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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF NEVADA**

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| **BP America Inc., and Atlantic Richfield Company,**<br><br>**Plaintiffs,**<br><br>**vs.**<br><br>**Yerington Paiute Tribe; Laurie A. Thom, in her official capacity as Chairman of the Yerington Paiute Tribe; Yerington Paiute Tribal Court; and Sandra-Mae Pickens, in her official capacity as Judge of the Yerington Paiute Tribal Court,**<br><br>**Defendants.** | **Case 3:17-cv-00588**<br><br>**Yerington Paiute Tribal Court's Reply to Plaintiffs' Consolidated Response to Motion to Dismiss Amended Complaint, Pursuant to Rule 12(b)(1), FRCP** |

COMES NOW, the Yerington Paiute Tribal Court, by and through its legal counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., in reply to the Plaintiffs' Consolidated Response (CR) ECF No. 59, to the Yerington Paiute Tribal Court's (Tribal Court) Motion to Dismiss Amended Complaint, Pursuant to Rule 12(b)(1), FRCP, (ECF No. 53).

## I. Introduction

The Tribal Court moved to dismiss the plaintiffs' amended complaint (ECF No. 37) on grounds this Court lacks jurisdiction over the Tribal Court by reason of Tribal sovereign immunity from suit. Plaintiffs' general defense to the various motions pending for dismissal, including the Tribal Court's motion to dismiss (ECF No. 53) the amended complaint (ECF No. 37), springs from the proposition that "[i]n a case like this, sovereign immunity is not the issue." CR, p. 3;3-4. This generality is wanting. Tribal sovereign immunity raises an issue of

jurisdiction, *see*, *Pistor v. Garcia*, 791 F.3d 1104, 1110 (9th Cir., 2015), and, as explained in the points and authorities to the Tribal Court's motion to dismiss, (ECF No. 53-1), jurisdiction of this Court may not be pretermitted, *see*, *Ashcroft v. Iqbal*, 556 U.S. 662, 671, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009)("we are not free to pretermit the question" of jurisdiction). The question to be decided before all others is whether this Court has jurisdiction to reach the issue(s) the plaintiffs want the court to address. Given the impact of sovereignty on jurisdiction, the plaintiffs' opening salvo that the Tribe's sovereignty is not the issue falls wide of the mark and undercuts plaintiffs' entire argument.

Plaintiffs also base their opposition upon the claim that *Ex parte Young*, 209 U.S. 123 (1908) limits the sovereign immunity of Tribes. CR p. 1;15-16, (ECF No. 59). In fact, while *Ex parte Young* may provide in appropriate circumstances authority to reign in government officials, *Ex parte Young* nevertheless leaves intact, a government's sovereignty, including the Tribe's. Its doctrine "... has no application in suits against the States and their agencies, which are barred regardless of the relief sought." *Norton v. Ute Indian Tribe of the Uintah and Ouray Reservation,* 862 F.3d 1236, 1251 (10th Cir., 2017). *See also*, *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 687, 688, 69 S.CT. 1457 (1948). And *see*, *Arizona Public Service Co. v. Aspaas*, 77 F.3d 1128, 1132 (9th Cir., 1995), cited by the plaintiffs, which is in accord. ("Indian tribes may not be sued absent an express and unequivocal waiver of immunity by the tribe or abrogation of tribal immunity of Congress."). As the plaintiffs' conceded, the issue in *Aspaas* was whether the tribe, there, the Navajo Nation, could regulate the employment policies of a non-Indian employer. Despite the federal question aspect of the issue, the Ninth Circuit stated, as indicated, that the Tribe's immunity from suit remained intact.

This misplaced understanding of *Ex parte Young*, as applied to the Tribal Court, further erodes the plaintiffs' claim that this Court should exercise jurisdiction over the Tribal Court, whether or not it retains sovereign immunity from suit. Again, the plaintiffs are misquided.

Plaintiffs' last, and by no means least, theme for arguing the exercise of jurisdiction over all the defendants, including the Tribal Court, is plaintiff's contention that "inarguably," whether the Tribal Court may exercise subject matter jurisdiction over the Tribe's claims in the Tribal

Court is a federal question. Being, therefore, a federal question, a federal question trumps the Tribe's sovereign immunity thereby allowing the plaintiffs to proceed in this Court against the Tribe and the remaining Tribal defendants. CR p. 2;19-25 (ECF No. 59).

