

**FILED**

OCT 10 2012

Clerk, U.S. District Court  
District Of Montana  
Billings

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

MARK WANDERING MEDICINE, HUGH  
CLUB FOOT, LENARD ELK SHOULDER,  
CHARLES BEAR COMES OUT,  
WINFIELD RUSSELL, JAMES DAY  
CHILD, WOODROW BRIEN, SARAH  
STRAY CALF, MARTY OTHER BULL,  
NEWLYN LITTLE OWL, DONOVAN  
ARCHAMBAULT, ED MOORE, PATTY  
QUISNO, MICHAEL D. FOX, FRANK  
JEFFERSON and PHYLLIS POND  
CULBERTSON,

Plaintiffs,

v.

LINDA McCULLOCH in her official  
capacity as MONTANA SECRETARY OF  
STATE, GERALDINE CUSTER, in her  
official capacity of ROSEBUD COUNTY  
CLERK AND RECORDER, ROSEBUD  
COUNTY, ROBERT E. LEE, DOUGLAS D.  
MARTENS, and DANIEL M. SIOUX, in  
their official capacity as members of the  
County Board of Commissioners for Rosebud  
County, Montana, SANDRA  
L. BOARDMAN, in her official capacity of  
BLAINE COUNTY CLERK AND  
RECORDER, BLAINE COUNTY,  
CHARLIE KULBECK, M. DELORES  
PLUMMAGE and FRANK DEPRIEST in  
their official capacity as members of the  
County Board of Commissioners for Blaine  
County, Montana, DULCE BEAR DON'T  
WALK, in her official capacity of BIG  
HORN COUNTY ELECTION  
ADMINISTRATOR, BIG HORN COUNTY,

CV 12-135-BLL

**COMPLAINT**

SIDNEY FITZPATRICK, JR., CHAD  
FENNER, JOHN PRETTY ON TOP, in their  
official capacity as members of the County  
Board of Commissioners for Big Horn  
County, Montana and KIMBERLY  
YARLOTT, in her official capacity of BIG  
HORN COUNTY CLERK AND  
RECORDER BIG HORN COUNTY,

Defendants.

## **COMPLAINT**

### **NATURE OF THE CASE**

1. This action is initiated by enrolled members of the Northern Cheyenne Tribe, the Crow Indian Tribe, the Gros Ventre and Assiniboine Tribes. All Plaintiffs reside on the Northern Cheyenne Indian Reservation, the Crow Indian Reservation, or the Fort Belknap Indian Reservation. All Plaintiffs are qualified voters of the State of Montana pursuant to the Voting Rights Act of 1965, as amended, and other federal and Montana authority as specified below.

2. At issue in this case is Defendants' failure to establish a satellite county clerk and recorder office (hereinafter "satellite office") on the three reservations for in-person late registration and in-person absentee voting. Specifically, Tribal members assert that the United States Constitution, the Montana Constitution and Section 2 of the Voting Rights Act require the

Defendants to establish a satellite office in Lame Deer, Montana; Crow Agency, Montana; and Fort Belknap, Montana.

3. Defendants' failure to establish satellite offices has a significant disparate impact on Indians' voting power, denies the Plaintiffs' voting rights and is an apparent effort to dilute Indian voting strength. Plaintiffs allege that this inaction, if allowed, would reinforce a "history of official racial discrimination in voting."

4. If such inaction is allowed, the ability of Indians to effectively participate in the political process will be hindered. Plaintiffs seek declaratory and injunctive relief, both temporary and permanent, prohibiting the Defendants from failing to establish a satellite office location in Lame Deer, Crow Agency, and Fort Belknap. This relief is sought on the grounds that failure to open the satellite office is a denial of the equal right to vote and dilutes the voting strength of the Tribes' members, the lack of a satellite office location has a disparate impact upon Indians, and that the policy of denying satellite office locations was adopted for a discriminatory purpose.

5. The failure to establish satellite office locations will result in Indian citizens having less opportunity than non-Indian citizens to participate in the political process and elect candidates of their choice for federal, state, and county offices.

### **AUTHORITY**

6. This action is brought by the Plaintiffs pursuant to Sections 2 and 12(d) of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973 and 1973j(d); 42 U.S.C. § 1983, providing for civil action for deprivation of rights; the Indian Citizenship Act, Pub. L. No. 175, 43 Stat. 253 (1924), codified at 8 U.S.C. § 1401(b)(1982); 28 U.S.C. §§ 2201-2202 providing for declaratory relief and other necessary or proper relief; and Article II, Section 13 of the Constitution of the State of Montana. This Court has supplemental jurisdiction under 28 U.S.C. § 1367(a) to hear claims under the Constitution and laws of the State of Montana.

### **JURISDICTION AND VENUE**

7. This Court has original jurisdiction over this matter pursuant to 42 U.S.C. § 1973j(f); 28 U.S.C. §1362; 28 U.S.C. §1331; 28 U.S.C. § 1343(a)(3) and (4); and 28 U.S.C. § 2201, along with Article III of the United States Constitution.

8. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

9. Venue is proper in the District of Montana, Billings Division, pursuant to 28 U.S.C. § 1391(b) and D. MONT. R. 1.2(c)(3), because this action is predicated upon a federal question and a substantial part of the events or omissions giving rise to the claims alleged herein occurred, and will continue to occur, in this District.

10. Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, prohibits the enforcement of any voting qualification or prerequisite to voting or any standard, practice or procedure that results in the denial or abridgment of the right to vote on account of race or color.

11. The Indian Citizenship Act, 8 U.S.C. § 1401(b) was enacted by Congress in 1924 to extend full rights of citizenship to Indians including, but not limited to, the right to vote in federal, state and local elections.

### **PARTIES**

12. Plaintiff, Mark Wandering Medicine, is a United States veteran, an enrolled member of the Northern Cheyenne Tribe, and is a registered voter from Rosebud County.

13. Plaintiff, Hugh Club Foot, is a United States veteran, an enrolled member of the Northern Cheyenne Tribe, and is a registered voter from Rosebud County.

