

IN THE COURT OF INDIAN OFFENSES
FOR THE WESTERN REGION
ELKO, NEVADA

ALICE TYBO, et al.,

Plaintiffs,

v.

STEVEN MCDADE, et al.,

Defendants,

CASE NO.: CIV-24-WR11
Consolidated with CIV-24-WR12

TE-MOAK TRIBE OF WESTERN
SHOSHONE INDIANS OF NEVADA and four
constituent bands – BATTLE MOUNTAIN
BAND, ELKO BAND, SOUTH FORK BAND,
AND WELLS BAND,

Counterclaimants,

v.

JOSEPH HOLLEY, ALICE TYBO, DUANE
GARCIA SR., ANDREA WOODS, LARRY
YAEGER, PAULA GARCIA, JULIUS
HOLLEY, DAVIS GONZALES, THALIA
MARIN, SUSAN ZAZUETA, DONNA HILL,
RAYMOND GONZALES, FRANK LEYVA,
DOYLE TYBO, DERRICK TYBO,
CLARINDA GUZMAN, VYONNE WINAP,
JENNY KOERBER, SHAWNI HICKS, RONNIE
WOODS, HARLEY REYNOLDS,
DALLAS SMALES, BRANDON
REYNOLDS, TYLER REYNOLDS, AMBER
PEAVEY, RAQUEL YEPEZ, AURORA
ABOITE, CHARLOTTE HEALEY, JOSE
SALAZAR, WENDELL HAYES, and JOHN
DOES 1-10 (all as separate individuals) ; and
ROE ENTITIES 1-10.

Counterclaim Defendants.

HOUSING AUTHORITY OF THE TE-MOAK TRIBE
OF WESTERN SHOSHONE INDIANS OF NEVADA

Intervenor Plaintiff.

And All Related Matters.

**ORDER GRANTING PLAINTIFFS' REQUEST FOR DECLARATORY AND
INJUNCTIVE RELIEF**

On July 2, 2025, July 3, 2025, July 11, 2025, and July 23, 2025, this Court presided over an evidentiary hearing regarding Plaintiffs' motion for a preliminary injunction. Jamie Konopacky, Esq., Kelby Welsh, Esq., Rollie Wilson, Esq., Jarrod L. Rickard, Esq., John Muije, Esq., and Charles Zeh, Esq. appeared for the Plaintiffs. Paul Tsosie, Esq. and Kari James, Esq. appeared for the Defendants. Defendant Steven McDade appeared pro se.

On July 23, 2025, this Court, finding that a substantial part of the evidence offered in support of the preliminary injunction was relevant to the case in chief and admissible at the trial proper, ordered that trial on the merits be advanced and consolidated with the hearing on Plaintiffs' Motion for Preliminary Injunction as to the following claims: A) Petitioners' claims seeking the following relief: 1) A declaration that the October 12, 2024, Band elections and, by extension, the Tribal Council appointments and November 2, 2024, Tribal Chairperson election are invalid; 2) An injunction halting any further action by Defendants based upon the results of the October 12, 2024, Band elections, subsequent Tribal Council appointments and November 2, 2024, Tribal Chairperson election; 3) An injunction ordering new Band elections, supervised by a neutral third party to occur within 30 days; and 4) any further relief the court deems proper; and B) Defendants/Counterclaimants' cause of action seeking the following relief: a declaration that the

October 12, 2024 Band elections and, by extension, the Tribal Council appointments and November 2, 2024 Tribal Chairperson election are valid.

The parties submitted closing briefs, rebuttal briefing and proposed Findings of Fact and Conclusions of Law on August 1, 2025 through August 6, 2025, and the Court has considered the briefs, the testimony, the admitted exhibits, the arguments of counsel, and the submitted proposed Findings of Fact and Conclusions of Law.

This Court finds, by clear and convincing evidence, that the conduct of the band council elections on October 12, 2024 and the tribal chairperson election on November 2, 2024 violated the Te-Moak Constitution and the Te-Moak Election Ordinance.

This Court finds that the October 12, 2024 Band Council elections for the South Fork, Wells and Battle Mountain Bands were not conducted by validly appointed Band Election Committees and were invalid from their inception.

This Court further finds that it was not possible for the Elko Band Council election scheduled and conducted on the same day, October 12, 2024, to have legal effect, given that the Tribal Constitution mandates that the Band Council elections for all four constituent bands of the Te-Moak Tribe be held on the same day and that the Band Council elections purportedly conducted for the South Fork, Wells and Battle Mountain Bands on the same day were invalid *ab initio* and a legal impossibility.

This Court finds that the Tribal Election Board that purported to conduct the October 12, 2024 Band Council elections for the South Fork, Wells and Battle Mountain Bands was not established or constituted according to Tribal law and had no legal authority to conduct Band Council elections or a Tribal Chairperson election.

This Court finds that the Tribal Council, established by extension of the invalid Band Council elections, is not validly formed. This Court further finds that the Tribal Chairperson election purportedly conducted on November 2, 2024 was therefore not valid and further was conducted by a Tribal Election Board not lawfully established or constituted.

For good cause so found, by clear and convincing evidence, this Court enters the following Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' Request for Declaratory Relief and a Permanent Injunction, and this Court enters an Order Denying Defendants/Counterclaimants' Requests for Declaratory Relief.

FINDINGS OF FACT

A. Procedural History.

Plaintiffs in Case Number CIV-24-WR11 filed their Complaint in this matter on December 5, 2024. Plaintiffs in Case Number CIV-24-WR12 filed their Complaint on December 9, 2024. On December 9, 2024, Plaintiffs in Case Number CIV-24-WR12 also filed a Motion for Temporary Restraining Order or Preliminary Injunction (the "Motion"). Plaintiffs in Case Number CIV-24-WR11 filed a Joinder to the Motion with supplemental exhibits on January 6, 2025 (the "Joinder"). The Motion and Joinder also included a request for expedited relief.