Once again, plaintiffs point with too broad a brush. The federal question doctrine, standing alone, affords no basis for eviscerating sovereign immunity. The simple fact of the matter is, while sovereignty and jurisdiction are related concepts, they are also different. As explained in *Pistor v. Garcia*, *supra* at 1110, "tribal sovereign immunity 'is an immunity from suit rather than a mere defense to liability; and...it is effectively lost if a case is erroneously permitted to go to trial.'" That is, sovereign immunity is a bar to the courthouse door in the first place.

Thus, in *Presidential Gardens Associates v. United States of America*, 175 F.3d. 132, 139 (2nd Cir., 1999), the Second Circuit held as follows:

> In any suit in which the United States is a defendant, there must be a cause of action, subject matter jurisdiction, and a waiver of sovereign immunity. The waiver of sovereign immunity is a prerequisite to subject-matter jurisdiction, *United States v. Mitchell*, 463 U.S. 206, 212, 103 S.Ct. 2961, 77 L.Ed.2d 580 (1983), but the issues of subject matter jurisdiction and sovereign immunity are nonetheless 'wholly distinct.' *Blatchford v. Native Village of Noatak*, 501 U.S. 775, 786-7, n. 4, 111 S.Ct. 2578, 115 L.Ed.2d 686 (1991). A showing of jurisdiction is not alone sufficient to allow the instant suit to proceed-there must also be a showing of a specific waiver of sovereign immunity.

Since the Tribe's sovereignty is co-extensive with the United States, *see, Chemehuevi Indian Tribe, supra at* 1051, this discussion of sovereignty in *Presidential Gardens* is equally applicable to these proceedings. *See, Garcia v. Akwesasne Housing Authority*, 105 F.Supp.2d 12, 15, (N.P.N.Y, 2000), affirmed in rel. part, *Garcia v. Akwesasne Housing Authority,* 268 F.3d 76 (2nd Cir., 2001). In other words, it does nothing to say that a court has subject matter jurisdiction, over a party because a Federal question has been raised by a plaintiff against a governmental entity, in order to establish jurisdiction in the case. There must also be a waiver of sovereignty, even in the presence of subject matter jurisdiction, before the governmental party may actually be haled before the Court. *See also, Blatchford, supra* at 786-7, n.4.

Jurisdiction may exist by reason of a Federal question. But a reference to jurisdiction, alone, is not enough to assert jurisdiction over a Tribe. There must be both a statement of

jurisdiction and in addition, an explicit and unequivocal waiver of sovereign immunity from suit by either the Federal government, or the Tribe, itself, to attain jurisdiction over the Tribe due to sovereign immunity from suit. *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.*, 523 U.S. 751, 754, 118 S.Ct. 1700 (1998).

Stated another way, the presence of a Federal question answers where a Tribe or government endowed with sovereign immunity from suit might be sued. It does not answer the question of whether the Tribe or governmental entity may be sued in the first place. This "whether" question is the question posed by sovereignty, itself. It is the question, a clear and articulate waiver answers. But, to assert that the presence of a Federal question admits of jurisdiction, without a waiver, is simply incorrect. *Atascadero State Hosp. v. Scanlon,* 473 U.S. 234, 105 S.Ct. 3142 (1985). As *Kiowa* and a host of other cases reveal, there must also be present either a Congressional or Tribal clear waiver of sovereignty before the Tribe and those under it who enjoy the protection of its sovereignty may be haled into Court. *Kiowa, supra* at 754. The presence of a Federal question, alone, is insufficient. And, the complete exploration of this issue, must be conducted, first, given that jurisdiction may not be pretermitted. *Iqbal, supra* at 671.

The plaintiffs' position on the Federal question approach to jurisdiction is also, clearly in error and infects plaintiffs' analysis throughout its CR. For these and other reasons more specific to the Tribal Court, elucidated, below, the Tribal Court's motion to dismiss the amended complaint (ECF No. 53) should be granted.

