

**Portland Office and Mailing Address:**

2177 SW Broadway
Portland, Oregon 97201

T 503.225.0777
F 503.225.1257
www.hk-law.com

Astoria Office Location:

609 Bond Street
Astoria, Oregon 97103

Michael E. Haglund
Michael K. Kelley (In Memoriam)
Julie A. Weis
Christopher Lundberg
Matt Malmshheimer
Joshua Stellmon (Astoria)
Christopher T. Griffith
Shay S. Scott
Ben Deford

LeRoy W. Wilder
Retired

February 20, 2026

VIA REGULAR MAIL & EMAIL

Katherine H. Lybrand
Superior Court Judge
Superior Court for the State of Alaska
First Judicial District at Ketchikan
415 Main Street, Room 400
Ketchikan, Alaska 99901
1kemailbox@akcourts.gov

Re: *State v. Hayward*, Case No. IKE-25-00199CR – Order Inviting Responses on Tribal Immunity Question

Dear Judge Lybrand:

I am general counsel for the Metlakatla Indian Community and write in response to the Court's referenced Order Inviting Responses on Tribal Immunity Question. As an initial comment, this letter should not be construed as support for either party in the referenced case, nor should it be construed as consent to this Court's jurisdiction over the Community or as a waiver or limitation of any kind of the Community's sovereign immunity. Rather, the Community has asked that I respond due to its respect for and appreciation of this Court's desire to "thoroughly evaluate[] the possibility of any jurisdictional issue," which the Court has framed as relating to the important question of whether tribal sovereign immunity limits the State's authority to execute search warrants against tribal governments.

On that question, the Community's position has been and remains clear - namely, that tribal sovereign immunity shields the Community from being involuntary forced to comply with state-court-issued search warrants. Rather than repeat here the well-established case law supporting that position, the Community points to the Native American Rights Fund's Brief In Support of Neither Party (the "NARF Brief"), which it supports, for the clear legal authority behind the well-established principles about the scope of tribal sovereignty in this context.

That said, the Community has enjoyed a positive and collaborative working relationship with State law enforcement entities and typically has waived its sovereign

immunity for the limited purpose of allowing State law enforcement entities to investigate serious crimes. At times, it appeared that the State may have been unaware of its limited authority, presuming instead that a State-court-issued search warrant was executable on the Community's sovereign land in the same manner as it would be on State land. Notwithstanding, the Community and the State cooperatively resolved those issues as they arose. As to the specific search warrant at issue in this case, the Community authorized the State to execute that warrant.

However, as explained in the NARF Brief, in section IV – Tribal Nations may Waive their Sovereign Immunity by Consenting to Searches or Voluntarily Providing Document, But Such Waivers must be Construed Narrowly, the Community underscores this cautionary principle of narrow construction, particularly here given the broad nature of the search warrant and the volume of material seized. To be clear, the Community is not taking a position either way, does not know what evidence is being used, is unaware of any objections by any party to such evidence and expressly reserves the right to object to the use of evidence in any proceeding that the Community believes exceeded the bounds of its consent. Rather, the Community is simply highlighting an analytical principle that respects the power and importance of tribal sovereignty and the need to support it.

Again, the Community appreciates the Court's effort to understand the impact of tribal sovereign immunity on the State's authority to execute State-court-issued search warrants on tribal governments. Broad assumptions about the scope of any tribal waiver should never replace thoughtful constraint – and the Community appreciates the opportunity to provide a response to this important question.

Very truly yours,



Christopher Lundberg

CGL:at
cc: Executives and Council

