

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

DAVID VIPOND,

Plaintiff,

v.

DAVID DEGROAT, in his official
capacity as Judge of White Earth Tribal
Court, and DUSTIN ROY, in his official
capacity as Director of White Earth
Division of Natural Resources,

Defendants.

Case No. 0:24-cv-03125-KMM-LIB

**DEFENDANT DAVID DEGROAT RESPONSE TO DEFENDANT DUSTIN ROY'S
MOTION TO STAY**

Defendant David DeGroat, in his official capacity as Judge of White Earth Tribal Court, by and through his attorney, submits this Response to Defendant Dustin Roy's Motion to Stay all proceedings in this action until Plaintiff David Vipond exhausts all available tribal court remedies.

As stated in Defendant DeGroat's answer, Plaintiff's claim may not proceed in this Court unless and until he exhausts his remedies in a previously filed action pending in the White Earth Nation courts, involving the same questions of fact and law raised by Plaintiff here. Answer ¶¶ 5, 144. Defendant DeGroat's answer further explains:

Plaintiff's complaint includes numerous allegations containing legal arguments and conclusions regarding issues in an ongoing lawsuit between Plaintiff and the White Earth Division of Natural Resources (WEDNR), Case No. GC2023-000001, currently pending in White Earth Tribal Court ("the Tribal Court action"). The allegations are

directed at the White Earth Nation's regulatory authority over Plaintiff's proposed high-capacity pumping on the White Earth Reservation and the Tribal Court's jurisdiction over WEDNR's lawsuit against Plaintiff.... Defendant DeGroat, in his official capacity as Judge of White Earth Tribal Court, emphasizes for purposes of this Answer that he takes no position on the merits of the jurisdictional arguments alleged by Plaintiff. Defendant DeGroat further emphasizes that he takes no position on any of the factual matters alleged by Plaintiff in his Amended Complaint, which matters also may be at issue in the Tribal Court action. The White Earth Tribal Court will consider and address those jurisdictional arguments and factual issues in due course in the Tribal Court action, as required by the tribal court exhaustion rule announced in *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 15-17 (1987), and *Nat'l Farmers Union Ins. Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 856-57 (1985). This action must be stayed pending Plaintiff's exhaustion of remedies available in White Earth Tribal Court and White Earth Court of Appeals.

Id. at pp. 1-2.

Defendant DeGroat accordingly respectfully requests that this Court stay all proceedings in this action pending Plaintiff's exhaustion of tribal court remedies. Defendant DeGroat emphasizes that he is not taking any position on the factual and legal issues, including Plaintiff's challenge to the White Earth Nation's regulatory and adjudicatory jurisdiction, that will be developed and resolved in the Tribal Court action.

Respectfully submitted on this 10th day of October, 2024.

/s/ Andrea Y. Kingbird
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