The original Complaints sought an order from the Court upholding tribal band elections that occurred on October 8, 2024, and a tribal chairperson election that occurred on October 29, 2024, and sought to invalidate tribal band elections that occurred on October 12, 2024, and a tribal chairperson election that occurred on November 2, 2024.

On February 3, 2025, the Court entered an order consolidating these two actions for all purposes, and on February 4, 2025, the Court entered an order, and then amended order, effectively denying the request for a Temporary Restraining Order.

Defendants filed an Opposition to the Motion for Temporary Restraining Order or Preliminary Injunction and Joinder on April 21, 2025. Plaintiffs filed a consolidated Reply on May 5, 2025.

On April 22, 2025, Defendants answered the Complaint and asserted counterclaims for theft, conversion, trespass, accounting, tortious interference with contracts, and declaratory relief.

On May 6, 2025, Plaintiffs filed a motion to dismiss, or, in the alternative, to stay Defendants' counterclaims, and on May 19, 2025, the Court ordered, *inter alia*, that Defendants had 20 days to replead, with a more definite statement, counterclaims for theft, conversion, trespass, accounting, and tortious interference with contracts.

On May 12, 2025, Plaintiffs submitted a request for an evidentiary hearing on the motion for preliminary injunction. That same day, the Court issued an order granting the Housing Authority of the Te-Moak Tribe of Western Shoshone Indians of Nevada's (the "Housing Authority") request to intervene as a Plaintiff in this action.

On May 23, 2025, the Court issued an order setting an evidentiary hearing on Plaintiff's motion for preliminary injunction for June 4, 2025. On May 30, 2025, the parties submitted a stipulation requesting the Court to reschedule the evidentiary hearing. On June 4, 2025, the Court issued an order resetting the evidentiary hearing on the motion for preliminary injunction for July 2, 2025.

On May 28, 2025, Plaintiffs filed a consolidated First Amended Complaint removing their prior request for an order upholding the October 8, 2024, band elections and October 29, 2024, chairperson election. Plaintiffs' operative pleading now focuses solely on invalidating the October 12, 2024, band elections and November 2, 2024, chairperson election.

Through their First Amended Complaint, Plaintiffs seek a declaration that the October 12, 2024, band elections and, by extension, the Tribal Council appointments, and November 2, 2024, Tribal Chairperson election are invalid, and an injunction halting any further action by Defendants based upon the results of the October 12, 2024, band elections, subsequent Tribal Council appointments, and November 2, 2024, Tribal Chairperson Election. Plaintiffs also seek an injunction ordering new band elections, supervised by a neutral third party, to occur within 30 days.

On June 10, 2024, Defendants filed a First Amended Counterclaims, narrowing the asserted claims to declaratory relief, theft, conversion, and trespass. With respect to the elections, Defendants seek a declaration from the Court upholding the October 12, 2024, band elections and November 2, 2024, chairperson election and invalidating the October 8, 2024, band elections and November 29, 2024, chairperson elections.

On June 30, 2025, Plaintiffs filed a joint supplemental motion in support of their motion to dismiss or stay Defendants' First Amended Counterclaims.¹

On June 20, 2025, Defendants filed an Answer to the First Amended Complaint.

B. 2021 and 2022 Band Council Elections.

1. The Te-Moak Tribe of Western Shoshone Indians ("Te-Moak" or "Tribe") is comprised of four separate Bands: Elko Band, Wells Band, South Fork Band, and Battle Mountain Band.²

¹ This motion is currently pending before the Court. Defendants/Counterclaimants' asserted counterclaims for theft, conversion, trespass, accounting and tortious interference with contracts are not addressed or decided in this order.

² While the Te-Moak Constitution, Article 4, Section 2(a) reflects three constituent Bands (Elko, Battle Mountain, and South Fork), Wells Band has been officially recognized by the Tribal Council.

2. The Tribal Government is a confederation, including a Tribal Council as well as four Band Councils.

3. Per Tribal law and the tribal three-year election cycle, Tribal elections, beginning with Band Council elections, were due to occur in October of 2021.

4. In October of 2021 and February of 2022, the four Bands, through their Band Election Committees, held Band elections and elected and certified Band Councils.

5. After the 2021 and 2022 Band elections, the 2021 Tribal election cycle broke down. As a result, recognized Tribal Council appointments from all four Bands and a recognized Tribal Chairperson election, with candidates selected from a fully seated Tribal Council, did not validly occur.

6. On October 17, 2023, the Regional Director for the Western Region of the Bureau of Indian Affairs (“Regional Director”) issued an Interim Governmental Recognition Decision Letter wherein, at pages eight through eleven, she identified and recognized the composition of the four respective Band Councils elected in October 2021 and February 2022.

7. The Regional Director’s identification of Band Councils was confirmed by the Director of the Bureau of Indian Affairs (“Director”) on June 20, 2024³ at pages 27-28 of the Director’s Decision.

8. For the Elko Band, the Regional Director and Director recognized the Council elected by regular election on October 25, 2021 and modified by special election on April 1, 2022, to include:

a. Danena Ike (Chairwoman) (Tribal council representative)

³ The Director initially issued the Decision on June 20, 2024. That Decision was not dated and lacked a complete distribution list. The Director re-issued the Decision, with date and distribution list, on July 18, 2024.

- b. Derrick Tybo (Vice Chairman)
- c. Leah Brady (Tribal council Representative)
- d. Pandora Stevens
- e. Helen Stevens
- f. Robert Brady
- g. Doyle Tybo

9. For the South Fork Band, the Regional Director and Director recognized the Council elected on February 8, 2022, to include:

- a. Duane Garcia, Sr. (Chairperson)
- b. Alice Tybo (Vice-Chairperson)
- c. Tanya Reynolds
- d. Tyler Reynolds
- e. Dallas Smales
- f. Harley Reynolds
- g. Ronnie Woods

10. For the Wells Band, the Regional Director and Director recognized the Council elected on February 8, 2022, as subsequently modified, to include:

- a. Harvey Healey (Chairperson)
- b. Aurora Aboite
- c. Andrea Woods
- d. Charlotte Healey
- e. Paula Garcia
- f. Victoria Lara

11. For the Battle Mountain Band, the Regional Director and Director recognized the Council elected on February 8, 2022, to include:

- a. Clorinda Guzman (Chairperson)
- b. Rhonda Hicks
- c. Evan Jim
- d. Tejliah Holley
- e. Julius Holley
- f. Eddie Holley
- g. Yvonne Winap

12. In her Interim Governmental Recognition Decision Letter, the Regional Director further determined that she could not identify, and would not recognize, a full Tribal Council and Tribal Chairperson.