14. Plaintiff, Charles Bear Comes Out, is a United States veteran, an enrolled member of the Northern Cheyenne Tribe, and is a registered voter from Rosebud County.

15. Plaintiff, Winfield Russell, is a United States veteran, an enrolled member of the Northern Cheyenne Tribe, and is a registered voter from Big Horn County.

16. Plaintiff, James Day Child, is a United States veteran, an enrolled member of the Crow Tribe, and a registered voter from Big Horn County.

17. Plaintiff, Woodrow Brien, is a United States veteran, an enrolled member of the Crow Tribe, and is a registered voter from Big Horn County.

18. Plaintiff, Sarah Stray Calf, is a United States veteran, an enrolled member of the Crow Tribe, and is a registered voter from Big Horn County.

19. Plaintiff, Marty Other Bull, is an Elder from the Crow Tribe and a registered voter from Big Horn County.

20. Plaintiff, Newlyn Little Owl is an enrolled member of the Crow Tribe and is a registered voter from Big Horn County.

21. Plaintiff, Donovan Archambault, is a United States veteran, is an enrolled member and Tribal Councilman of the Gros Ventre and Assiniboine Tribe and is a registered voter from Blaine County.

22. Plaintiff, Ed Moore, is an enrolled member and Tribal Councilman of the Gros Ventre and Assiniboine Tribe and is a registered voter from Blaine County.

23. Plaintiff, Patty Quisno, is an enrolled member and Tribal Councilperson of the Gros Ventre and Assiniboine Tribe and is a registered voter from Blaine County.



24. Plaintiff, Michael D. Fox, is an enrolled member and Tribal Councilman of the Gros Ventre and Assiniboine Tribe and is a registered voter from Blaine County.

25. Plaintiff, Frank Jefferson, is an enrolled member of the Crow Tribe and is a registered voter from Big Horn County.

26. Plaintiff, Phyllis Pond Culbertson, is an enrolled member of the Gros Ventre and Assiniboine Tribe, Secretary of Ft. Belknap and is a registered voter from Blaine County.

27. The Plaintiffs desire to participate in the electoral and political processes of Montana on an equal basis with other residents.

28. Defendant Linda McCulloch is the Montana Secretary of State.

29. Defendant Blaine County, Montana, is a political and geographical subdivision of the State of Montana.

30. Defendant Charlie Kulbeck is a Member of the Blaine County Commission.

31. Defendant M. Dolores Plumage is a Member of the Blaine County Commission.

32. Defendant Frank DePriest is a Member of the Blaine County Commission.

33. Defendant Sandra L. Boardman is the Clerk and County Recorder for Blaine County.

34. Defendant Big Horn County, Montana, is a political and geographical subdivision of the State of Montana.

35. Defendant John Pretty on Top is the Chairman and Member of the Big Horn County Commission.

36. Defendant Chad Fenner is a Member of the Big Horn County Commission.

37. Defendant Sidney Fitzpatrick, Jr. is a Member of the Big Horn County Commission.

38. Defendant Kimberly Yarlott is the Clerk and County Recorder for Big Horn County.

39. Defendant Dulce Bear Don't Walk is the Election Administrator for Big Horn County.

40. Defendant Rosebud County, Montana is a political and geographical subdivision of the State of Montana.

41. Defendant Robert "Bob" Lee is the District 1 Commissioner for the Rosebud County Commission.

42. Defendant Douglas Martens is the District 2 Commissioner for the Rosebud County Commission.



43. Defendant Daniel Sioux is the District 3 Commissioner for the Rosebud County Commission.

### **APPLICABLE LAW**

44. Article II, Section 13 of the Constitution of the State of Montana provides that “[a]ll elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

45. Article IV, Section 2 of the Constitution of the State of Montana sets forth the qualifications to vote in elections:

Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind as determined by a court.

46. MONT. CODE ANN. § 13-1-111 further clarifies who may cast a ballot as follows:

(1) A person may not vote at elections unless the person is: (a) registered as required by law; (b) 18 years of age or older; (c) a resident of the state of Montana and of the county in which the person offers to vote for at least 30 days, except as provided in 13-2-514; and (d) a citizen of the United States. (2) A person convicted of a felony does not have the right to vote while the person is serving a sentence in a penal institution. (3) A person adjudicated to be of unsound mind does not have the right to vote unless the person has been restored to capacity as provided by law.

47. The Clerk and County Recorder must permit eligible voters to cast in-person absentee ballots at the Clerk’s office at least 30 days prior to a federal election. MONT. CODE ANN. § 13-13-205; MONT. CODE ANN. § 13-13-222.

48. A voter may mail an application for absentee voting “directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector’s application and forward it to the election administrator.” Mont. Code Ann. 13-13-213 (2011).

49. A voter may also return an absentee ballot by delivering it to “a polling place within the elector’s county.” Mont. Code. Ann. § 13-13-201 (2011).

50. “Absentee ballots must be official numbered paper ballots beginning with ballot number 1 and following consecutively according to the number of applications for absentee ballots.” MONT. CODE ANN. § 13-13-233(1).

51. Montana law designates the Clerk and County Recorder as the county “election administrator.” MONT. CODE ANN. § 13-1-301(2). The Clerk is “responsible for the administration of *all* procedures relating to registration of electors and conduct of elections.” MONT. CODE ANN. § 13-1-301(2) (emphasis added). *See also* 38 Op. Mont. Att’y Gen. 105 (1980) (*citing* MONT. CODE ANN. § 13-1-101 that gives the Clerk responsibility “for *all* election administration duties”) (emphasis in original). Election administrators are also required to “assist the Secretary of State in making recommendations to improve voter confidence in the integrity of the election process.” MONT. CODE ANN. 13-1-202 (2011).

52. Montana law requires all questions of authority to be resolved in favor of the local government. MONT. CODE ANN. § 7-1-106 (“The powers and authority of a local government unit with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority.”)