## II. Rule 12(b)(1), FRCP, Is the Standard For Deciding the Tribal Court's Motion to Dismiss (ECF No. 53)

It is true, as the plaintiffs claim, that the Ninth Circuit recognizes two types of 12(b)(1) attacks, facial and factual, upon the efficacy of a complaint. It is also true that Rule 12(b)(1), FRCP, is the appropriate "...vehicle for invoking sovereign immunity from suit."[footnote omitted]. *Pistor, supra* at 1111. In that event, as already explained, while the Tribal Court has affirmatively placed the Court's jurisdiction at issue through the Tribe's sovereign immunity, the burden is upon the plaintiffs to establish subject matter jurisdiction of the Court. *See, Pistor,*

*supra* at 1111; *Stock West, Inc. v. Confederate Tribes*, 873 F.2d 1221, 1225 (9th Cir., 1989); *Tosco Corp. v. Communities for a Better Environment*, 236 F.3d 495, 499 (9th Cir., 2001) (the plaintiff is required to show this Court, "'...affirmatively and distinctly, the existence of what was essential to federal jurisdiction...'"). And, "[w]hen a district court is presented with a challenge to its subject matter jurisdiction, '[n]o presumptive truthfulness attaches to [a] plaintiff's allegations' *Robinson*, 586 F.3d *at* 685 (quoting, *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir., 1983))." *Pistor, supra* at 1111. Finally, "[i]n resolving such a motion, '[a] district court may 'hear evidence regarding jurisdiction' and 'resolv[e] factual disputes where necessary.'"[citations omitted]. *Ibid.*

The plaintiffs quibble, however, by asserting that in the case of a facial attack, the trial court must accept as true, all the allegations of the plaintiffs' complaint. That is to say, the Court should treat this motion as one made under Rule 12(b)(6), FRCP. CR 2;1-6 (ECF No. 59). Were that the case, however, it would make little difference to the Tribal Court's motion to dismiss, as the material facts of the amended complaint only serve to establish that the Tribe and through it, the Tribal Court, are legitimate Tribal institutions whose sovereignty has not been waived. *See*, Section IV, *infra*.

However, it is also true that a motion to dismiss for the want of jurisdiction due to sovereign immunity is only to be treated as a Rule 12(b)(6) motion where the jurisdictional facts are inextricably intertwined with the merits of the claim, such that it might be unfair to dismiss the complaint without the procedural safeguards that are afforded by the Rule 12(b)(6) process which accepts as true the allegations of the plaintiffs' complaint. *See, Roberts v. Corrothers*, 812 F.2d 1173, 1177 (9th Cir., 1987). The burden is upon the plaintiffs, in any event, to prove jurisdiction and they cannot make that showing based upon conclusory allegations, *Iqbal* at 678, which should be summarily disregarded. The plaintiffs' pleadings do not show in any way or even discuss the means by which the Tribal Court's sovereignty is intertwined with the merits of the complaint. Furthermore, the question of subject matter jurisdiction and sovereignty, as indicated, though related concepts, are separate questions. Sovereignty is not intertwined with the merits of plaintiffs' claims.

## III. The Undisputed Facts Support The Tribal Court's Immunity From Suit

The plaintiffs claim that the defendants have "...presented the Court with no factual material," by which to analyze sovereignty as it bears on jurisdiction.[1] For the Tribal Court defendant, this is simply an untrue statement. Moreover, whether this motion is treated as a Rule 12(b)(1) or 12(b)(6) motion to dismiss, is a red herring as the facts upon which the motion is based come from the plaintiffs, themselves, either in their amended complaint, or their CR.[2] The undisputed facts of the Tribal Court's motion remain, even in light of their CR, ECF No. 59, as below. Their CR does nothing to detract from the fact that the Yerington Paiute Tribe, (the Tribe) is a Federally recognized Tribe. They could not. *See,* 82 FR 4915, p. 4919, 01/17/2017. The CR also does walk back the plaintiffs' admission that the Tribal Court is an integral part of the Tribe's governance. And, the CR does nothing to detract from the fact that neither the Tribe nor Congress has waived the Tribe's sovereign immunity from suit or the extension of the Tribe's sovereignty to the Tribal Court.

The undisputed facts for the Tribal Court which the plaintiffs conceded are:

1. The Yerington Paiute Tribe is a Federally recognized Tribe. Amended Comp., ¶ B, p. 20, (ECF No. 37).

2. The Yerington Paiute Tribe is the only plaintiff in the Tribal Court proceedings.

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[1]Throughout most of the plaintiffs' pleading, they refer to "defendants" without differentiating amongst the multiple defendants in this case. Thus, when the plaintiffs assert that the defendants have presented no "factual material," that broad generalization is untrue as applied to the Tribal Court as the listing of facts pertinent to the Tribal Court's role in this case make abundantly clear.