13. To move forward with urgent pending government-to-government business, the Regional Director recognized Danena Ike (“Ike”) to act for a period of ninety (90) days, or until a Tribal Chair was elected, as the “interim Te-Moak Tribal representative” authorized solely “to execute contracts and agreements with the federal government on behalf of the Te-Moak Tribe.”

14. The Regional Director’s October 17, 2023, Letter Decision was appealed by several parties, triggering an automatic stay of the decision.

15. On June 20, 2024, the Director issued a Decision upholding the Regional Director’s identification of validly elected Band Councils, but vacating the Regional Director’s recognized interim governmental representative for the Tribe.

16. Instead of Ike, the Director recognized a group of individuals labeled the “Garcia-Ike Council” as the interim governmental representative for the Tribe for purposes of “conducting business with the federal government for preparing for the next election cycle.”

17. The Director further stated, at page thirty-one of his Decision, that because the Garcia-Ike body “had only five members, from only three Bands, it does not meet the Constitutional requirements for a Tribal Council.”

C. Elected Band Councils, Recognized by the Bureau of Indian Affairs, Appointed Band Election Committees to run the 2024 Band Council Elections.

18. Tribal Elections were due to occur again in October 2024.

19. The Wells, South Fork, and Battle Mountain Band Councils, recognized by the Regional Director and Director, each appointed, via Band Council resolutions, Band Election Committees to run their 2024 Band Elections.

20. The Wells Band Election Committee, appointed by the recognized Wells Band Council, consisted of Gina Morrow, Stephanie Jenkins, Susann Taylor, and Adela (a.k.a. Dayla) Morrison.

21. The Wells Band Election Committee appointed Adela Morrison to serve on the Tribal Election Board.

22. The South Fork Band Election Committee, appointed by the recognized South Fork Band Council, consisted of Elwood Mose, Kathleen Honeyestewa, and Cheryl Mose-Temoke.

23. The South Fork Band Election Committee appointed Elwood Mose to serve on the Tribal Election Board.

24. The Battle Mountain Band Election Committee, appointed by the recognized Battle Mountain Band Council, consisted of Meshell Young, Michael Young, Raul Ceja, and Lyle Sam.

25. The Battle Mountain Band Election Committee appointed Michael Young to serve on the Tribal Election Board.

26. Prior to the 2024 Band elections, the Band Councils for the South Fork, Wells, and Battle Mountain Bands never passed resolutions rescinding their validly appointed Band Election Committees, nor did they appoint Defendants Steven McDade (“McDade”), Zelda Johnny (“Johnny”), or Joan Whitney (“Whitney”) to serve on their Band Election Committees.

27. At all times in the lead up to the 2024 Band elections, the South Fork, Wells and Battle Mountain Bands Election Committees were actively preparing for Band elections.

D. The Garcia-Ike Interim Governmental Representative Body, by and through its Appointed or Recognized Purported Tribal Election Board, Undertook to Perform the Roles of the Band Election Committees for the South Fork, Wells and Battle Mountain Bands in 2024 Band Elections.

28. On July 2, 2024, the Garcia-Ike Council, the interim tribal governmental representative body recognized by the Bureau of Indian Affairs (“BIA”), by resolution scheduled Band Elections for October 12, 2024 and a Tribal Chairperson Election for November 2, 2024 (Saturday Elections).

29. On April 17, 2024 and by purported resolution on July 17, 2024⁴, the alternative Tribal Council, not recognized by the BIA but composed in part of representatives from Band Councils for the South Fork, Wells and Battle Mountain Bands as recognized by the Regional

⁴ AS-IA Decision, p. 11., 5.A., fn. 81, Resolution No. 24-TM-33 (Holley Group) (July 17, 2024).

Director's October 17, 2023 Decision Letter, scheduled Band Elections for October 8, 2024 and a Tribal Chairperson Election for October 29, 2024 (Tuesday Elections).

30. The Garcia-Ike Council, to effectuate the preparation and conduct of Band Elections scheduled for October 12, 2024 and a Tribal Chairperson Election for November 2, 2024 (Saturday Elections), appointed or recognized a Tribal Election Board consisting of Steven McDade (Chairperson), Joan Whitney (Vice-Chairperson) and Zelda Johnny, and purported to vest that Tribal Election Board with authority to serve as Election Committee for the South Fork, Wells and Battle Mountain Bands.⁵

31. The Garcia-Ike Council, to effectuate the preparation and conduct of Band Elections scheduled for October 12, 2024, did not engage with or attempt to utilize the Band Election Committees appointed by the South Fork, Wells and Battle Mountain Band Councils recognized by the Regional Director's October 17, 2023 Decision Letter.

32. The Garcia-Ike Council appointed or recognized Tribal Election Board (McDade, Whitney and Johnny), to effectuate the preparation and conduct of Band Elections scheduled for October 12, 2024, did not engage with or attempt to utilize the Band Election Committees appointed by the South Fork, Wells and Battle Mountain Band Councils recognized by the Regional Director's October 17, 2023 Decision Letter.

⁵ Defendants/Counterclaimants, in Defendants' Closing Argument And Supporting Brief, state: "The Garcia/Ike Council vested authority for the Tribal Election Board, chaired by Steven McDade, along with Zelda Johnny and Lois (sic) Whitney, to serve as Election Committee for three of the Bands (South Fork, Wells, and Battle Mountain.)" at page 7.

