

**UNITED STATES DEPARTMENT OF THE INTERIOR
INTERIOR BOARD OF INDIAN APPEALS
Washington, D.C.**

NORTHERN CHEYENNE TRIBAL COUNCIL,
Appellant,

v.

JODY CAMRUD, DEPUTY REGIONAL DIRECTOR,
Bureau of Indian Affairs,
Appellee.

IBIA Docket No. _____

**OPENING BRIEF OF APPELLANT
NORTHERN CHEYENNE TRIBAL COUNCIL**

I. INTRODUCTION

This appeal arises from the Bureau of Indian Affairs' refusal to recognize the Northern Cheyenne Tribal Council seated under Ordinance DOI-010 (2023) and Ordinance DOI-008 (2025) as the Tribe's governing body for federal purposes, following an extra-constitutional intervention by self-styled "Chiefs" and the active participation of BIA law enforcement in removing duly elected Council members from their offices and positions of authority. The original eight Council members who voted to remove President Gene Small, together with the two Council members and the Vice-President who did not participate in that vote, constituted the last uncontested, constitutionally seated governing body of the Northern Cheyenne Tribe.

Rather than recognizing that government under *Goodface v. Grassrope*, 708 F.2d 335 (8th Cir. 1983), and the long line of Interior Board of Indian Appeals decisions applying *Goodface*—including *Gonzales/Torres*, *Bucktooth*, *LaRocque*, *Dore*, *Zuni*, and *Wells*—the Area Director has attempted to take refuge in a claimed posture of "neutrality." That claim is untenable. BIA law enforcement actions enabled a faction of "Chiefs" with no constitutional authority to oust elected leaders, install an "interim council," and conduct a low-turnout election that does not reflect the will of the Northern Cheyenne people. Having materially altered the status quo, BIA cannot now invoke neutrality to justify refusal to recognize the lawful government.

The Northern Cheyenne Constitution vests political authority in the Tribal Council and President, prescribes exclusive Article VII procedures for removal, and confers no political power on traditional "Chiefs." The Chiefs' purported removal of eight Council members therefore has no

basis in tribal law. Yet BIA has refused to recognize the original Council even on an interim basis, while pointing the Council back to a Constitutional Court that has since held it lacks jurisdiction to hear a Council-as-plaintiff challenge to the Chiefs' actions and whose neutrality has been called into serious question by evidence of ex parte communications.

Under the Department's own precedents, BIA may not leave a tribe in a leadership hiatus of its own making. *Goodface* and its IBIA progeny require BIA to recognize some government for federal purposes and, in a crisis, to default to the last uncontested, constitutionally created governing body pending lawful tribal resolution. Here, that body is the Council seated under Ordinance DOI-010 (2023) and Ordinance DOI-008 (2025). The Board should order interim recognition accordingly.

II. JURISDICTION

The duly elected Council has sent multiple formal letters to the Bureau between December 2025 and February 2026 requesting a recognition determination and clarification of federal posture. The Bureau has not issued a written final decision addressing those demands.

Under 25 C.F.R. § 2.9(a), failure to act within required timeframes may be treated as a denial. Additionally, 25 C.F.R. §§ 2.7 and 2.14 require that decisions be in writing and include notice of appeal rights. The Bureau's silence does not avoid review; it triggers it. Agency inaction that effectively determines rights and perpetuates instability constitutes final agency action for purposes of appeal.

The Interior Board of Indian Appeals has jurisdiction under 43 C.F.R. §§ 4.1 and 4.330–4.340 to review final decisions and constructive denials by BIA regional and area directors. The Northern Cheyenne Tribal Council appeals:

1. The written decision of the [Regional/Area Director], dated [date], declining to recognize the Council seated under Ordinance DOI-010 (2023) and Ordinance DOI-008 (2025) as the Tribe's governing body for federal purposes and maintaining a posture of "neutrality" despite the Tribe's constitutional structure and subsequent tribal court proceedings; and
2. BIA's repeated failure and refusal to act on the Council's repeated requests for recognition, which constitutes a constructive denial of BIA's obligations under *Goodface v. Grassrope* and the Department's own IBIA precedent.