53. The Secretary of State has the authority to clarify that Clerk and County Recorders have the discretion to open satellite offices. As the chief election officer, the Secretary’s responsibilities include preparing written directives and instructions relating to and based on election laws and advisory opinions on the effect of election laws. MONT. CODE ANN. § 13-1-202. *See also* MONT. CODE ANN. § 13-1-203 (“The secretary of state *shall* advise and assist election administrators[...], with regard to: the application, operation, and interpretation of [Montana election laws].”) (emphasis added).

### **EARLY VOTING IN MONTANA**

54. Plaintiffs are members of three separate Indian Tribes and hail from three different Indian Reservations. While all Plaintiffs have been denied the same equal access to the ballot regardless of tribe or location, they join with different histories, experiences and demographics.

55. The State of Montana has 56 counties. Of the 20 largest cities in Montana, sixteen of them are also the county seat representing a total population of

407,985 Montanans who can vote in-person absentee in their principal residence; provided, they meet the other eligibility requirements for absentee voting. No county seat also serves as the Tribal Headquarters for any of the Montana tribes. Polson, the largest town on the Flathead Indian Reservation, is the county seat for Lake County.

56. Over the past decade, Montana voters' reliance on absentee voting has dramatically increased. In the 2000 general election, only 15.68% of Montana residents voting in the elections did so by absentee ballot. In the 2012 primary, 61.38% of voting Montana residents did so by absentee ballot. Exhibit 2.

57. In contrast, voting participation through absentee balloting is significantly lower in Big Horn County, Blaine County, and Rosebud County. Only 10.90% of voting Blaine County residents voted by absentee ballot in the 2000 general election. By the 2012 primary, this number had only increased to 32.42%. Similarly, only 11.88% of voting Rosebud County residents used an absentee ballot in the 2000 general election. The percent of Rosebud County residents voting by absentee ballot only increased to 31.58% of participating voters in the 2012 primary. Big Horn County had the lowest absentee voting participation rate. Less than one percent (.89%) of voting Big Horn County residents used an absentee ballot in the 2000 general election. This number only increased to 24.51% in the 2012 primary. Exhibit 2.

58. The following chart<sup>1</sup> further demonstrates the lack of absentee voting in Big Horn County, Blaine County, and Rosebud County; all counties with significant Indian populations, as compared to the rest of the State:

Election	Big Horn County Absentee Utilization Percentage	Blaine County Absentee Utilization Percentage	Rosebud County Absentee Utilization Percentage	Montana Absentee Utilization Percentage
2000 General	0.89%	10.90 %	11.88%	15.68%
2004 General	13.95%	13.42%	14.23%	21.97%
2006 General	18.45%	18.85%	17.27%	29.50%
2008 Primary	17.25%	15.55%	12.09%	34.22%
2008 General	24.16%	24.50%	25.25%	42.61%
2010 Primary	18.90%	27.53%	15.39%	54.26%
2010 General	21.04%	29.01%	17.90%	47.15%
2012 Primary	24.51%	32.42%	31.58%	61.38%

Exhibit 2.

### **BIG HORN COUNTY**

59. Big Horn County overlaps with the Crow Indian Reservation and Northern Cheyenne Indian Reservation. Big Horn County has a population size of

<sup>1</sup> The information contained in this chart was obtained from the Montana Secretary of State's Office. As provided to Plaintiffs' attorneys, the Secretary of State's Microsoft Excel file did not contain information on the 2002 general, 2002, primary, 2004 primary, and 2006 general.



12,865 people in the 2010 Census.<sup>2</sup> Of that, 33.4% are non-Indian and 62.9% are Indian. Id. Big Horn County is the fifth largest county in Montana with 4,996.46 sq. miles.

60. Hardin is the county seat of Big Horn County. According to the 2010 Census, Hardin has a population size of 3,505 people.<sup>3</sup> Of that, 49.8% are non-Indian and 40.8% are Indian. Id.

61. The utilization of absentee voting has increased in Montana over the past decade; however, absentee voting percentages are still significantly lower in Big Horn County, where 64.2% of the county is also the Crow Indian Reservation and 6.37% of the county is also the Northern Cheyenne Indian Reservation. Healy Aff. Exhibit 2.

### **CROW INDIAN RESERVATION**

62. The Crow Reservation is the largest reservation in Montana covering 2.2 million acres in southeastern Montana along the Wyoming border. According to the 2010 census, 6,863 people live on the Reservation. 77.5% of the population is Indian while 20.4% is non-Indian.

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<sup>2</sup> State and County Quick Facts. U.S. Census Bureau.  
<http://quickfacts.census.gov/qfd/states/30/30035.html>.

<sup>3</sup> American Fact Finder. U.S. Census Bureau.  
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.



63. The median household income is \$41,596, but the per capita income is only \$14,748. 18.4% of families live below the poverty line. 77.4% of families with children under five years of age live below the poverty line.

64. The Reservation had a dependency ratio of 79.6% in 2000. This ratio was 15.9% higher than the state average. 89.5% of students were eligible for free and reduced school lunch in 2010. This is the highest percentage of students eligible for free lunch of any Montana Reservation.

65. The Bureau of Indian Affairs calculated the unemployment rate of Tribal Members to be 46.5%.<sup>4</sup>

66. In 2010, only 11.4% of people over the age of 25 had obtained a bachelors degree. In contrast, 15.6% of people over 25 did not complete high school.<sup>5</sup>

67. Crow Agency, Montana is the tribal headquarters and main city of the Crow Indian Reservation with a population of 1,616 people.<sup>6</sup> Of that, 2.0% are

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<sup>4</sup> Census and Economic Information Center, Demographic and Economic Information for Crow Reservation (no date given), [http://www.ourfactsyourfuture.org/admin/uploadedPublications/2685\\_Crow\\_RF08\\_Web.pdf](http://www.ourfactsyourfuture.org/admin/uploadedPublications/2685_Crow_RF08_Web.pdf).

<sup>5</sup> "American FactFinder". United States Census Bureau. [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_DP02](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_DP02)

<sup>6</sup> American Fact Finder. U.S. Census Bureau. <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

non-Indian and 96.7 are Indian. Crow Agency is a 27.2 miles round trip away from the county seat. Healy Aff. Ex 1.