[2]This is most telling. The Tribal Court made clear in both its motion to dismiss, ECF No. 28/28.1, the original complaint, ECF No. 1, and it opposition to the plaintiffs' original motion for a preliminary injunction, ECF No. 2, that the complaint and motion for preliminary injunction were devoid of any information that either Congress or the Tribe had waived Tribal sovereign immunity. The Tribal Court made clear when moving to dismiss the original complaint and when opposing the original motion for a preliminary injunction, it would rely upon the absence of information that the Tribe or Congress had abrogated the Tribe's sovereign immunity from suit, to assert that this Court lacked jurisdiction over the Tribal Court. Having been forewarned by the Tribal Court, then, of the absence of any showing the Tribe's sovereign immunity had been abrogated, the plaintiffs should have and could have clearly cured this glaring jurisdictional problem for them in their amended complaint, ECF No. 37, their amended motion for a preliminary injunction., ECF No. 38, and their CR, ECF No. 59. They have not cured this problem in their amended pleadings and this leads inexorably to the conclusion that they have no cure. The fact is, neither the Tribe nor Congress has abrogated the Tribe's sovereign immunity from suit.

Amended Comp., ¶ 1, p. 2, (ECF No. 37).

3. The Yerington Paiute Tribal Court is an integral part of the governance of the Tribe. Amended Comp., ¶ 10, p. 3, (ECF No. 37). "The Tribal Court is the judicial arm of the Tribal government, and is located at 171 Campbell Lane, Yerington, Nevada 89447." Amended Comp., ¶ 10, p. 3, (ECF No. 37).

4. The amended complaint is devoid of any allegation that Congress has abrogated the Tribe's sovereign immunity from suit.

5. The amended complaint is devoid of any allegation that the Tribe has waived its sovereign immunity.

6. The amended complaint is devoid of any allegation that Congress or the Tribe has waived the Tribal Court's sovereign immunity from suit.

7. The amended complaint is devoid of any discussion of Tribal sovereign immunity and its impact on the jurisdiction of the Court for haling the Tribal Court before this Court and subjecting it to declaratory and injunctive relief.

## IV. It Cannot Be Gainsaid That Neither the Tribe's Nor the Tribal Court's Sovereign Immunity Has Been Waived and, Therefore, The Court Lacks Jurisdiction In This Case Against The Tribal Court Requiring Dismissal of the Amended Complaint, ECF No. 37, With Prejudice As to the Tribal Court

The Tribal Court asserted in its motion to dismiss the amended complaint, that no elaboration was needed to recognize that Tribes retain their inherent sovereignty as distinct sovereign nations in matters of local governance, *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55, 98 S.Ct. 1670 (1978), which inexorably prevents a Tribe from being haled into court to defend itself from unconsented suit. *See*, Tribal Court's Points and Authorities, ECF 53-1, p. 4;19-21. The Tribal Court spoke too soon, apparently because, now, incredulously, the plaintiffs claim that they may directly assert their claims against the Tribe and Tribal Court, the doctrine of sovereign immunity notwithstanding. CR, p. 10;1-12, ECF No. 59. Plaintiffs contend: "The Supreme Court has repeatedly held that the scope of tribal court jurisdiction is a federal question, and that a federal court may enjoin a tribal court action that exceeds the federal limitations on the power of a tribe." CR, p. 10;12-14. For this reason, they then argue that this Court has

jurisdiction over the Tribe in the pursuit of declaratory and injunctive relief. *Id.*, at 10; 22-25.

The first proposition is a naked assertion, offered without any citation to case law. The second proposition relies upon an antediluvian Fifth Circuit case, *Comstock Oil & As, Inc. v. Ala & Coushatta Indian Tribes*, 261 F.3d 567, 571 (5th Cir., 2001), that has been rendered nugatory by the United States Supreme Court in one of its most recent pronouncements on tribal sovereignty and jurisdiction, as well as a host of Ninth Circuit cases, rejecting *Comstock's* claim.