This appeal is timely.

III. FACTUAL BACKGROUND

The Northern Cheyenne Constitution provides clear procedures for the removal of elected officials. Article VII requires a two-thirds vote of the Tribal Council and affords the accused member a fair opportunity to be heard. These procedural safeguards are mandatory and constitutional in nature.

In September 2025, a faction identifying itself as the “Traditional Chiefs” issued a Declaration purporting to remove the duly elected Council. That action did not follow Article VII procedures. There was no Council vote, no constitutional hearing, and no adherence to the Tribe’s governing removal provisions. The Declaration was nevertheless treated by some as operative, triggering a cascade of events that included law enforcement intervention, the arrest of elected Council members, occupation of offices, and displacement of duly elected officials.

Affidavits describing those events were formally submitted to the Bureau. The Council repeatedly requested investigation, clarification, and a recognition determination. The Bureau did not issue a written decision resolving the recognition question.

On November 20, 2025, the Northern Cheyenne Constitutional Court issued an order in CC-2026-001 addressing the removal of President Small. While that decision resolved the presidential removal question, it did not adjudicate the authority of the Chiefs to remove Council members. Importantly, the Court limited the scope of proceedings and made clear that the Tribal Council could not expand the action to litigate broader questions concerning the Chiefs’ authority within that posture.

Compounding the structural problem, the Tribe’s Code has been interpreted to permit the Tribal Council to appear only as defendants in certain proceedings. Thus, the duly elected Council cannot simply initiate litigation to affirm its own lawful status. This creates a procedural asymmetry: the faction asserting extra-constitutional removal authority need not prove its authority in a constitutional forum, while the elected Council is left to defend itself without the ability to initiate a declaratory action affirming its legitimacy.

The situation further escalated on February 6, 2026, when the Traditional Chiefs issued additional removal letters affecting further Council members, including individuals who had replaced previously removed members. These letters explicitly stated that there would be “no hearing” and that the decision of the Traditional Chiefs Council “will be final.” In other words, removal authority was exercised without constitutional process and declared unreviewable.

This development is profoundly significant. It demonstrates that the removal authority being asserted operates outside the constitutional framework and without acknowledgment of judicial constraint. Where removal decisions are declared final and not subject to constitutional review, there is no guarantee that even a Tribal Court ruling recognizing the duly elected Council would be honored or implemented. Exhaustion doctrine presumes a functioning forum capable of issuing binding and enforceable decisions. The present circumstances do not support that presumption.

The instability is not confined to a simple “Council versus Chiefs” dispute. A Statement and Call to Halt issued by Chief Larry Beartusk publicly questions the legitimacy and authority of the faction of Chiefs issuing removals. Thus, even among individuals identifying as Chiefs, authority

is disputed. This underscores the absence of a unified or constitutionally anchored traditional authority capable of providing final internal resolution.

IV. THE COUNCIL'S REPEATED WRITTEN REQUESTS FOR RECOGNITION AND THE BUREAU'S FAILURE TO ISSUE A DECISION COMPLIANT WITH 25 C.F.R. PART 2

From December 2025 through February 2026, the Northern Cheyenne Tribal Council submitted a series of formal written requests to the Bureau of Indian Affairs seeking a recognition determination. Each letter requested that the Bureau identify, in writing, which governing body it would recognize for federal purposes in light of the Chiefs' extra-constitutional Declaration and the removal of elected officials. At no point did the Bureau issue a written decision complying with 25 C.F.R. Part 2.

On December 3, 2025, the Council submitted a detailed letter to Deputy Regional Director Jodi Camrud explaining that the Chiefs' Declaration did not comply with Article VII of the Northern Cheyenne Constitution and requesting interim recognition of the DOI-010/DOI-008 Council. The letter explained that the Constitution provides exclusive removal procedures and that the Chiefs lacked constitutional authority to remove elected officials. The Council expressly requested a written determination clarifying which governing body the Bureau recognized for purposes of federal dealings.