68. The median income for a household in Crow Agency was \$33,667, and the median income for a family was \$21,750. The per capita income for the town was \$8,501. Over thirty nine percent (39.1)% of families and thirty two percent (32.5%) of the population were below the poverty line, including forty three percent (43.8%) of those under age 18. "2006-2010 American Community Survey 5-Year Estimates".<sup>7</sup>

#### **BLAINE COUNTY**

69. Blaine County and the Fort Belknap Reservation overlap. According to the 2010 Census, Blaine County has a population of 6,491.<sup>8</sup> Of that, 48.7% are non-Indian and 48.9% are Indian. Id. Blaine County is the 9<sup>th</sup> largest county in Montana at 4,226 sq. miles.

70. According to the 2010 Census, Chinook has a population of 1,203.<sup>9</sup> Of that, 88.4% are non-Indian and 9.3% are Indian. Id.

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<sup>7</sup> United States Census Bureau.

[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_DP03](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_DP03).

<sup>8</sup> State and County Quick Facts. U.S. Census Bureau.

<http://quickfacts.census.gov/qfd/states/30/30035.html>.

<sup>9</sup> American Fact Finder. U.S. Census Bureau.

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

71. According to the 2010 Census, Fort Belknap has a population of 1,293.<sup>10</sup> Of that, 2.1% are non-Indian and 96.6% are Indian. Fort Belknap is a 43 mile round trip away from the county seat. The vast majority of Blaine County residents do not live in Chinook even though it is the county seat.

72. The utilization of absentee voting has increased in Montana over the past decade; however, absentee voting percentages are still significantly lower in Blaine County, where 92% of the Fort Belknap Indian Reservation is located, in the past five general elections. Healy Aff. Exhibit 2.

#### **FORT BELKNAP INDIAN RESERVATION**

73. The Fort Belknap Indian Reservation is located on a remote, sparsely populated region of north central Montana. It is the fourth largest Reservation in Montana. The Reservation covers 675,336 acres; 92% of the Reservation is located in Blaine County with the remainder located in Phillips County.

74. The Fort Belknap Indian Reservation has 7,303 enrolled members; of those, 5,771 live on or near the reservation.<sup>11</sup>

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<sup>10</sup> American Fact Finder. U.S. Census Bureau.  
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>11</sup> MONTANA'S POVERTY REPORT CARD, FORT BELKNAP INDIAN RESERVATION (December 2011), available at  
<http://www.montana.edu/extensionecon/countydata/FortBelknap.pdf>

75. In 2000, the Fort Belknap Indian Reservation had a poverty rate of 38.9%, significantly higher than the rate of all Montana Indian Reservations which came in at 30.4%. Id. In 2005, the Reservation had an unemployment rate of 69.6%. 79.8% of Reservation children are eligible for free and reduced school lunch. Id.

76. In 2000, the Reservation had a dependency ratio of 91.9%. Id. This ratio was 28.2% higher than the state average. Id. 57.5% of Reservation residents make less than \$15,000 a year. This is 20.2% higher than the state average. Id. The Reservation's median income is \$11,799 less than the rest of the state. Id.

77. In 2000 educational attainment on the Reservation was extremely low – 24.9% lacked a high school diploma or its equivalent, nearly double the fourteen percent (14%) rate in rural Montana as a whole. Id.

78. In 2000 the homeownership rate on the Reservation was 53.3%, at least fifteen percentage points lower than the state overall.<sup>12</sup>

79. The main community on the Reservation and the seat of tribal government is the town of Fort Belknap located in Blaine County, Montana. According to the United States Census Bureau, Fort Belknap has a total area of 11 square miles (28.6 km<sup>2</sup>) and has a population density of 116.4 people per square

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<sup>12</sup> STATE TRIBAL ECONOMIC DEVELOPMENT COMMISSION, DEMOGRAPHIC & ECONOMIC INFORMATION FOR FORT BELKNAP RESERVATION (No Date Given), [http://www.ourfactsyourfuture.org/admin/uploadedPublications/2689\\_Ft\\_Belknap\\_RF08\\_Web.pdf](http://www.ourfactsyourfuture.org/admin/uploadedPublications/2689_Ft_Belknap_RF08_Web.pdf)

mile (45/km<sup>2</sup>). As of the 2010 Census, there were 1,293 people, 367 households, and 300 families residing in the town. There were 412 housing units. The racial makeup of the town was 2.1% non-Indian, 96.6% Indian, Hispanic or Latino of any race were 1.3% of the population.<sup>13</sup>

80. The median income for a household in Fort Belknap was \$31,563, and the median income for a family was \$35,461. The per capita income for the town was \$10,877. 35.7% of families and 40.5% of the population were below the poverty line, including 47.4% of those under age 18.<sup>14</sup>

81. Chinook, Blaine County's county seat, is a 43 mile round trip from Fort Belknap, Montana.

## **ROSEBUD COUNTY**

82. Rosebud County and the Northern Cheyenne Reservation overlap. According to the 2010 Census, Rosebud County has a population of 9,233.<sup>15</sup> Of that, 61.9% are non-Indian and 34.1% are Indian. Id. Rosebud County is the fourth largest county in Montana covering 5010.4 square miles.

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<sup>13</sup> "American FactFinder". United States Census Bureau.  
[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1)

<sup>14</sup> "2006-2010 American Community Survey 5-Year Estimates". United States Census Bureau.  
[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_DP03](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_DP03)

<sup>15</sup> State and County Quick Facts. U.S. Census Bureau.  
<http://quickfacts.census.gov/qfd/states/30/30087.html>.

83. Forsyth is the county seat. According to the 2010 Census, it had a population of 1,777.<sup>16</sup> Of that, 95.0% are non-Indian and 1.6% are Indian. Id.

84. Rosebud County's utilization of absentee voting was only half of the overall state's utilization in the 2012 primary election. Healy Aff. Exhibit 2.