33. The Band Council appointed Election Committees for the South Fork, Wells and Battle Mountain Bands organized and conducted purported Band elections on October 8, 2024, as scheduled by the Tribal Council that served in the alternative to the Garcia-Ike Council.

34. The Garcia-Ike Council appointed or recognized Tribal Election Board, consisting of McDade, Whitney and Johnny, organized and conducted purported Band elections for the South Fork, Wells and Battle Mountain Bands scheduled for October 12, 2024.

35. Two Elko Band Council elections were conducted in accord with the differing election schedules of the two Tribal Councils, an election on October 8, 2024 and an election on October 12, 2024. It appears from the record that the two Elko Band elections were organized and conducted by Elko Band Election Committees, but it is not clear from the record what the composition of the membership of either Elko Band Election Committee was or whether one or the other Election Committee was composed, in whole or in part, of members as appointed by the Elko Band Council as recognized by the Regional Director's October 17, 2023 Decision Letter.

36. On July 12, 2024, McDade emailed officials for the BIA stating he was the "Southfork Band election member/TeMoak Election Board Chairman" and that he intended "to step in and hold the election of the bands by the TeMoak Election Board" and that it was "also within [his] authority to NOT ALLOW individuals who have committed election fraud in the past to be no where [sic] within the election of 2024."

37. On September 20, 2024, McDade sent a second email stating he was the TeMoak Election Board Chairman and "had been tasked to oversee the Band elections for Battle Mountain, Southfork [sic] and Wells band as these 3 bands either asked for help or don't have an election committee."

38. In the lead up to the 2024 elections, there is no evidence that representatives from the South Fork, Wells and Battle Mountain Band Councils or Election Committees asked the Garcia-Ike Council or its appointed or recognized Tribal Election Board for help in conducting Band elections and the record does not support that those Bands did not have election committees.

38. In the lead up to the 2024 elections, representatives from the South Fork, Wells, and Battle Mountain Bands provided written notices that they were preparing for October 2024 Band elections and that McDade, and others acting with him, should refrain from interfering with Band elections.

39. Also in his September 20, 2024 email, McDade identified candidates for Band Council office, specifically identifying:

40. For the Wells Band:

- a. Gaila Montoya
- b. Steven Hernandez
- c. Rita Hooper
- d. Derrick Montoya
- e. Amy Stevens

40. For the South Fork Band:

- a. Edith Smartt
- b. Angie Quintana
- c. Casey Yowell
- d. Rolyne Knight
- e. Stillman Knight Jr.
- f. Willard Knight

41. For the Battle Mountain Band:

- a. Rhonda Hicks
- b. Clorressa Oppenheim

E. Plaintiffs Timely Filed Election Challenges.

42. Plaintiffs Susan Zazueta (“Zazueta”), Gina Morrow (“Morrow”), Alice Tybo (“Tybo”), Tanya Reynolds (“T. Reynolds”), Dallas Smales (“Smales”), Brandon Reynolds (“B. Reynolds”), Harley Reynolds (“H. Reynolds”), Clarinda Guzman (“Guzman”), Donna Hill (“Hill”), and Angela Van Dorn (“Van Dorn”) filed timely election challenges to the October 12, 2024, Wells, Elko, and South Fork Band elections.

43. Approximately two dozen total election disputes were filed with McDade.

44. Guzman, Hill, and Van Dorn filed their election challenges with the Battle Mountain Band Election Committee, and Plaintiffs Zazueta, Morrow, Tybo, T. Reynolds, Smales, B. Reynold, and H. Reynolds filed their election challenges with McDade.

45. Among other issues, these disputes maintained that the Garcia-Ike Tribal Election Board was not comprised of one member from each of the several Band Election Committees and took control of the Band Council Elections from the Band Election Committees without valid legal authority or grounds.

46. The Battle Mountain Band Election Committee found that disputes filed with their election body were meritorious and found the October 12, 2024, Battle Mountain Band election to be invalid.

47. McDade rejected all the election disputes filed with the Garcia-Ike Tribal Election Board.

F. The Garcia-Ike Tribal Election Board Consisting of McDade, Whitney and Johnny Conducted a Tribal Chairperson Election on November 2, 2024.

48. After the October 12, 2024 Band Elections, a “Smartt-Tinhorn” Tribal Council consisting of five representatives, including Defendants Edith Smartt (“Smartt”), Bennith Tinhorn (“Tinhorn”), Rhonda Hicks (“Hicks”), Leah Brady (“Brady”) and Gaila Montoya (“Montoya”) was sworn in.

49. On November 2, 2024, the Garcia-Ike Tribal Council appointed or recognized Tribal Election Board consisting of McDade, Whitney, and Johnny conducted a Tribal Chairperson Election. As a result, Smartt and Tinhorn were purportedly elected Tribal Chairwoman and Vice Chairwoman, respectively.

G. Band and Tribal Councils (elected on October 12, 2024 and November 2, 2024) have Obtained Control of Band and Tribal Property and Operations with Material and Significant Adverse Consequences for Band and Tribal Members.

50. Since October 12 and November 2, 2024, individuals purportedly elected on those dates to Band and Tribal Councils have taken control of Band and Tribal property and operations.

51. Administrative offices for both the South Fork and Wells Bands are occupied and controlled by individuals elected on October 12, 2024.

52. Band employees, including band members, have been placed on indefinite administrative leave without pay or terminated, as a consequence of the October 12, 2024 band elections.

53. Individuals elected on October 12, 2024 and November 2, 2024 have purported to terminate all persons working or serving in their de facto capacities for the Te-Moak Housing Authority or its Board of Commissioners, contrary to the policies and procedures laid out in the Housing Authority’s personnel handbook.⁶

⁶ Defendants’ Memorandum in Opposition to Holley Faction TMHA’s Motion to Intervene, in its Statement of Facts, states “Defendants/Counterclaimants agree with the Holley Faction TMHA’s allegations that some individuals had been ‘unilaterally and summarily relieved of their positions as members of the Board of Commissioners (BOC) of the TMHA.’”