On December 8, 2025, the Council supplemented that submission, providing additional constitutional analysis and reiterating its request for a formal recognition decision. The Council emphasized that BIA law enforcement's involvement had materially altered the status quo and that federal neutrality required issuance of a recognition determination to stabilize government-to-government relations.

On December 15, 2025, the Council addressed Assistant Secretary – Indian Affairs William Kirkland directly. That letter specifically invoked 25 C.F.R. Part 2 and requested a written decision compliant with §§ 2.7 and 2.14. The Council noted that any decision must (1) be in writing, (2) state the reasons for the decision, and (3) inform the Council of its appeal rights. The Council made clear that federal law required a formal determination rather than informal correspondence.

On December 19, 2025, the Council submitted a formal demand letter to Superintendent Werk stating that the Bureau's failure to issue a recognition determination was itself actionable. The Council expressly invoked 25 C.F.R. § 2.9(a), which provides that inaction may be treated as a denial. The Council requested that the Bureau issue a final decision or risk constructive denial.

On December 23, 2025, the Council again wrote to Assistant Secretary Kirkland, addressing communications from counsel representing the rival faction and requesting clarification regarding federal dealings. The Council reiterated that BIA had never formally recognized the

installed faction and had never issued a recognition determination compliant with Part 2. The Council again demanded written clarification of federal recognition posture.

On February 11, 2026, following additional removal letters issued by the Chiefs and continuing instability, the Council submitted another written request to Superintendent Werk documenting ongoing removals without Article VII process and reiterating that the only lawful interim solution was recognition of the DOI-010/DOI-008 Council pending lawful tribal resolution.

On February 17, 2026, the Council supplemented the record once more, explaining in detail that tribal remedies were structurally unavailable because the Constitutional Court had held the Council could not appear as plaintiff in the posture required to challenge the Chiefs' actions. The Council explained that requiring exhaustion was illogical where the Tribe's own legal structure prohibited the Council from initiating the demanded litigation.

Despite these repeated written demands—each of which clearly requested a recognition determination—the Bureau has never issued:

1. A written decision identifying which governing body it recognizes;
2. A written denial explaining its reasoning;
3. A decision containing the required statement of appeal rights under 25 C.F.R. § 2.14; or
4. A final agency action compliant with 25 C.F.R. § 2.7.

The Bureau's correspondence, where it exists, consists of informal letters or emails that neither purport to be final decisions nor provide appeal rights. Such informal communications do not satisfy Part 2. Federal regulations require that when BIA takes action or declines requested action affecting the rights of a party, it must issue a written decision stating the basis for that action and providing notice of appeal rights. See 25 C.F.R. §§ 2.7, 2.14.

The Bureau's failure to do so is not a mere technical defect. It deprives the Council of procedural protections guaranteed by regulation and prevents meaningful administrative review. Under 25 C.F.R. § 2.9(a), "[a] failure to act on a request within a reasonable time may be treated as a denial." Given the Council's repeated formal demands and the Bureau's continued silence on recognition, the inaction here constitutes constructive denial.

This constructive denial is particularly significant considering the instability affecting tribal governance and federal dealings. The Council has not sought an advisory opinion; it has demanded a recognition determination necessary for federal relations. The Bureau's refusal to issue such a determination—while continuing to interact with a rival faction—has practical recognition consequences without procedural compliance.

Accordingly, the Council's appeal is properly before the Board. The Bureau's inaction is reviewable final agency action, and the Board should not permit the Department to avoid its obligations under Part 2 through silence.

V. STATEMENT OF THE CASE

The Northern Cheyenne Tribe is an Indian Reorganization Act-organized tribe governed by a written Constitution. That Constitution establishes a Tribal Council and President, prescribes staggered terms for Council members through duly enacted ordinances such as DOI-010 and DOI-008, and sets forth exclusive Article VII procedures for the removal of officials. Those procedures require written charges, notice, an evidentiary hearing, and a two-thirds (2/3) vote of the Council. The Constitution does not confer political or removal authority on traditional “Chiefs.”

