

IN THE NORTHERN CHEYENNE TRIBAL COURT
NORTHERN CHEYENNE RESERVATION



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 & Ryhal Rowland, Employee

CASE NO. 2026-079. A

In their official capacities as lawfully elected
Council members, appointees, and employee

Plaintiffs,

v.

Larry Medicine Bull, Westley Spotted Elk, &
Roger Killsnight,

in their capacities as purported Chiefs;

JUDGE _____

and

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), Sharleen Evans, Secretary, & Terrance
Limpy, Treasurer & Donavon Taylor, (Busby),

in their capacities as purported
Council members,

Defendants.

**PETITIONERS' RESPONSE TO SUA SPONTE ORDER, OBJECTION TO
REASSIGNMENT, AND MOTION TO VACATE SUA SPONTE STAY AND REINSTATE
TEMPORARY RESTRAINING ORDER**

Petitioners, by and through undersigned lay advocates, respectfully submit this Response to the
Court's "Sua Sponte Order Placing a Stay on Temporary Restraining Order to Protect the Health,

Welfare, and Safety of the Public,” dated April 20, 2026, and move this Court to vacate that order, reinstate the Temporary Restraining Order entered April 15, 2026, object to reassignment to Jean Bearcrane, and issue an Order to Show Cause directed to President Gene Small and any persons acting in concert with him.

I. INTRODUCTION

1. On April 15, 2026, this Court entered an Order Granting a Temporary Restraining Order and Scheduling a Hearing on Preliminary Injunction after Petitioners filed a motion for temporary restraining order, expedited hearing, and preliminary injunctive relief. The Court found that Petitioners had presented sufficient evidence demonstrating likelihood of success on the merits, irreparable harm, a balance of equities favoring relief, and a public interest in maintaining lawful Tribal governance.
2. In that April 15 Order, the Court temporarily enjoined Respondents from acting or purporting to act as Tribal Council members or Chiefs under the September 10, 2025 “Declaration of the Chiefs,” from excluding Petitioners from Tribal facilities and records, from directing employees or third parties to impede Petitioners’ access to government functions, and from exercising governmental authority pending further order. The Court also set a hearing on preliminary injunction.
3. On April 20, 2026, without any motion by any party, the Court entered a sua sponte order stating that it had “been made aware” that essential services had been closed by the Northern Cheyenne Administration due to the safety of employees, and on that basis stayed the April 15 Temporary Restraining Order. The same order also purported to reassign this matter to Judge Pro Tem Jean Bearcrane.

4. The April 20 Order should be vacated. It was entered without a motion, without notice, and without affording Petitioners an opportunity to be heard. Its factual premise is also wrong. The conditions cited by the Court were not created by Petitioners or by the TRO itself, but by President Gene Small and those acting with him, who chose to close buildings and disrupt essential services rather than comply with the lawful order restoring the status quo.
5. Moreover, if the Court believed emergency intervention was necessary to protect employees or the public, the proper remedy was not to stay the TRO. The proper response was to enforce the TRO and issue an Order to Show Cause directed to President Gene Small and those acting in concert with him, requiring them to reopen the building, restore access, and cease interference with Tribal operations.
6. Petitioners further object to the reassignment of this matter to Jean Bearcrane. The only appointment document in the record is Resolution No. DOI-007 (2026), dated October 21, 2025, which purports to appoint Jean Bearcrane as Judge Pro Tem and is signed by Gene Small and Sharlene Evans as “Interim Secretary.” Petitioners allege that this resolution was enacted by an unlawful “Interim Council” and is therefore void ab initio. If the resolution is void, Jean Bearcrane lacks lawful authority to preside over this case.

II. RELEVANT PROCEDURAL HISTORY

7. Petitioners filed their Motion for Temporary Restraining Order, Expedited Hearing, and Preliminary Injunctive Relief seeking immediate relief to preserve the lawful status quo pending adjudication of their claims. Petitioners argued that individuals claiming authority under the September 10, 2025 “Declaration of the Chiefs” lacked lawful basis to remove

elected officials, exclude Petitioners from offices and government functions, or exercise Tribal governmental power.