54. Individuals elected on October 12 and November 2, 2024, or those hired, directed or authorized by them, now occupy and control offices of the Te-Moak Housing Authority and may have access to or impact upon federal funding for the Te-Moak Housing Authority necessary to provide critical housing, crime prevention, health and welfare, and water testing services to hundreds of Tribal members.

55. Due to the electoral disputes, a state of uncertainty exists as to the legal authority for Band and Tribal governing or administrative bodies to obtain, access or expend federal and state funding sources and Band or Tribal financial accounts. The utilization or expenditure of such funds or accounts is necessary for provision of needed services for Band and Tribal members. This state of uncertainty has the effect of curtailing the flow of such funding and its beneficial use for Band and Tribal members. Such funding sources include 638 Contracts, grants, settlements, ARPA monies, Opioid Settlement monies, Laptop Purchase grant, CARES funds, HAF funds and HUD/IHP funding of the Te-Moak Housing Authority. Financial accounts include Nevada State Bank account(s), Wells Fargo account(s) and Avantax Investment Services account.

56. One or more Plaintiffs, who are holders of South Fork Band land assignments with associated water rights critical to haying and livestock grazing operations, have purportedly been noticed of denial of their water rights by the South Fork Band Council (elected on October 12, 2024), for alleged failure by such Plaintiffs to pay a required water rights annual fee to the South Fork Band Council (elected on October 12, 2024).⁷

⁷ See Letter of Edith Smartt, South Fork Band Chairwoman, to Attention of: Duane Garcia, Alice Tybo, Dallas Smales, Harley Reynolds, Tyler Reynolds, Brandon Reynolds, Ronnie Woods, Pedro Mendoza, Keren Nichols; Letter dated March 3, 2025 with metered postage date of March 10, 2025. Plaintiffs' Joint Reply in Support of Motion for Preliminary Injunction, Attached Ex. 3, Declaration of Alice Tybo with Attached Ex. A.

57. One or more Plaintiffs have received notice, purportedly sent by the South Fork Band Council (elected on October 12, 2024), that the South Fork Band Council has passed a Resolution that “former members of the South Fork Band Council and employees”, involved in certain alleged actions, “will not have water deliveries for irrigation to their assignments and will not be granted any livestock grazing on South Fork grazing allotments.” Resolution 25-SF-07. The described category of persons subject to the described sanctions includes one or more Plaintiffs.⁸

58. One or more Plaintiffs have received notice, purportedly sent by the South Fork Band Council (elected on October 12, 2024), that certain video evidence is being turned over by the South Fork Band Council (elected on October 12, 2025) to the Prosecutor for the Court of Indian Offenses with the expectation “that charges for theft will be brought” in relation to certain items allegedly “illegally removed by each of you” “from the South Fork Band Administration building and equipment area.”⁹

CONCLUSIONS OF LAW

A. Jurisdiction.

1. This Court has subject matter jurisdiction pursuant to 25 C.F.R. §11.100 (a) (1) and 25 C.F.R. § 11.116, which provides jurisdiction over any civil action arising within the territorial jurisdiction of the Court, provided at least one party is an Indian. This Court finds that the subject matter of this case includes tribal and band election disputes and internal tribal government

⁸ *Id.* Letter of Edith Smartt, South Fork Band Chairwoman.

⁹ *Id.* (noting items allegedly illegally removed include “all keys, codes, passwords, computers, documents, vehicles, equipment and any other items you have removed from the South Fork Band Administration building and equipment area”).

disputes, involving parties who are Indian persons and arising within the territorial jurisdiction of the Court.

2. This Court's jurisdiction over this case is not limited by 25 C.F.R. §11.118(b) from adjudicating an election dispute or an internal tribal government dispute for the Te-Moak Tribe or its constituent Bands. Further, this Court is not barred by 25 C.F.R. § 11.201 from serving as magistrate in this matter. The Assistant Secretary for Indian Affairs (AS-IA) has waived the relevant Code of Federal Regulations provisions pursuant to 25 C.F.R. § 1.2, all as contained in the Decision and the Memorandum of Regulatory Waiver Concerning Te-Moak C.F.R. Court issued by the AS-IA on November 27, 2025. Pursuant thereto, Plaintiffs and Defendants have all invoked the jurisdiction of this Court regarding the subject matter and the parties in this case.

3. This Court further finds that in exercising jurisdiction in this matter this Court is exercising the judicial powers of the Te-Moak Tribe, as provided for by Article 8 of the Te-Moak Constitution.

4. The Constitution in Article 8 provides for a judicial branch of government. Art. 8, Section 3. Jurisdiction, provides that "[t]he judicial power shall extend to all cases in law or equity arising under this Constitution or Tribal enactments." This Court finds that this matter is a case in law or equity, including prayers for declaratory and injunctive relief, and arises under the Tribal Constitution and Tribal enactments, including the Te-Moak Election Ordinance. The Constitution provides that the Election Ordinance enacted by the Tribal Council shall be "consistent with this Constitution." Const. Art. 7, § 8.

B. Court of Indian Offenses –25 C.F.R. §11.500 and Court Rule 1.3

5. Pursuant to 25 Code of Federal Regulations §11.500, this Court, in civil cases, may apply any laws or customs of the Tribe, any laws of the United States that may be applicable, any

authorized regulations contained in the Code of Federal Regulations, and, regarding any matters not covered by such laws and regulations, the laws of the State in which the matter in dispute lies.

6. Pursuant to Rule 1.3 of the Local Court Rules for the Court of Indian Offenses for the Western Region, the Federal Rules of Civil Procedure apply to these proceedings except when inconsistent with the Local Court Rules.