The Council seated under Ordinance DOI-010 (2023) and Ordinance DOI-008 (2025) was elected in regular, reservation-wide elections and recognized by BIA in its government-to-government dealings with the Tribe. That Council attempted repeatedly to secure President Gene Small’s participation in a duly noticed evidentiary hearing concerning allegations of misconduct. Only after multiple failed attempts did the Council proceed under its constitutional authority.

President Small responded not by contesting the process in a lawful forum, but by enlisting a group of self-styled “Chiefs,” who purported to remove the eight Council members who voted to remove Small. Two Council members and the Vice-President who did not participate in the hearing were not targeted. The Chiefs possess no political jurisdiction under the Northern Cheyenne Constitution.

Nonetheless, with the active participation of BIA law enforcement—who entered tribal offices, arrested elected Council members, and removed them from their workplaces—the Chiefs were able to declare Council seats vacant, install an “interim council,” and orchestrate an election for eight replacement Council members. Turnout in that election was a fraction of normal participation, and many Tribal citizens viewed the process as illegitimate and contrary to Cheyenne law and custom.

The Northern Cheyenne Constitutional Court addressed only a narrow portion of the dispute. In *Gene Small v. Northern Cheyenne Tribal Council*, CC-2026-001, the Court held that the Council’s appointment of a “President Pro Tem” was unconstitutional and that the Council had not obtained the two-thirds vote required to remove Small as President. That decision did not adjudicate the Chiefs’ alleged authority to remove Council members, did not validate the interim or replacement council, and did not legitimize the subsequent low-turnout election. The Council later discovered evidence that the Chief Judge engaged in ex parte communications with President Small while CC-2026-001 was pending.

When the Council attempted to challenge the Chiefs’ actions and the resulting factional government in CC-2026-002, the Constitutional Court dismissed for lack of jurisdiction, holding that it could hear only constitutional claims in which the Council is a defendant and that no ordinance or statute authorizes a Council-as-plaintiff action against the Chiefs. The Court thus made plain that the relief BIA demands cannot be obtained in that forum.

Despite these facts, BIA has refused to recognize the DOI-010 (2023) and DOI-008 (2025) Council as the Tribe's governing body for federal purposes. While claiming neutrality, BIA has in practice dealt with the Chiefs' successor councils as though they were the government, even though their installation rested on extra-constitutional actions enabled by federal enforcement. This appeal seeks to correct that refusal and secure interim recognition of the lawful Council until a legitimate tribal forum with jurisdiction resolves the dispute.

VI. SUMMARY OF ARGUMENT

Goodface v. Grassrope makes clear that BIA may not refuse to recognize any tribal government or attempt to operate through a leadership vacuum. The IBIA has repeatedly enforced that principle, holding that BIA must recognize a government at least on an interim basis where federal purposes require it and where a last uncontested constitutional government exists.

This case presents precisely the emergency *Goodface* addresses. BIA law enforcement actions enabled an extra-constitutional faction to remove elected officials and install a rival council. BIA then attempted to disclaim responsibility by invoking neutrality and exhaustion, even though tribal remedies are structurally unavailable and judicial neutrality has been compromised.

The burden in this dispute rests on the challengers—the Chiefs, President Small, and the installed council—to prove lawful removal and lawful replacement. They cannot do so. No valid Article VII removal occurred, no constitutional authority supports the Chiefs' actions, and no tribal forum with jurisdiction has validated the displacement.

Under *Goodface* and the IBIA's recognition cases, BIA must recognize the DOI-010 (2023) and DOI-008 (2025) Council on at least an interim basis.