### **NORTHERN CHEYENNE INDIAN RESERVATION**

85. The Northern Cheyenne Indian Reservation is located in southeast Montana. It encompasses 444,000 acres of Rosebud and Big Horn counties.

86. According to the 2010 Census, the Reservation had a population of 4,789. 1,431 people are below the age of sixteen, representing nearly one-third of the Reservation's population. 92% of the population is Indian; 5.7% are non-Indian.

87. In 2000, the Reservation had a dependency ratio of 88.6%. This ratio was 24.9% higher than the state average.<sup>17</sup> Over 52.3% of Reservation residents make less than \$25,000 a year. Id. This is 15.0% higher than the state average. Id. The Reservation's median per-capita income is \$9,415 less than the rest of Montana. Id.

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<sup>16</sup> American Fact Finder. U.S. Census Bureau.  
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>17</sup> MONTANA'S POVERTY REPORT CARD, NORTHERN CHEYENNE RESERVATION (December 2011), available at  
<http://www.montana.edu/extensionecon/countydata/NorthernCheyenne.pdf>.



88. In 2005, the unemployment rate was 59.8%, which is higher than the average unemployment rate for all Montana reservations. 34.8% of the population lives below the poverty line.<sup>18</sup>

89. Only 14.3% of the population 25 years or older has obtained a bachelor's degree or higher. The Reservation has a high school drop out rate of 18.3%.

90. Lame Deer is the largest community and the tribal headquarters of the Northern Cheyenne. Lame Deer has a total population of 2,052. Of those, 1,251 are above the voting age. 93.7% of the population is Indian; 4.3% is non-Indian.<sup>19</sup>

91. The median income for a household in Lame Deer was \$31,964, and the median income for a family was \$35,313. The per capita income for the town was \$11,007. 37.5% of families and 41.7% of the population were below the poverty line.<sup>20</sup>

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<sup>18</sup> STATE TRIBAL ECONOMIC DEVELOPMENT COMMISSION, Demographic & Economic Information for Northern Cheyenne Reservation, (no date given), available at [http://www.ourfactsyourfuture.org/admin/uploadedPublications/2695\\_N\\_Cheyenne\\_RF08\\_Web.pdf](http://www.ourfactsyourfuture.org/admin/uploadedPublications/2695_N_Cheyenne_RF08_Web.pdf).

<sup>19</sup> "American FactFinder". United States Census Bureau. <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>20</sup> "2006-2010 American Community Survey 5-Year Estimates". United States Census Bureau. [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_10\\_5YR\\_DP03](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_10_5YR_DP03).

92. Lame Deer is located 113.8 round trip from Hardin, the Rosebud county seat.

### **BACKGROUND OF DISCRIMINATION**

93. There are four historical tribes involved in this litigation: the Gros Ventre, the Assinboine, the Crow, and the Northern Cheyenne. The Fort Belknap Indian Reservation consists of two federally-recognized Indian tribes, the Gros Ventre and the Assinboine. The Gros Ventre originated from the Great Lakes region but slowly migrated west and settled in Montana. The first known contact between the Gros Ventre and non-Indians occurred around 1754 near the Saskatchewan River. The Assinboine were originally part of the Yanktonai Sioux but migrated west to join other Indian allies, the Cree, in the 17<sup>th</sup> century.

94. The Crow Tribe is located on the Crow Indian Reservation. The Crow Tribe migrated over a vast area of North America before finally settling near the Big Horn Mountains in present day Montana. The Crow Tribe met with William Clark on his expedition to the west.

95. The Cheyenne Tribe has one of the most storied and troubled histories of any Tribe in the United States. After a slow migration westward, the Cheyenne settled in southeastern Colorado. In 1861, this portion of Colorado was formally recognized by the United States government through the establishment of a Reservation in the Treaty of Fort Wise.

96. The Tribes were relatively isolated, and thus, they encountered the non-Indian later than most tribes. During the first half of the 19th century, non-Indian settlers began entering Montana territory in search of gold and other minerals.

97. The Gros Ventre, Assinboine, the Crow and Cheyenne tribes signed the Fort Laramie Treaties of 1851 and 1855 that established a vast Indian reservation covering northern Montana. In 1855, the government made a treaty with the Gros Ventre, Assinboine and several Montana tribes, which provided for use of a large portion of the original reservation as a common hunting territory. The size of this common hunting territory was large, spanning from the Rocky Mountains to the junction of the Yellowstone River, but was greatly reduced in 1873.

98. Only three years after the signing of the Treaty of Fort Wise, the United States Army attacked a large camp of Cheyennes, mostly women and children, in what is famously known as the “Sand Creek Massacre.” Major E.W. Wynkoop, who investigated the Massacre for the United States, stated that everyone agreed “the most fearful atrocities were committed that ever was heard of.”<sup>21</sup>

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<sup>21</sup> United States War Department. *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*. Series 1 Volume XLI, Part 1, pp. 959-962. U.S. Government Printing Office.

99. The Cheyenne were given unceded Indian territory near the Big Horn Mountains in the Fort Laramie Treaty of 1868. This Treaty reduced the Crow Reservation to eight million acres.

100. Increasing tension between the United States Army and the Plains Tribes culminated in the well-known Battle of Little Big Horn.

101. The Cheyenne, punished for their participation in the Battle, were forced to move to reservation land in Oklahoma. There, many contracted malaria and other diseases. After a short while, Cheyenne tribal members abandoned the Oklahoma reservation. Off the reservation and with no homeland, the “free” Cheyenne were persecuted and harassed by the United States Cavalry. Many of them died during this period.

102. In 1882, the Crow Reservation was further diminished by an act of Congress.

103. In 1884, an Executive Order created the Northern Cheyenne Reservation in Montana. Despite having a reservation near their homeland, many Cheyenne were denied the right to return.