C. Declaratory Relief – 28 U.S.C. §§ 2201, 2202; Federal Rule of Civil Procedure 57.

7. Pursuant to 28 U.S.C. §§ 2201 and 2202, in a case of actual controversy within its jurisdiction and with appropriately filed pleadings, this Court may declare the rights and other legal relations of any interested party seeking such declaration, any such declaration shall have the force and effect of a final judgment or decree, and further necessary or proper relief based on the declaratory judgment or decree may be granted by this Court. Pursuant to Federal Rule of Civil Procedure 57, this Court may order a speedy hearing of a declaratory judgment action.

D. Equitable Defenses.

8. The equitable defense of violation of the clean hands doctrine was first raised in the written Closing Argument submitted by Defendant Steven McDade, alleging Plaintiffs did “try to disrupt, dispel all aspects of the October 12, 2024 elections. ... Plaintiffs now failed to participate in the October 12, 2024 elections and now under the guise that their rights were violated they believe They (sic) have a right to establish an election under their hands?” The Court finds that Plaintiffs are proper parties and have properly brought this consolidated civil action to address the legitimacy, under Tribal law, of the October 12, 2024 elections and that the record does not support the allegation that they have acted with unclean hands.

9. This Court, sua sponte, addresses the equitable defense of laches, which under proper circumstances may be applicable to election challenges or disputes. The Court finds that Plaintiffs

have acted with sufficient timeliness to file and pursue their consolidated election related actions in this Court, given the process and timing of establishment of this Court and magistrate to exercise the judicial powers of the Te-Moak Tribe regarding the anticipated elections related disputes as to the two sets of Band Council elections conducted in October, 2024. The Court finds that the parties reasonably cooperated in procedurally advancing resolution of related legal issues and necessary conferences and hearings and that any procedural delays were not due to bad faith of any party or counsel. The Court further finds that the judicial resolution of the issues regarding legitimacy of Band and Tribal elections and their impact upon the tribal democratic process and general acceptance and recognition by band and tribal membership of legitimacy band and tribal governance is of surmounting importance and that it is presently timely and proper for this Court to enter an order of resolution at this juncture.

E. Injunctive Relief – Federal Rule of Civil Procedure 65.

10. Pursuant to Federal Rule of Civil Procedure (“FRCP”) 65(a)(1), the Court may issue a preliminary injunction on notice to the adverse party.

11. The appropriate legal standard to analyze an injunction motion requires a court to determine whether a movant has established that (1) he is likely to succeed on the merits of his claim, (2) he is likely to suffer irreparable harm absent the preliminary injunction, (3) the balance of equities tips in his favor, and (4) a preliminary injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); accord *Chamber of Com. Of the U.S. v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023).

12. The first factor “is a threshold inquiry and is the most important factor.” *Env’t Prot. Info. Ctr. V. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020).

13. It is well-established that the first factor is especially important when a plaintiff alleges a constitutional violation and injury. If a plaintiff in such a case shows he is likely to prevail on the merits, that showing usually demonstrates he is suffering irreparable harm no matter how brief the violation. *Planned Parenthood Ariz., Inc. v. Humble*, 753 F.3d 905, 911 (9th Cir. 2014), abrogated on other grounds by *Dobbs v. Jackson Women’s Health Org.*, — U.S. —, 142 S. Ct. 2228, 213 L.Ed.2d 545 (2022).

14. Where the government is a party to a case in which a preliminary injunction is sought, the balance of equities and public interest factors merge (*Roman v. Wolf*, 977 F.3d 935, 940-41 (9th Cir. 2020)).

15. Additionally, under FRCP 65(a)(2), “[b]efore or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing.”

16. The standard for issuing a permanent injunction is similar to that for a preliminary injunction, but with a critical distinction: a permanent injunction requires the plaintiff to show actual success on the merits, whereas a preliminary injunction requires only a likelihood of success. *See e.g. Amoco Production Co. v. Village of Gambell*, noting that the standards for preliminary and permanent injunctions are “essentially the same” except for the success-on-the-merits requirement. 480 U.S. 531, 546, 107 S. Ct. 1396, 1404, 94 L. Ed. 2d 542 (1987).

F. Success on the Merits, Violations of Tribal Constitution and Election Ordinance.

17. The Te-Moak Tribal Constitution, enacted in 1982, requires and provides, *inter alia*, the following:

- a. Respective executive and legislative powers are vested in the Te-Moak Tribal Council and four individual Band Councils.¹⁰
- b. Exercise of Tribal Council powers must not conflict with exercise of Band Council powers.¹¹
- c. Band Councils shall appoint impartial Election Committees composed of three or more persons to conduct all Band elections.¹²
- d. A Tribal Election Board shall be composed of one of the members from each of the several Band Election Committees.¹³
- e. The Tribal Election Board shall have responsibility to ensure the Tribal Chairperson election is conducted objectively and fairly.¹⁴
- f. Band Election Committees shall have the responsibility to ensure Band Council elections are conducted objectively and fairly.¹⁵
- g. In Band Council elections, Band Election Committees shall evaluate candidates, post eligible Band Council candidates, and keep current lists of registered voters.¹⁶

¹⁰ Te-Moak Constitution, Article 4, Sections 1, 3.

¹¹ Te-Moak Constitution, Article 4, Sections 1, 3.

¹² Te-Moak Constitution, Article 7, Section 8.

¹³ Te-Moak Constitution, Article 7, Section 10.

¹⁴ Te-Moak Constitution, Article 7, Section 8(f).

¹⁵ Te-Moak Constitution, Article 7, Section 8(f).

¹⁶ Te-Moak Constitution, Article 5, Section 2; Article 6, Section 2.