VII. ARGUMENT

A. The Burden Rests on the Chiefs to Prove Removal Authority, and BIA's Current Posture Impermissibly Reverses That Burden

The Bureau's position implicitly assumes that the DOI-010/DOI-008 Council must prove its continuing legitimacy as a prerequisite to recognition. That assumption reverses the proper order of proof and undermines the Tribe's constitutional design. Under the Northern Cheyenne Constitution, elected officials hold office unless and until they are removed through a lawful process. Article VII provides the exclusive removal mechanism for Council members, requiring due process and a supermajority vote. The Constitution does not authorize a separate political removal track under "inherent" or "traditional" authority that bypasses Article VII.

In the Council's view, and as reflected in the Tribe's judicial structure, disputes about whether the Council's authority has been displaced were always expected to be litigated in a specific posture: the Council would be named as a defendant in Constitutional Court, and the challenger would bear the burden to prove the Council lacked lawful authority. That allocation is not a mere technicality; it is the constitutional safeguard that prevents governance from being destabilized

through unilateral accusations or self-help removals. It preserves continuity of government and protects voters' choices unless a lawful tribunal determines otherwise. The BIA's stance in this case violates that safeguard.

This is precisely why the Constitutional Court's determination that the Council cannot appear as a plaintiff matters so much. If the Tribe's Code and court practice require the Council to be sued as a defendant, then the Council cannot be required—by the Bureau or any other actor—to initiate litigation to prove that it remains lawful. That would force the Council into a posture the Tribe's law does not allow and would invert the constitutional expectations of who must prove what.

Accordingly, the proper question is not whether the Council can prove, affirmatively and in the first instance, that it was unlawfully removed. The proper question is whether the Chiefs—or any other actor asserting that Article VII does not control—have proven in a competent tribal forum that they possess constitutional authority to remove Council members without Article VII process. They have not. To the contrary, the Chiefs' removal letters repeatedly confirm the absence of constitutional process by stating removals occur with “no hearing” and that the Chiefs' decisions are “final.” Those assertions do not establish lawful authority; they underscore extra-constitutional action.

The Bureau's approach therefore amounts to a kind of “recognition by default” of whoever can seize the machinery of government after a disruption, while requiring the displaced constitutional government to litigate its way back into existence—despite being barred from doing so in the posture the Bureau insists upon. That is precisely the form of burden-shifting that Goodface and IBIA recognition precedent are designed to prevent. Interim recognition exists to stabilize governance and preserve continuity pending lawful resolution—not to reward unilateral power assertions by forcing the elected government to carry an impossible burden.

Put simply, the Bureau is treating the Council's constitutional right to hold office as something the Council must re-earn. That is backwards. The default is continuity. The burden rests on the party claiming displacement to prove it.

B. “Exhaustion” and Deference Fail Where Tribal Remedies Are Structurally Unavailable, Illusory, or Incapable of Producing a Binding Result

The Bureau has repeatedly invoked the general notion that tribal disputes should be resolved internally. As a principle, that is unobjectionable. The problem is that it does not describe this case as it exists in reality.

Exhaustion and deference doctrines presuppose a functioning, available forum capable of providing relief in the posture required. IBIA's decision in *Wadena v. Acting Minneapolis Area Director*, 30 IBIA 130 (1997), is often cited for deference where a viable tribal forum exists and can actually resolve the dispute. But *Wadena* is not a rule of paralysis, and it does not require

exhaustion where the forum is not practically available or is structurally foreclosed to the party seeking relief.

Here, the Bureau's position collapses under the Tribe's own procedural structure. The Council cannot appear as a plaintiff in Constitutional Court to bring the exact challenge the Bureau repeatedly demands. That means there is no available internal remedy "in the first instance" for the Council to pursue. The Bureau is insisting that the Council pursue a path the Tribe's own legal system does not permit.

This structural unavailability is compounded by the Chiefs' own repeated declarations that their removal decisions are "final" and will occur with "no hearing." A system in which a political body asserts unilateral removal authority, declines to provide due process, and declares its decisions final is not a system that can reliably produce judicially enforceable outcomes. That is the definition of an illusory remedy. Even if a tribunal could be convened, exhaustion doctrine cannot require a party to litigate in a forum whose rulings may not be honored or implemented by the very authority exercising power.

