opportunity to be heard, took the ability to attack or defend the Chiefs' Declaration away by removing the Chiefs as a party by issuing its May 12, 2026 Order.

¹² Plaintiffs even share an expectation of an evidentiary hearing to address whether the September 10, 2025 Declaration prepared by the Traditional Chiefs of the Northern Cheyenne Tribe led to a lawful vacancy within the Tribal Council. *See Petitioners' Response to Respondent Three Purported Councilmen to Petitioner's Complaint and Petition for Declaratory Relief, Injunctive Relief, and Writ of Quo Warranto and Requesting the Court Dismiss/Strike the Same*, filed in this case on May 7, 2026.

Under Rule 19 of the Federal Rules of Civil Procedure, also known as the indispensable party rule, persons or parties must be joined in a case unless it deprives the court of subject matter jurisdiction. *See* Rule 19 (a)(1), Federal Rules of Civil Procedure. Indispensable parties include those individuals that are required if the court cannot accord complete relief among existing parties if the individual is not present or if the individual claims an interest relating to the subject of the action. *See* Rule 19(a)(1)(A) and (B).

Here, Plaintiffs-Petitioners included three named Traditional Chiefs in their initial pleading. The matter rests on the validity of the Traditional Chiefs' September 10, 2026 Declaration as noted in Plaintiffs-Petitioners' Complaint and Petition.

The Court has denied the Traditional Chiefs' Motion to Dismiss for Lack of Subject Matter Jurisdiction in its May 8, 2026 Order. Therefore, the Court decided that they were an indispensable party that did not deprive the Court of subject matter jurisdiction.

The parties are entitled to examine and present evidence pertaining to the posture and validity of the Traditional Chiefs' September 10, 2025 Declaration as it relates to the whole of the Northern Cheyenne Constitution and Bylaws as amended, not just pursuant to Article VII, Section 2. The Traditional Chiefs have an interest in this case and the Court's determinations with respect to their authority to issue declarations.

The Traditional Chiefs are an indispensable party. Accordingly, if the Traditional Chiefs are not joined in this matter, the whole of the matter should be dismissed.

B. THE SEPTEMBER 10, 2025 DECLARATION WAS NOT *ULTRA VIRES* AS THE DECLARATION RELATED TO THE NORTHERN CHEYENNE CONSTITUTION AND BYLAWS

In making its sua sponte ruling without an opportunity for the parties to be heard and produce evidence regarding the effect of the September 10, 2025 Declaration by the Northern

Cheyenne Traditional Chiefs, the Court has put itself in the position of both Plaintiffs-Petitioners' counsel and the Court. In its May 12, 2026 sua sponte order, the Court declares that the Northern Cheyenne Constitution (as amended in 1996) makes no reference to the Traditional Government of the Tribe. Therefore, the September 10, 2025 Declaration of the Traditional Chiefs was made without authority. To support its Order, the Court determined that the Court was bound by the Northern Cheyenne Constitutional Court's decision in CC2026-002, wherein the Constitutional Court determined that it did not have jurisdiction to hear the case. The Court's Order, without hearing or opportunity to present evidence, creates the judicial chaos that the Court noted it sought to avoid.

The parties should have the opportunity to present evidence pertaining to the September 10, 2025 Declaration and its impact on the vacancies created on Tribal Council in September 2025. Defendants-Respondents note that the Court has prohibited the parties from examining and presenting evidence pertaining to previous Northern Cheyenne Resolutions, like Northern Cheyenne Resolution 84(90), which provide the convergence of Traditional and Constitutional law in the Northern Cheyenne governance that mold the Constitution, even as amended in 1996.

C. EVIDENCE EXISTS THAT A VACANCY WAS LAWFULLY CREATED INDEPENDENT OF ARTICLE VII, SECTION 2 OF THE NORTHERN CHEYENNE TRIBAL CONSTITUTION AND BYLAWS (AS AMENDED IN 1996)

In its Order, the Court has improperly narrowed its focus to Article VII, Section 2 of the Northern Cheyenne Tribal Constitution and Bylaws. The Court is hyper-focused on the term removal as it is recited in the September 10, 2025 Declaration. However, the Court fails to examine the whole of Article VII and evaluate the manner in which vacancies are created.