104. In 1884, the United States Supreme Court ruled that Indians were not citizens and did not have the right to vote in federal elections. Elk v. Wilkins, 112 U.S. 94, 102 (1884). Thereafter, an Indian could be granted citizenship under the

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General Allotment Act of 1887 so long as they are “separate and apart from any tribe of Indians and ha[ve] adopted the habits of civilized life.” 25 U.S.C. §§ 331-58.

105. In 1888, additional lands were ceded and separate boundaries established for the Blackfeet, Fort Belknap, and Fort Peck Reservations.

106. In 1896 an agreement was once again made between the United States government and the Fort Belknap Tribes. This time the United States government was asking for the sale of the Little Rocky Mountains as miners rushed to explore for rumored gold in spite of the Reservation boundaries. The Fort Belknap Community Council attempted to recover the land peacefully in 1969. As of 2003, the land still has not been returned to the Reservation.

107. In 1891, an Act of Congress further reduced the Crow reservation, selling nearly two million acres of land.

108. In 1897, the Montana legislature passed a law prohibiting Indians from voting unless they were governmental employees or owned a home outside the reservation. See United States v. Montana, 363 F.3d 897, 913 (9<sup>th</sup> Cir. 2004).

109. In 1899, the Montana legislature requested that the federal government prohibit Indians from leaving their reservations. Id.

110. In 1904, Congress, again, sold Crow land, decreasing the Crow Reservation to its present size of around 2.3 million acres.

111. In 1912, the State Attorney General declared that any Indian who participated in tribal affairs could not participate in general or school board elections. Id.

112. In 1919, the Montana legislature passed legislation prohibiting the creation of electoral districts within the boundaries of a reservation. Id.

113. The Indian Citizenship Act of 1924, also known as the Snyder Act, granted full U.S. citizenship to Indians. The act was signed into law by President Calvin Coolidge on June 2, 1924. However, federal law did not stop the State of Montana in its attempts to limit the voting rights of Indians.

114. The Bureau of Indian Affairs implemented a policy to decrease the Tribe's horse population and increase the cattle population in 1929. This was done by slaughtering 100 Cheyenne horses a month. A horse owner received \$6.55 for each horse hide.

115. Beginning in 1932 and continuing through 1963, the Montana legislature enacted numerous laws that limited voting to taxpayers. Id. For example, in 1932, Montana amended its Constitution to allow only taxpayers to vote. Article IX, Section 2, Constitution of Montana (1932). This effectively prevented Indians, who were exempt from local taxes, from voting in state and



federal elections. In 1937, the state legislature enacted a law that only allowed taxpayers in their precincts to serve as deputy voter registrars. Mont. L. 1937, p. 527. This was still valid law in 1975. Mont. L. 1975, Ch. 205.

### **FACTUAL BACKGROUND OF EVENTS**

116. The Defendants have a lengthy history of attempting to circumvent the Indians' right to vote and participate in the political process.

117. In 2009, the Missoula County Clerk concluded that the main Clerk's office, located at the Missoula Courthouse, did not meet the needs of Missoula County residents. She used her discretion as the county election administrator to open an "Elections Office" for in-person absentee voting. The Clerk concluded "[t]he space required to run elections has grown and requires more room to ensure security and provide quality customer service. The [new office location] finally gives voters and staff the room they need to participate in the electoral process."<sup>22</sup>

118. In 2012, five Montana counties, including Rosebud County, have satellite offices to provide essential county services to residents who lived outside of the county seat. Healy Aff. Ex. 5 and 19.

119. The recognized authority to make the decision to establish satellite clerk offices is exceptionally important in counties with large minority populations

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<sup>22</sup> Press Release, Missoula County Clerk and Recorder, The Elections Office Moved its Later Voter Registration Services and Counting Center from the Missoula County Courthouse to the Missoula County Fairgrounds (2009).

concentrated in a location far from the Clerk's primary office. Currently, American Indian voters in Montana must generally drive significant distances to absentee vote or register in-person. Crow Reservation residents must make a 27.2 mile round trip drive to exercise the same fundamental rights as those in Hardin. Fort Belknap residents must drive 43 miles round trip to have the same access to the ballot as Chinook residents. Members of the Northern Cheyenne reservation must drive a startling 113.8 miles round trip to Forsyth to exercise their constitutional right to vote. Healy Aff. Ex. 1.

120. On May 2, 2012, Blackfeet Tribal Business Council Chairman Terry "TJ" Show sent a letter to Defendant Secretary of State McCulloch and Attorney General Bullock requesting assistance to implement a pilot program to provide a satellite County Clerk and Recorder location in Browning, Montana. Healy Aff. Ex. 12.

121. After nearly two months, Defendant Secretary of State denied the Blackfeet Nation's request for a satellite office location to in-person vote and late register in Browning, Montana on July 25, 2012. Healy Aff. Ex. 3.

122. On June 28, 2012, Four Directions' attorney Liz Howard emailed Defendant Secretary of State's offices requesting a formal opinion on the issues that would prevent a County Clerk and Recorder from establishing a satellite office location. Healy Aff. Ex. 13.

123. On July 31, 2012, Four Directions' Attorney Liz Howard responded to Defendant Secretary of State's denial of an early voting location with a memorandum explaining Montana law clearly allows satellite office locations outside of the county seat. Healy Aff. Ex. 4.

124. The disagreement between the Blackfeet Nation and the Secretary of State's Office prompted a legal determination by the Attorney General's Office that County Clerk and Recorders could offer satellite office locations outside of the county seat. The Attorney General Office's letter concluded:

"Interpreting laws impacting voter qualifications, prerequisites to voting, or standard, practices, or procedures with respect to voting, the U.S. Supreme Court has endorsed a broad construction of voting rights. *Holder v. Hall*, 512 U.S. 874, 949. While the endorsement has been in the context of challenges related to the Voting Rights Act of 1965, the conclusion here, that county governments may provide absentee balloting services at satellite county offices is consistent with the guiding principle applied by the Court in voting rights cases." Healy Aff. Ex. 5.

125. On August 17, 2012 and September 10, 2012, Bret Healy of Four Directions sent electronic messages to the Secretary of State's Chief Legal Counsel requesting technical assistance and cost estimates for an early voting satellite location for early voting in Glacier County but received little guidance and no assistance. Healy Aff. Ex. 6 and 7.