Turning to *Michigan v. Bay Mills Indian Community*, 134 S.Ct. 2024 (U.S. 2014), 2014 U.S. LEXIS 3596, the United States Supreme Court reaffirmed a full throated sovereign immunity still applies to Tribes who have not had their sovereignty waived by Congress or the Tribe. At issue in the case was the Tribe's operation of a casino on non-Tribal lands. The State of Michigan filed suit to enjoin the Tribe from operating the casino on the non-Tribal land. The United States Supreme Court rejected the attempt, dismissing the case on sovereign immunity grounds. The Court held:

> We hold that immunity protects Bay Mills from this legal action. Congress has not abrogated tribal sovereign immunity from a State's suit to enjoin gaming off a reservation or other Indian lands. And we decline to revisit our prior decisions holding that absent an abrogation (or a waiver), Indian tribes have immunity even when a suit arises from off-reservation commercial activity. *Id.*, at 2028.

In reaching this decision, the Court also said, that the common law immunity inherent in sovereigns, applies "... no less to suits brought by States (including those in their [the Tribe's] own courts) than to those by individuals." *Id.*, at 2031.

There is nothing, then, in *Bay Mills* to suggest that sovereign immunity is pierced by a suit for declaratory and injunctive relief. Michigan sought injunctive relief, regarding a commercial, Tribal venture. The Court dismissed the suit for the want of jurisdiction due to sovereign immunity. It protected, furthermore, a tribal commercial operation. The Fifth Circuit and *Comstock* are simply mistaken about the scope and breadth of sovereignty. There is no exception to tribal sovereign immunity from suit carved out by a claim for declaratory and injunctive relief.

There is more, however, if more is needed. As set out in the Tribal Court's points and authorities in support of its motion to dismiss, it cannot be seriously challenged in the Ninth

Circuit that tribal sovereign immunity includes an umbrella of protection which extends to the agencies and instrumentalities of the Tribe. *See*, *Native American Distributing v. Seneca-Cayuga Tobacco Co.*, 546 F.3d 1288, 1292 (10th Cir., 2008); *Allen v. Gold Country Casino,* 464 F.3d 1044, 1047 (9th Cir., 2006) (casino functioning as an arm of the Tribe enjoys Tribal sovereign immunity from suit); *Cook v. AVI Casino,* 548 F.3d 718, 725, 726 (9th Cir., 2008) (tribal casino); *Ramey Constr. Co. v. Apache Tribe of the Mescalero Reservation*, 673 F.2d 315, 321 (10th Cir., 1982)(inn operating as a sub-entity of the Tribe and not a separate corporate entity enjoyed tribal sovereign immunity from suit), *Garcia v. Akwesasne Housing Authority,* 105 F.Supp.2d 12, 15, 16 (N.D.N.Y., 2000), affirmed in rel. part, vacated in part by *Garcia v. Akwesasne Housing Authority*, 268 F.3d 76 (2nd Cir., 2001). *See also, Bassett v. Mashantucket Pequot Museum & Research Ctr. Inc.*, 221 F.Supp.2d 271, 277, (D. Conn. 2002) (sovereignty extends to agencies or entities of the Tribe); *Bassett v. Mashantucket Pequot Tribe*, 204 F.3d 343, 358 (2nd Cir., 2002); *Dillon v. Yankton Sioux Tribal Housing Authority*, 144 F.3d 581 (8th Cir., 1998)(housing authority immune from suit based upon the Tribe's sovereignty).

As an integral part of the Tribe's governance, the Tribal Court easily fits within the ambit of protection extended by the Tribe' sovereign immunity from suit. There being no waiver of the Tribe's sovereignty as applied to the Tribal Court, it possesses the Tribe's immunity from suit, the declaratory and injunctive relief being sought by the plaintiffs, notwithstanding.

The scope of this protection of the sovereign's immunity is also comprehensive. Tribes are immune from suit, just as the United States is immune from suit. *See, Chemehuevi Indian Tribe, supra* at 1051, quoting *Kennerly v. United States*, 721 F.2d 1252, 1258 (9th Cir., 1983) ("The common law immunity of [Indian tribes] is co-extensive with that of the United States...."). Tribal sovereign immunity, therefore, protects Tribes even when acting outside their authority. *See, Chemehuevi*, *supra,* at 1052 ("The tribe remains immune from suit regardless of any allegation that it acted beyond its authority or outside of its powers.").