8. Petitioners' motion requested injunctive relief prohibiting Respondents from enforcing the September 10, 2025, declaration, acting as Tribal Council members or Chiefs on that basis, excluding Petitioners from Tribal offices and functions, authorizing expenditures or contracts, and destroying or concealing records.
9. On April 15, 2026, the Court granted that relief, finding that the September 10, 2025, declaration did not appear to have authority under the Amended Constitution, the Law-and-Order Code, or any duly enacted Tribal Council ordinance, and that the respondents identified as Tribal Council members had not demonstrated lawful authority to exercise those offices. The Court found immediate and irreparable harm and concluded that maintaining lawful Tribal governance and preventing unauthorized exercise of authority served the public interest.
10. On April 20, 2026, the Court entered the Sua Sponte Order now at issue, staying the TRO and reassigning the matter to Judge Pro Tem Jean Bearcrane because the Court had "been made aware" that essential services had been closed by the Northern Cheyenne Administration due to employee safety concerns.

III. ARGUMENT

A. The Court Should Vacate the Sua Sponte Stay Because No Party Moved for That Relief and Petitioners Were Given No Notice or Opportunity to Be Heard.

11. The Northern Cheyenne Rules of Civil Procedure contemplate party-initiated motion practice. The Rules provide that an application to the Court for an order shall be by motion, that the motion shall state with particularity the grounds for the order sought and the relief sought, and

that motions and notice of motion shall be set forth together. The Rules also contemplate hearings on motions and orders and set procedures for filing and response.

12. That procedure was followed when Petitioners sought the April 15 TRO. Petitioners filed a motion, presented legal and factual grounds for relief, and the Court ruled on that request.

13. No similar motion exists for the April 20 stay. The April 20 order identifies no motion, affidavit, filing, or noticed request by any party seeking a stay of the TRO. Instead, the Court acted sua sponte after it “was made aware” of alleged circumstances outside the ordinary motion process.

14. A court should not alter substantive injunctive relief on its own initiative without notice and an opportunity to be heard, particularly where the relief previously entered was based on specific findings concerning unlawful governance, irreparable harm, and the public interest. Petitioners had no opportunity to challenge the factual assertions relied on by the Court, to explain that the closure of services was not compelled by the TRO, or to propose narrower and proper relief aimed at those actually causing disruption.

15. The April 20 order should therefore be vacated as procedurally improper.

B. The Factual Basis of the Sua Sponte Order Is Wrong Because the Claimed Threat to Public Health, Welfare, or Safety Was Created by President Gene Small and Those Acting with Him.

16. The April 20 order states that the Court was informed that essential services providing assistance and resources to the Northern Cheyenne people were closed by the Northern Cheyenne Administration due to the safety of employees, and that staying the TRO was necessary to protect the public.

17. But the April 15 TRO did not order closure of buildings, suspension of services, or disruption of administration. To the contrary, the TRO sought to preserve the last lawful status quo, prevent unauthorized persons from exercising disputed authority, protect duly elected officials and employees from exclusion, and maintain continuity of lawful government operations.
18. Specifically, the April 15 TRO enjoined Respondents and those acting in concert with them from excluding Petitioners from offices, buildings, records, meetings, and functions; from directing employees, security personnel, vendors, or third parties to deny Petitioners access to Tribal property, records, or operations; and from exercising governmental authority based on the challenged declaration.
19. Thus, if essential services were closed after entry of the TRO, that was not an effect compelled by the TRO. It was the result of independent conduct by President Gene Small and those aligned with him, who chose to close buildings or suspend services rather than comply with the Court's order restoring lawful access and authority.
20. The Court's April 20 order therefore addresses the wrong source of the alleged emergency. The problem was not the TRO. The problem was noncompliance with the TRO.
21. Equity does not permit a party, or those acting with a party, to create a crisis through noncompliance and then rely on that crisis as a reason to obtain relief from the Court's prior order. Staying the TRO under those circumstances rewards obstruction and undermines the Court's own findings that injunctive relief was necessary to preserve lawful governance and protect the public interest.