126. On August 28, 2012 the Secretary of State issued an Election Advisory stating the proper procedures and considerations a County should make in offering a satellite early voting location. Healy Aff. Ex. 9. The

purpose of the Advisory was “to provide uniformity in the election process pursuant to Mont. Code Ann. §§ 13-1-201 and 13-1-202(c).” Id. The Elections and Government Services Deputy in the Secretary of State’s office sent this Election Advisory to all county election administrations. Healy Aff. Ex. 8.

127. On September 6, 2012 Sandler, Reiff, Young, & Lamp, P.C. attorneys Joe Sandler and Liz Howard produced a memorandum for Bret Healy stating that it is legal for Montana counties to accept gifts and donations from private entities. Healy Aff. Ex. 10.

128. On September 11, 2012 William “Snuffy” Main contacted the Blaine County Clerk and Recorder to request a conference call between the Clerk, Tribal Chairman Tracy “Ching” King, and Bret Healy, Four Directions, to discuss a satellite early voting location in Fort Belknap.

129. On September 12, 2012, the Blaine County Commission voted to deny the Fort Belknap tribe’s request for an absentee ballot satellite office due to security, staffing and cost. Healy Aff. Ex 34.

130. On September 13, 2012 a conference call was held with the Blaine County Clerk, the Blaine County Attorney, Tribal Chairman Tracy “Ching” King, Snuffy Main, and Bret Healy among others. Healy Aff. Ex.

11.

131. During this conference call, Four Directions offered to donate funds from Four Directions to Blaine County for a satellite early voting location in Fort Belknap. Four Directions is a 501(c)(4) nonprofit dedicated to empowering American Indian citizens in the electoral process. Healy Aff.

132. During the conference call, Blaine County officials did not accept Mr. Healy's offer. Furthermore, they stated that they could not provide an early voting location in Fort Belknap for the 2012 general election because of perceived time constraints. When asked if this meant that a satellite Clerk and Records office in Fort Belknap for the 2012 general election was not feasible, the Blaine County officials did not say no, but suggested a future meeting. A meeting was scheduled for September 17, 2012 to address the requests. Healy Aff.

133. The September 17, 2012 meeting among the Blaine County officials, Fort Belknap Tribe representatives and Four Directions consultant Bret Healy was tense in part because the County Sheriff sat through the entire meeting without speaking. Healy Aff. Ex. 35. In fact, the County Attorney Ranstrom said to Fort Belknap Councilman Edward "Buster" Moore that "Buster is giving me the old stink eye;" an incredibly insensitive comment due to Councilman Moore's long-term facial paralysis. Healy Aff. and Moore Aff.



134. On September 18, 2012, Chairman Cederic Black Eagle of the Crow Nation issued a request for a satellite county office at Crow Agency to the Big Horn Clerk and Recorder and County Commissioner Chairman. Healy Aff. Ex. 15. The Big Horn County Commission scheduled an October 1, 2012 meeting to discuss the request. Semans Aff.

135. The Big Horn County Commission unanimously voted to deny the Crow Nation's request. Election Administrator Dulce Bear Don't Walk believed that there was not enough time and office space to open a satellite office. She also believed such an office would threaten the "integrity of the ballot." During this meeting, County Commissioner and Crow Nation Tribal Member John Pretty on Top stated he did not like the idea of approving the request because white people will get mad. Semans Aff.

136. President Sprang of the Northern Cheyenne Tribe made a similar request for a satellite office in Lame Deer to the Rosebud Clerk and Recorder and County Commissioner Chairman. Healy Aff. Ex. 16.

137. Rosebud Clerk and Recorder Geraldine Custer informed Four Directions Executive Director Oliver J. Semans on September 20, 2012 that she was denying the Chairman's request because she believed she did not have enough staff and the voting system was too complex for a satellite office where registered voters could vote. She also stated that she thought



Northern Cheyenne Tribal members had equal voting access because they could vote through the mail. Semans Aff.

138. On September 21, 2012, Rosebud County Commissioner Robert E. Lee informed Oliver J. Semans that Rosebud County Clerk and Recorder Custer did not have the authority to grant or deny the Northern Cheyenne Tribe's request and that a County Commission meeting would be held on September 28, 2012 to vote on the matter. Semans Aff.

139. At the September 28, 2012 Rosebud County Commission meeting, the County Clerk and Recorder Custer reiterated her belief that there was a lack of staff and that Tribal members could vote by mail. In addition to lack of staff, she further reasoned that a satellite office could not be opened because of a lack of time and office space with high speed Internet. She further elaborated that the Tribe could just simply "bus people to Forsyth" to vote. Semans Aff.

140. Despite a lack of staff, time, and office space, the Clerk and County Recorder Custer offered, during the same meeting, to open a satellite office in Lame Deer where residents could apply for an absentee ballot and scan or fax the request to the Clerk's main office in Forsyth. The meeting was postponed until October 2, 2012. Semans Aff.

141. At the October 2, 2012, Rosebud County Commission meeting, the Clerk and County Recorder asserted that she was concerned that fraud would occur if they had a satellite office for in-person absentee voting and late registration in Lame Deer. She also wanted to make it clear that she was not racist; her decision would be the same regardless if “it was Negroes, Chinese, Asians, whatever, we could not do it.” The Rosebud County Commission voted 2-1 to deny the Northern Cheyenne Chairman’s request. Semans Aff.

142. Instead, the Rosebud County Commission voted to approve an “Election Information Office” in Lame Deer in Resolution No. 879. Healy Aff. Ex. 14. The Election Information Office would allow a Lame Deer resident to register to vote or request an absentee ballot and call the Clerk and Recorder’s Office in Forsyth with any questions. Id. In this same resolution, the County Commission noted that Lame Deer residents can vote absentee by mail, or by having a third party deliver the ballot to the Clerk’s office or driving the 113.8 miles round trip to Forsyth to vote. Id. The County Commission still denied the request and concluded, “although not precisely as requested, the essence of the voter participation measures requested by the Northern Cheyenne Tribe and Four Directions are able to be implemented for the November 2012 election.” Id.

