

FORT BERTHOLD DISTRICT COURT
OF THE THREE AFFILIATED TRIBES
STATE OF NORTH DAKOTA

TJMD, LLP, a North Dakota Limited)
Liability Partnership,)

Plaintiff,)

vs.)

Dakota Petroleum Transport Solutions,)
LLC, a Minnesota limited liability)
company, Dakota Plains Holdings, Inc., a)
Nevada corporation, Western Petroleum)
Corporation, a Minnesota corporation, and)
World Fuel Services Corporation, a)
Florida corporation,)

Defendants.)

Civil No. CV-2012-0678

Defendants' Motion to Dismiss for Lack of Non-Tribal Member Jurisdiction

The defendants move to dismiss TJMD, LLP's case against them for lack of non-tribal member jurisdiction. The grounds of the motion are that the tribal court lacks jurisdiction because the limited Montana exceptions to the general rule of no tribal jurisdiction over nonmembers do not apply. Since the defendants did not have a consensual relationship with the tribe or a tribal member out of which TJMD's individual claims arose, the Montana consensual-relationship exception is not met. Although TJMD allegedly is now partly owned by a tribal member, it is still an entity distinct from its owners. The Montana threatens-the-tribe exception also is not met. TJMD does not allege conduct that was catastrophic to the tribe. Additionally, TJMD cannot meet its

burden of proving that the alleged conduct underlying some of its claims physically occurred on the reservation. The motion is based upon the defendants' brief in support of the motion, the defendants' appendix, and all other documents in the file of this case.

DATED this 10th day of December, 2012.

Respectfully submitted,

PEARCE & DURICK

By



JONATHAN P. SANSTEAD

Individually and as a Member of the Firm

Attorneys for Defendants

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