It follows from this vantage point that declaratory and injunctive relief are not exceptions to tribal sovereign immunity from suit. The exception the plaintiffs urge upon the Court from *Comstock* was rejected out right by the New Mexico Supreme Court. *See, Hamaatsa, Inc. v.*

*Pueblo of San Felipe,* 388 P.3d 977, 986, 987 (S.Ct., New Mexico 2016). Plaintiffs' theory was also rejected by the Tenth Circuit in *Ute District Corp v. Ute Indian Tribe,* 149 F.3d 1260 (10th Cir., 1998). The court, there, declared that an action for declaratory relief involving water rights was barred by sovereign immunity. *See also*, *In re Mayes*, 294 B.R. 145, 154-55 (10th Cir., BAP 2003); *Norton, supra* at 1251.

The analysis, nevertheless returns to *Bay City*. The simple fact is, the United States Supreme Court dismissed the State of Michigan's lawsuit seeking equitable relief due to the want of jurisdiction on sovereign immunity grounds. Thus, the plaintiffs are in error again. No direct action against the Tribe and through it, the Tribal Court, is available to pierce sovereignty simply because plaintiffs pursue declaratory and injunction relief. Plaintiffs' theory affords no basis for denying the Tribal Court's motion to dismiss.

This is not to say that the Tribal Court or the Tribe has acted outside the scope of their powers. It is to reaffirm that declaratory and injunctive relief do not cut a swath from the protections of sovereign immunity from suit. This is also not to say, that Tribes may act with impunity towards the law. That is not the case. The plaintiffs lament, otherwise, is also mistaken. It is to state, however, that frontal attacks on Tribes, their institutions and their sovereignty as attempted, here by the plaintiffs, must be summarily rejected, absent waivers of sovereign immunity. *See, Kiowa*, at 754.

## V. Deference to the Tribal Court in the First Instance Is Also Mandated By Reason of the Plaintiffs' Own Pleadings

Plaintiffs begin their CR with the following: "Defendants cannot point to a single case from any court permitting a tribe to do what this Tribe seeks to do here–exert civil jurisdiction over non-tribal members based on their alleged off-reservation conduct." CR p. 1;1-3, ECF No. 59. The last portion of this statement, referencing the "alleged off-reservation conduct," illustrates why this case is ripe for application of the exhaustion of Tribal remedies doctrine. *See, Iowa Mutual v. LaPlante*, 480 U.S. 9 (1987). Plaintiffs admit, here, there is an issue by their use of the phrase "the alleged off-reservation conduct." It suggests the issue is disputable. There is nothing in the plaintiffs' CR to suggest that Tribal Court is incapable of determining if there was

or was not the appropriate level of contact between the plaintiffs and the Tribe. At this stage in the proceedings, the issue is only whether the Tribal Court is capable of making that determination and whether there is a sufficient question about jurisdiction over the plaintiffs to require a finding. *See, Norton, supra* at 1246 (not deciding whether the Tribal Council has jurisdiction but "...merely whether it can 'make a colorable claim that it has jurisdiction.'" [citation omitted]).

For this reason, also, the Tribal Court's motion to dismiss should be granted, if, somehow, the Court could bypass the jurisdictional question. That should not be the case, however, and the complaint against the Tribal Court should be dismissed, for the want of jurisdiction due to Tribal sovereign immunity from suit.

## VI. CONCLUSION

The plaintiffs' CR leaves untouched the Tribal Court's claim that sovereign immunity attaches to it and that sovereign immunity bars suit against the Tribal Court for the want of jurisdiction, plaintiffs' pursuit of declaratory and injunctive relief notwithstanding. The Tribal Court's motion to dismiss the amended complaint should be granted as to the Tribal Court along with all other relief deemed necessary on the premises.

Dated this 21st day of December, 2017.

The Law Offices of Charles R. Zeh, Esq.

By: /s/Charles R. Zeh, Esq.
Charles R. Zeh, Esq.

*Attorneys for Yerington Paiute Tribal Court*

## CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **Yerington Paiute Tribal Court's Reply to Plaintiffs' Consolidated Response to Motion to Dismiss Amended Complaint, Pursuant to Rule 12(b)(1), FRCP**, was made through the court's electronic filing and notice system (CM/ECF) or, as appropriate, by first class mail from Reno, Nevada, addressed to the following on December __, 2017.

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Dated this 21st day of December, 2017.

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