143. Plaintiffs and Indians in general prefer to see their ballot arrive to its final destination and do not trust that their vote will get counted if sent through the mail. Moore Aff. and Archambault Aff.

144. Travel is a financial hardship for Plaintiffs and Indians in general because of high unemployment and high poverty rates. Moore Aff.

145. Plaintiffs on the reservations in general do not like to go off the reservation because they experience and perceive discrimination and prejudice towards them. Moore Aff. and Archambault Aff.

146. The impact of the office location and the Clerk's authority to open satellite offices is heightened due to the fact that Montana has a "late registration" period that runs concurrently with the in-person absentee ballot period. MONT. CODE ANN. § 13-2-304 (allowing late registration for 29 days with the exception of noon-5 p.m. on the day before Election Day). During this late voter registration period, qualified individuals may appear at the Clerk's office to register to vote and cast an absentee ballot during the same visit.

147. Indians in Montana have common socioeconomic characteristics, a common and distinct history, a common and distinct quasi-sovereign tribal status, a unique political status under the treaties, laws, and executive orders of the United States, and a special trust relationship with the United States.

148. Historically, Indian residents of Montana have been subject to private as well as official discrimination on the basis of race, tribal, and language minority status, including discrimination in attempting to exercise their right of franchise and to participate equally with other residents in the political process.

### **CLAIMS**

149. Indian residents of Montana bear the effects of discrimination on the basis of race and tribal status in education, housing, employment, and health services which have resulted in a lower socioeconomic status which hinders their ability to participate effectively in the political process.

150. Section 1973(b) of the Voting Rights Act, in relevant part, states that it is a violation of the Voting Rights Act, if,

based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the state or political subdivision are not equally open to participation by members of a class of citizens protected... in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Thus, Section 2 of the Voting Rights Act, as amended, protects Indians from voting practices which have a disparate impact on their right to vote.

151. In Spirit Lake Tribe v. Benson County, et al., CIV 2:10-cv-095 (D.N.D. 2010), the Court noted the following:

The County asserts that no right to vote in person has ever been recognized under the Constitution. Additionally, the County asserts that the mail-in procedure actually solves the transportation problems and will increase voter

participation. While such an argument is tenable in communities with stable housing arrangements, poverty and transience of the Reservation makes mail balloting more difficult for tribal members. The evidence suggests that Indians are more likely to have not received a ballot application, which when coupled with a decreased ability to vote in person, creates a disparate impact. (internal citations omitted)

152. The legitimate interests of the Defendants will not be undermined in the event that the Court grants the relief prayed for herein.

153. Plaintiffs have no adequate remedy at law.

154. Plaintiffs will suffer irreparable harm as a result of the violations complained of herein, and that harm will continue unless Defendants' failure to establish satellite offices is declared unlawful and enjoined by this Court.

**CLAIM ONE  
VIOLATION OF THE 14TH AMENDMENT OF THE UNITED  
STATES CONSTITUTION AND 42 U.S.C. § 1983**

155. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

156. Section 1 of the Fourteenth Amendment of the United States Constitution provides: "No...State shall . . . deny to any person within its jurisdiction the equal protection of the law."

157. The Defendants have acted under color of state law to deprive the Indian voters of Montana of the equal protection of the laws by arbitrarily failing to establish satellite office locations in Fort Belknap, Lame Deer, and Crow Agency in violation of the Fourteenth Amendment and 42 U.S.C. § 1983

**CLAIM TWO**  
**VIOLATION OF THE MONTANA CONSTITUTION**

158. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

159. Article II, Section 13 of the Montana Constitution guarantees the right that “all elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

160. The Defendants have acted under color of state law to deprive American Indian voters equal elections by arbitrarily failing to establish satellite office locations in Fort Belknap, Lake Deer, and Crow Agency in violation of the Constitution of the State of Montana.

**CLAIM THREE**  
**VIOLATION OF THE VOTING RIGHTS ACT OF 1965**

161. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

162. Section 2 of the Voting Rights Act provides: “No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color,” or membership in a language minority group. 42 U.S.C. § 1973(a).



163. Defendants' failure to establish satellite office locations in Fort Belknap, Lama Deer, and Crow Agency denies members of three federally-recognized Montana Tribes, including the Plaintiffs, the same rights of other members of the electorate to participate in the political process and elect representatives of their choice, in violation of Section 2 of the Voting Rights Act.

#### RELIEF

WHEREFORE, Plaintiffs pray that the Court enter judgment in their favor as follows:

1. That this Court assume jurisdiction;
2. That this Court declare that the Defendants' failure to provide satellite office locations in Fort Belknap, Lama Deer and Crow Agency violates existing law, including, but not limited to, § 2 of the Voting Rights Act, as amended, the Indian Citizenship Act, the Fourteenth Amendment to the United States Constitution, and the Montana Constitution;
3. That this Court grant preliminary and permanent injunctive relief by ordering Defendants to establish satellite office location where voters may register to vote and vote in-person absentee in Fort Belknap, Lama Deer, and Crow Agency immediately for the 2012 primary election and for the full period authorized by Montana law for all future elections, and further relief as the interest of justice may require;

4. Grant plaintiffs reasonable attorneys' fees, litigation expenses and costs pursuant to 42 U.S.C. § 1973(e) and § 1988; and
5. Grant the Plaintiffs any further relief which may in the discretion of the Court be necessary and proper to ensure that the voting rights of Indians within Montana are properly respected in accordance with the Orders of this Court.

Dated this 10 day of October, 2012.

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**ATTORNEYS FOR PLAINTIFFS**

**VERIFICATION**

Marty Other Bull declares pursuant to 28 U.S.C. § 1746:

I am one of the plaintiffs in this case. I have read the foregoing complaint and the contents thereof are true to the best of my knowledge, information and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 9, 2012.

  
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Marty Other Bull