IBIA precedent applying *Goodface* recognizes that the Department's deference to tribal processes assumes those processes are capable of producing a workable resolution within a reasonable timeframe. When ongoing instability persists—especially where the asserted authority continues to remove officials repeatedly—deference becomes abdication. The Board's role is not to decide tribal constitutional merits; it is to ensure the Bureau fulfills its duty to identify a government for federal purposes when the tribal system is not producing a stable, binding resolution.

In short, the Bureau cannot demand "tribal exhaustion" while the tribal system forbids the Council from filing suit in the posture demanded, while the alleged removing authority refuses due process and claims unreviewable finality, and while governance remains in constant flux.

C. *Sac & Fox* and *Goodface* Together Define the Federal Role: No Merits Adjudication, But No Governmental Vacuum

The Bureau's reliance on "internal dispute" rhetoric and its attempt to avoid issuing a recognition determination conflates two distinct doctrines that must be held in balance.

First, *In re Sac & Fox Tribe of Mississippi in Iowa / Meskwaki Casino Litigation*, 340 F.3d 749 (8th Cir. 2003), stands for an important limitation: federal courts may not adjudicate the internal merits of tribal leadership disputes in a way that requires interpreting tribal constitutions and deciding who "won" under tribal law. That protects tribal sovereignty. It prevents federal tribunals from substituting their judgment for tribal constitutional interpretation.

But *Sac & Fox* is not a license for federal paralysis. That limitation exists alongside a second, equally controlling doctrine: *Goodface v. Grassrope*, 708 F.2d 335 (8th Cir. 1983), which recognizes that the Department must still determine which governing body it will recognize for

federal purposes when instability prevents orderly relations. The Department may not decline to recognize any government while federal programs and government-to-government interactions continue. Neutrality does not mean leaving recognition in limbo.

Read together, these cases produce a coherent framework. The Bureau should not decide the ultimate tribal constitutional merits of whether the Chiefs' actions were lawful. That is the *Sac & Fox* boundary. But the Bureau must still decide, for federal purposes, which governing authority it recognizes pending lawful resolution. That is the *Goodface* obligation.

This case fits squarely within the *Goodface* category. Unlike a classic two-faction election contest, the dispute here is characterized by repeated unilateral removals without Article VII process and ongoing instability that affects federal relations. Indeed, the Chiefs have now removed not only the original Council but also subsequent replacement officials—demonstrating that the “solution” imposed after BIA intervention did not stabilize anything. It institutionalized instability.

In such circumstances, the Bureau's only lawful path is to recognize the last uncontested constitutional government pending a lawful ruling from a competent tribal forum. That is not federal merits adjudication. It is the federal government identifying its counterpart for federal dealings, while leaving the ultimate constitutional merits to tribal law.

D. BIA's Non-Interference Policy Was Violated When BIA Law Enforcement Took a Side and Changed the Status Quo; the Only Remedy Consistent with Neutrality Is to Restore Constitutional Continuity.

The Bureau's assertion of neutrality is not credible in this record because the Bureau was not neutral at the moment neutrality mattered most. BIA law enforcement arrested and removed elected Council members from their offices during the Chiefs' attempted displacement. That action did not merely “observe” the dispute; it materially altered the balance of power. It sent a signal—both to tribal institutions and to the community—that the Chiefs' Declaration and President Small's allegations were being treated as legitimate. It created the conditions for the rival faction to occupy offices, control communications, and proceed with subsequent actions.

That is the opposite of non-interference. It is interference.

And once interference has occurred, the Bureau cannot solve the resulting instability by refusing to act. The Bureau's current posture—intervening to dislodge the elected Council, then declining to issue a recognition determination because the matter is “internal”—would convert neutrality into a mechanism for entrenching the consequences of federal error. That is precisely what administrative law and the trust responsibility are designed to prevent.