The original Constitution and Bylaws of the Northern Cheyenne Tribe of the Tongue River Reservation was approved on November 23, 1935. In the original Constitution, Article VII outlined the procedures for removal from office as follows:

Section 1. The president, members, and other officers of the Tribal Council shall be removed from office on impeachment for conviction of bribery, felony, or a misdemeanor involving dishonesty. No person is to be impeached except by a two-thirds (2/3) affirmative vote of the members of the Council present after the accused has had notice of the charges against him and an opportunity to be heard in his own defense.

Section 2. Any complaint against the President, a member, or officer of the Tribal Council must be in writing and sworn by the complainant.

Section 3. *Vacancies.* –(a) If the office of President is declared vacant it shall be filled temporarily by the Vice President and the Tribal Council shall within sixty (60) days after the vacancy occurs call for nomination and election of a President to fill the vacancy in the manner as provided in Article VI.

(b) If the office of a member of the Tribal Council becomes vacant the Tribal Council shall, at its first meeting thereafter, call an election within the district in which the vacancy occurs. Such election shall be held within thirty (30) days after the said Council meeting.

The Northern Cheyenne Tribal Constitution and Bylaws have been amended two times – once in 1960 and once in 1996. Each time, Article VII outlined the procedures for removal from office and vacancy. The Constitution and Bylaws of the Northern Cheyenne Tribe as amended in 1996 provides in relevant party as follows:

Section 2. Removal from Office. Any officer or councilman who shall fail to perform the duties assigned to him or shall be guilty of gross neglect may be removed by a two-thirds (2/3) vote of Tribal Council, after affording the accused member a fair opportunity to be heard in his own defense. The decision of the Tribal Council shall be final.

Section 3. Any complaint against the President, a member of officer of the Tribal Council must be in writing and sworn to by the complainant.

Section 4. Filling Vacancies in Office. If the office of President or Vice President, or a seat on the Tribal Council allocated to a Reservation district, becomes vacant due to death, resignation, removal, or *other cause*, the Tribal Council shall schedule a special election to fill the vacancy for the remainder of the term of office as follows: . . .

Article VII, Amended Constitution and Bylaws (1996)(emphasis added in Section 4).

CERTIFICATE OF SERVICE

The undersigned certifies that on this 18th day of May, 2026, the foregoing Response to May 12, 2026 Order to Produce Evidence of a Lawful Vacancy and Criteria for Removal of Former Tribal Council Members Pursuant to Article VII, Section 2 was filed with the Northern Cheyenne Tribal Court in person. A true and accurate copy of the foregoing will be served on the counsel for Plaintiffs and Defendants as identified via USPS mail (an advance copy was sent via email).

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Article VII of the Constitution expanded significantly between 1935 and 1996. The relevant provision for the Court is the creation of vacancies. Here, the Court has ordered the parties, mostly aimed at Defendants-Respondents, to produce evidence to show that a lawful vacancy existed. The Court's hyper-focus on "removal" and Section 2 fails to evaluate the manner in which vacancies may be created. As is outlined in the Constitution, as amended in 1996, a vacancy may be created for other causes. This is precisely what occurred here. No further documentary evidence exists pertaining to the Plaintiffs-Petitioners' removal from Tribal Council.

A fair reading of Article VII reveals that complaints may be raised by individuals other than those within the Legislative or Executive branch. *See* Article VII, Section 3. Next, vacancies are not solely created by removal as outlined in Section 2. Rather, vacancies may be created by other causes. *See* Article VII, Section 4. The September 10, 2025 Declaration from the Traditional Chiefs served as a complaint that outlined the criteria used for their decision, namely theft, misuse of monetary sources, and misconduct. The results outlined in the Declaration served as a referendum by the citizens of Northern Cheyenne through the Traditional Chiefs. The ratification of this referendum was fulfilled when the Northern Cheyenne People voted on October 30, 2025, and the Election Board ratified those results without objection.

CONCLUSION

The Rube Goldberg contraption created by the Court is not necessary. The provisions in the Constitution must not be read in isolation to determine an outcome. The vacancies created were lawful as outlined above. As such, the Defendants-Respondents seek an opportunity to be heard and present evidence pertaining to the lawful vacancy created by other causes as outlined in Article VII, Section 4.

Dated the 18th day of May, 2026



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