- h. In Band Council elections, the voters of each recognized Band shall elect seven of its Band members for a Band Council.¹⁷
 - i. No Band Council meeting shall commence until a quorum, consisting of the majority of the membership of the Council and including the presiding officer, is present.¹⁸
 - j. Band Councils shall select their representatives to the Tribal Council.¹⁹
18. Additionally, The Te-Moak Tribal Election Ordinance, as amended and adopted in 2003, requires and provides, *inter alia*, the following:
- a. Each Band Council shall appoint, by resolution, an impartial Election Committee composed of three, but no more than five persons.²⁰
 - b. Band Election Committees must remain impartial.²¹
 - c. The regular term of office for a member of a Band Election Committee shall be three years.²²
 - d. Band Election Committees shall select their representatives to the Tribal Election Board.²³

¹⁷ Te-Moak Constitution, Article 4, Section 11(a).

¹⁸ Te-Moak Constitution, Article 4, Section 19 (c).

¹⁹ Te-Moak Constitution, Article 4, Section 12; Article 7, Section 2.

²⁰ Te-Moak Tribal Election Ordinance, Section 13-14-1(a).

²¹ Te-Moak Tribal Election Ordinance, Section 13-14-1 (a)(1).

²² Te-Moak Tribal Election Ordinance, Section 13-14-1(c).

²³ Te-Moak Tribal Election Ordinance, Section 13-14-1 (d).

- e. The Tribal Election Board shall be composed of one of the members selected from within each of the several Band Election Committees.²⁴
- f. Tribal Election Board members must remain impartial.²⁵
- g. The Tribal Election Board shall be responsible for ensuring the Tribal Chairperson election is conducted objectively and fairly.²⁶
- h. The Band Election Committee shall be responsible for ensuring the Band Council election is conducted objectively and fairly.²⁷
- i. In the event that a Band Election Committee dissolves or neglects their responsibilities, the Tribal Election Board will assume a Band Election Committee's responsibilities.²⁸
- j. For Band Council elections, Band Election Committees are responsible for, *inter alia*, maintaining current lists of registered voters, preparing election notices, posting deadlines (voter registration, candidacy, absentee voting), vetting and posting candidates, conducting unofficial votes, certifying official vote tallies, and notifying successful candidates.²⁹

²⁴ Te-Moak Tribal Election Ordinance, Section 13-15-1(a).

²⁵ Te-Moak Tribal Election Ordinance, Section 13-15-1(a)(1).

²⁶ Te-Moak Tribal Election Ordinance, Section 13-14-3(a)(1).

²⁷ Te-Moak Tribal Election Ordinance, Section 13-14-5(a)(1).

²⁸ Te-Moak Tribal Election Ordinance, Section 13-15-2.

²⁹ Te-Moak Tribal Election Ordinance, Section 13-3-6(a); 13-4-7; 13-5-2; 13-5-4.

k. For Band Council elections, immediately after the close of polls, Band Election Committees must perform unofficial tallies via verbal announcement until two identical counts are reached; after completing unofficial tallies, the Band Election Committee must finalize and post two official tally sheets with signed certification statements.³⁰

l. Each Band Council, once in place, shall, by resolution, select its representatives to the Tribal Council from within its membership.³¹

m. Each Band Council shall, by resolution, designate the polling place for a Band Council election.³²

n. Each Band Election Committee shall select at least three impartial persons to serve as poll officials to serve at the polling place on election day.³³

o. Poll officials must maintain strict confidentiality and remain neutral.³⁴

19. Plaintiffs have demonstrated by clear and convincing evidence that the October 12, 2024 Band Council elections for the South Fork, Wells and Battle Mountain Bands³⁵ were not conducted by validly appointed Band Election Committees, and the November 2, 2024 Tribal Chairperson election, was not conducted by a validly established Tribal Election Board, thus

³⁰ Te-Moak Tribal Election Ordinance, Section 13-11-1 (b), (e); 13-11-2.

³¹ Te-Moak Tribal Election Ordinance, Section 13-10-1 (a)(1), (c),(d).

³² Te-Moak Tribal Election Ordinance, Section 13-6-1(a).

³³ Te-Moak Tribal Election Ordinance, Section 13-16-1(b); 13-16-2(a).

³⁴ Te-Moak Tribal Election Ordinance, Section 13-16-2(b).

³⁵ By extension any following Tribal Council appointments from the South Fork, Wells, or Battle Mountain Band, and the November 2, 2024, Tribal Chair election, were also legally invalid.

violating the Te-Moak Constitution and the Te-Moak Election Ordinance, and that tribal law was not substantially complied with.

20. Tribal law, the Te-Moak Constitution and the Te-Moak Tribal Election Ordinance, does not authorize a Tribal Council to appoint, establish or recognize a Tribal Election Board the composition of which is not four members each of whom are selected by the four Band Election Committees. The Constitution provides: “The Tribal Election Board **shall** be composed of **one of the members from each of the several Band Election Committees.**”³⁶ The Election Ordinance provides: “The Tribal Election Board **shall** be composed of **one of the members selected from within each of the several Band Election Committees.**”³⁷ The Election Ordinance provides: “The members of each Band Election Committee **shall ... select its representative to the Tribal Election Board, from within its membership**”³⁸ (emphasis supplied).

21. The Tribal Election Board, composed of Steven McDade, Joan Whitney and Zelda Johnny, appointed or recognized by the Garcia-Ike Council, was not established pursuant to Tribal law and did not have legal authority to perform the functions of a Tribal Election Board, either to conduct Band elections, in the event a Band Election Committee is dissolved or neglects to perform its duties, or to conduct a Tribal Chairperson election.

22. This Court determines that the Tribal Election Board, composed of Steven McDade, Joan Whitney and Zelda Johnny, appointed or recognized by the Garcia-Ike Council, was invalid

³⁶ Te-Moak Constitution, Article 7, Section 10.

³⁷ Te-Moak Tribal Election Ordinance, Section 13-15-1 (a).

³⁸ Te-Moak Tribal Election Ordinance, Section 13-14-1 (d).

ab initio, from its inception, entirely and as to all acts done by it as a body or by any of its individual members.

23. The Band Election Committees for the South Fork, Wells and Battle Mountain Bands were not dissolved nor had they neglected to perform their duties in the run up to the 2024 elections.