The point is not that the Bureau must “take sides” now. It is that the Bureau already took a side in effect by disrupting the constitutional status quo. The only posture that can reasonably be called neutral after that intervention is one that restores the baseline rule of constitutional

continuity: recognition of the duly elected DOI-010/DOI-008 Council unless and until the challengers prove, in Constitutional Court, that the Council was lawfully displaced.

This is also the only posture that avoids rewarding extra-constitutional assertions of power. If the Bureau's involvement allowed displacement, and the Bureau then refuses to restore continuity, the Bureau effectively validates removal by self-help. That outcome will continue to incentivize manipulation of enforcement channels in future political disputes—precisely what the Bureau's neutrality policy is meant to prevent.

E. Integrated Resolution: The Only Coherent and Lawful Result Is Interim Recognition of the DOI-010/DOI-008 Council, Which Both Corrects Federal Error and Forces Proper Burden Placement On The Chiefs and Those That Assert The Removal of Council Members was Lawful.

When the above points are considered together—BIA interference, structural unavailability of tribal remedies, the Council's inability to be a plaintiff, and the Department's duty under *Goodface*—they compel one resolution.

Interim recognition of the DOI-010/DOI-008 Council does four things that no other approach can do at once. It reverses the destabilizing consequence of federal interference by restoring constitutional continuity. It aligns with the Constitutional Court's posture that the Council cannot be a plaintiff by placing the dispute where the Tribe's system places it: on challengers who must sue the Council as defendant. It places the burden of proof on those asserting extraordinary removal authority and requires them to demonstrate, through tribal constitutional adjudication, the limits of the Chiefs' power. And it satisfies the *Goodface* obligation by giving the federal government a stable counterpart for federal dealings.

This approach is also prudent for the Tribe's long-term governance. The Chiefs' repeated "no hearing" removals and claims of finality demonstrate that the Tribe urgently needs constitutional clarity on whether any traditional body can remove elected officials and whether such decisions are subject to judicial review. Those questions should be settled in Constitutional Court in a properly filed action naming the Council as defendant. Interim recognition does not pre-judge the outcome; it ensures the dispute is resolved through law rather than unilateral assertions of power, and it ensures that the party claiming authority must prove it.

VIII. REQUEST FOR REMAND WITH INSTRUCTIONS

If the Board determines that it cannot itself resolve the recognition question on the present record, Appellants respectfully request that the matter be remanded to the Bureau with specific instructions.

A simple remand for "further consideration" would be insufficient. The Bureau has already had multiple opportunities to act and has declined to issue any written recognition determination

despite formal written demands spanning several months. Continued open-ended deferral would perpetuate the very instability this appeal seeks to resolve.

Accordingly, Appellants request that the Board remand with the following instructions:

1. **Written Recognition Determination Required:** The Bureau shall issue a written recognition decision identifying the governing body it recognizes for federal purposes—either interim or final—within a specified and reasonable timeframe.
2. **Compliance with 25 C.F.R. Part 2:** The written decision must comply with 25 C.F.R. §§ 2.7 and 2.14 by clearly stating the decision, the factual and legal basis for it, and notice of appeal rights.
3. **Goodface Analysis Required:** The Bureau shall explicitly address its obligations under *Goodface v. Grassrope*, 708 F.2d 335 (8th Cir. 1983), including whether continued nonrecognition is consistent with federal recognition law in light of demonstrated governance instability.
4. **Exhaustion Determination Required:** If the Bureau continues to rely on exhaustion principles, it must expressly determine—based on record evidence—whether internal tribal remedies are actually available, structurally accessible, and capable of producing binding and enforceable relief, and explain why exhaustion is not futile under the circumstances.
5. **Burden Allocation Clarification:** The Bureau must address which party bears the burden of demonstrating constitutional authority to remove elected officials and explain how its recognition posture does not improperly shift that burden onto those elected pursuant to constitutional procedures.
6. **Status of Federal Dealings During Remand:** The Bureau shall clarify, in writing, the status of resolution approvals and federal interactions during the pendency of the dispute to prevent de facto recognition through silence.