C. If Emergency Action Was Necessary, the Proper Response Was an Order to Show Cause Against President Gene Small and an Order Requiring Reopening of the Building and Restoration of Access.

22. Even assuming the Court had legitimate and urgent concerns about employee safety or public access to essential programs, the proper judicial response was not to stay the TRO and restore leverage to those whose authority is in dispute.

23. The proper response was targeted enforcement.

24. If President Gene Small or those acting with him closed the building, obstructed employees, restricted public access, or interfered with Tribal operations after entry of the April 15 TRO, the Court should have issued an Order to Show Cause directing President Gene Small and any persons acting in concert with him to appear and explain why they should not be sanctioned, held in contempt, or subjected to additional injunctive relief.

25. The Court should also have ordered immediate reopening of the building, restoration of access for employees and the public, cessation of interference with Tribal operations, and compliance with the April 15 TRO.

26. That approach would directly address the alleged emergency while preserving the Court's prior findings, the lawful status quo, and the integrity of judicial process. The April 20 stay did the opposite: it withdrew protection from Petitioners, destabilized the Court's April 15 findings, and empowered those who allegedly created the problem by refusing compliance.

D. Petitioners Object to Reassignment to Jean Bearcrane Because the Purported Resolution Appointing Her Is Void Ab Initio.

27. The April 20 order states that this matter is being reassigned to Judge Pro Tem Jean Bearcrane, who in the transition will review whether to lift or uphold the stay or issue a new TRO.

28. The appointment document in the record is Resolution No. DOI-007 (2026), which purports to appoint Jean Bearcrane as a Judge Pro Tem for the Northern Cheyenne Tribal Court. That

resolution states it was passed on October 21, 2025, and bears the signatures of Gene Small as President and Sharlene Evans as “Interim Secretary.”

29. Petitioners specifically object to any reassignment based on that resolution because Petitioners contend the so-called “Interim Council” that passed Resolution No. DOI-007 (2026) was unlawful and lacked lawful authority to enact it.

30. A void resolution confers no lawful authority. If Resolution No. DOI-007 (2026) was enacted by an unlawful body, it is void ab initio, and Jean Bearcrane was never lawfully appointed as Judge Pro Tem.

31. At minimum, where the authority of the appointing body is disputed and intertwined with the broader governance controversy before this Court, reassignment to a purported judge pro tem appointed through that same disputed power structure is improper and undermines confidence in the legitimacy and neutrality of further proceedings.

32. Petitioners therefore object to reassignment and request that the April 20 order be vacated to the extent it purports to transfer this matter to Jean Bearcrane.

IV. REQUEST FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

1. Vacate the April 20, 2026, Sua Sponte Order Placing a Stay on Temporary Restraining Order;
2. Immediately reinstate the April 15, 2026, Order Granting a Temporary Restraining Order and Scheduling a Hearing on Preliminary Injunction;
3. Sustain Petitioners’ objection to reassignment of this matter to Jean Bearcrane;

4. Rule that Jean Bearcrane lacks authority to act as Judge Pro Tem in this matter, or, in the alternative, stay any reassignment until the validity of Resolution No. DOI-007 (2026) is adjudicated;
5. Issue an Order to Show Cause directing President Gene Small and any persons acting in concert with him to appear and show cause why they should not be sanctioned or held in contempt for closing Tribal facilities, obstructing employees, interfering with essential public services, or otherwise acting contrary to the April 15, 2026, TRO;
6. Order immediate reopening of the Tribal building and restoration of employee and public access to essential services, records, facilities, and operations; and
7. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 21st day of April 2026.



Elmore Limberhand
Steve A. Kelly
Lay Advocates for Petitioners
P.O. Box 988
Lame Deer, Montana 59043
(406) 477-6668
(406) 421-7930

CERTIFICATE OF SERVICE

I certify that on this 21st day of April 2026, I caused a true and correct copy of the foregoing *Petitioners' Response to Sua Sponte Order, Objection to Reassignment, and Motion to Vacate Sua Sponte Stay and Reinstate Temporary Restraining Order* to be served upon all parties or counsel of record by the method authorized by the Court.


Elmore Limberhand