A remand without such instructions would risk continued administrative paralysis and further destabilization of tribal governance. Where the record demonstrates repeated requests for action and escalating instability, the Board's supervisory authority should ensure that the Bureau fulfills its recognition obligations in a reasoned and timely manner.

IX. CONCLUSION

This case is not merely an internal political disagreement. It is a constitutional governance crisis triggered and intensified by federal intervention. The Chiefs have not proven removal authority in Constitutional Court. They have repeatedly removed officials without hearings and declared their decisions final. The Council cannot sue as a plaintiff to vindicate itself, because the Tribe's constitutional structure contemplates that challengers must sue the Council as defendant. BIA's

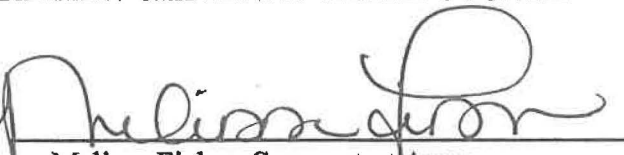
insistence on internal resolution therefore misfires because the internal remedy the Bureau demands is structurally unavailable to the Council.

Meanwhile, the Bureau cannot credibly invoke neutrality after its law enforcement officers arrested and removed elected officials, changing the status quo and facilitating displacement. The only posture consistent with neutrality now is the posture that restores constitutional continuity while placing the burden where tribal law expects it: on challengers who must prove authority in Constitutional Court.

For these reasons, the Board should reverse the Bureau's refusal to act and direct interim recognition of the Council seated under Ordinance DOI-010 (2023) and Ordinance DOI-008 (2025) unless and until the Chiefs successfully challenge that Council in Constitutional Court. In the alternative, the Board should remand with binding instructions requiring the Bureau to issue a written recognition determination on an expedited basis consistent with 25 C.F.R. Part 2 and *Goodface*.

RESPECTFULLY SUBMITTED on this 4 day of April, 2026.

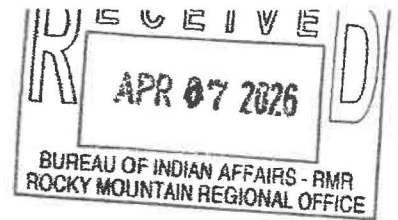
NORTHERN CHEYENNE TRIBAL COUNCIL

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Attachments:

December 3, 2025 Letter
December 8, 2025 Letter
December 15, 2025 Letter
December 19, 2025 Letter
December 23, 2025 Letter
February 11, 2026 Letter
February 17, 2026 Letter

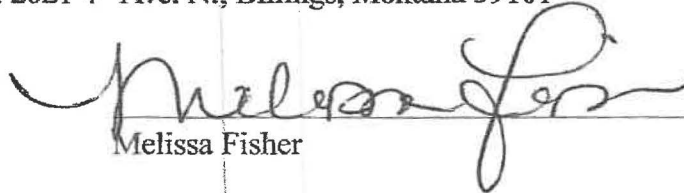


CERTIFICATE OF SERVICE

I certify that on this 17th day of April, 2026, a true and correct copy of the Opening Brief of Northern Cheyenne Tribal Council was served upon: 2:22pm J Camrud

Jodi Camrud, Deputy Regional Director, Bureau of Indian Affairs via:

Personal Delivery at Mail at: 2021 4th Ave. N., Billings, Montana 59101


Melissa Fisher

CERTIFICATE OF SERVICE

I certify that on this _____ day of April, 2026, a true and correct copy of the Opening Brief of Northern Cheyenne Tribal Council was served upon:

Jodi Camrud, Deputy Regional Director, Bureau of Indian Affairs via:

Personal Delivery at Mail at: 2021 4th Ave. N., Billings, Montana 59101

Melissa Fisher

**RECEIVED
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