24. Neither the Garcia-Ike Council or its appointed or recognized Tribal Election Board attempted to utilize or request the validly appointed and recognized Band Election Committees to carry out the more than dozen legal steps in the Band election processes for the South Fork, Wells and Battle Mountain Band elections that took place on October 12, 2024.

25. Among other things, the validly appointed relevant Band Election Committees, the most fundamental component of the Tribal constitutional and statutory scheme, structure and apparatus for Band and Tribal elections, were not utilized, requested or engaged by the Garcia-Ike Council or its appointed or recognized Tribal Election Board to :

- a. carry out voter registration,
- b. certify voter rolls,
- c. perform required vetting and posting of qualified candidates,
- d. post-election notices,
- e. post polling places provided for by Band resolutions,
- f. post the election dispute period,
- g. publicly tally votes,
- h. decide election disputes, and
- i. certify the Band elections.

26. The election for the Elko Band Council conducted on October 12, 2024 was done in conjunction with the scheduling, organizing and conducting of Band Council Elections for the other three constituent Bands of the Te-Moak Tribe by the Garcia-Ike Council, by and through its appointed or recognized Tribal Election Board, which the Court has found were invalid *ab initio*.

27. This Court finds that the October 12, 2024 Elko Band Council election was not held in compliance with the constitutional mandate that “(T)he election for Band Council members shall be held on the same day in each Band”³⁹, given that the three other constituent Band Council elections purportedly held on that date were, from their inception, invalid as not lawfully organized or held.

G. Irreparable Harm

28. “Irreparable harm is ... harm for which there is no adequate legal remedy, such as an award of damages.” *Hsiao v. Stewart*, 527 F. Supp. 3d 1237, 1252-53 (D. Haw. 2021) (quoting *Ariz. Dream Act Coal. V. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014)). Any loss of voting or election rights constitutes irreparable harm. *See e.g., League of Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (The denial of a constitutional right, such as the right to vote, constitutes irreparable harm).

29. Here, Plaintiffs have demonstrated irreparable harm because they lost both voting and election rights – they were faced with the choice of voting in an invalidly conducted election on October 12, 2024, not voting at all, or voting in an election without involvement from the interim recognized Garcia-Ike body.

³⁹ Const. Art. 7, Sec. 4. Day of Election. (a).

30. Moreover, since the demonstrably invalid October 12 and November 2, 2024 elections, Tribal members have suffered further, significant and irreparable harm as Tribal and Band operations have been controlled by undemocratically and invalidly elected Band and Tribal Councils, which has caused substantial, additional irreparable harm including:

- a. Loss of control and access to government administrative buildings;
- b. Terminations or suspensions of Band employees or staff, including staff that provide necessary services to Tribal members;
- c. Legal authority to obtain, access and expend an assortment of federal and state funding sources and Band or Tribal financial accounts so funded, the expenditure of which is necessary for services for Band and Tribal members, is made uncertain and has the effect of curtailing the flow of such funding and its beneficial use for Band and Tribal members. Such funding sources include 638 Contracts, grants, settlements, ARPA monies, Opioid Settlement monies, Laptop Purchase grant, CARES funds, HAF funds and HUD/IHP funding of the Te-Moak Housing Authority. Financial accounts include Nevada State Bank account(s), Wells Fargo account(s) and Avantax Investment Services account.
- d. Loss of control of Te-Moak Housing Authority services due to occupation and control by individuals elected on October 12 and November 2, 2024, or those hired by them, of the Te-Moak Housing Authority building and offices, and including impact upon, access to or expenditure of federal funding for the Te-Moak Housing Authority necessary to provide critical services to Tribal members.
- e. Purported termination, by individuals elected on October 12 and November 2, 2024, of all persons serving in de facto capacities for the operative Te-Moak Housing

Authority or its Board of Commissioners, contrary to the policies and procedures laid out in the Housing Authorities personnel handbook.

f. Threatened loss of water rights necessary for land assignment agricultural or livestock operations for alleged failure by certain Plaintiffs and other Band members to pay a required water rights annual fee to the South Fork Band Council (elected on October 12, 2024).

g. Threatened referral for prosecution of one or more Plaintiffs and other tribal members for charges for theft in relation to “illegal removal” of certain items from the South Fork Band Administration building and equipment area under the control of the South Fork Band Council (elected on October 12, 2024).

H. The Balance of Equities Tips in Favor of Plaintiffs.

31. The balance of equities tips in favor of Plaintiffs.

32. “In each case, courts ‘must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.’” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24, (2008) (quoting *Amoco Production Co. v. Village of Gambell*, 480 U.S., 531, 542 (1987)). “In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Id.* (quoting *Weinberger v. Romero-Barcelo*, 456 U.S., 305, 312 (1982)).

33. Defendants/Claimants are not presently entitled to individually hold their Band or Tribal offices or to collectively form Band or Tribal governments, in that the elections that resulted in their purported positions of membership in Band and/or Tribal councils directly result from Band elections that were not conducted in accordance with tribal law and are determined to be invalid. Defendants/Counterclaimants therefore do not validly hold office or collectively validly

constitute band or tribal governments. Defendants therefore demonstrably do not suffer injury if the Court grants Plaintiffs' requested relief.

34. Plaintiffs have demonstrated significant public consequences for members of the Tribe, and Plaintiffs themselves, if injunctive relief is not granted.

I. Public Policy Supports an Injunction.

35. In cases involving voting rights, likelihood of succeeding on the merits also tips the public interest in plaintiff's favor because it is "always in the public interest to prevent the violation of a party's constitutional rights." *Riley's Am. Heritage Farms v. Elsasser*, 32 F. 4th 707, 731 (9th Cir. 2022) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)).

36. Here, public policy clearly supports ensuring that members of the Bands and the Tribe participate in valid Band and Tribal elections that comply with the Te-Moak Constitution and Election Ordinance.

J. Determinative and Compelling Public Policy Considerations.

This matter involves a case and controversy as to whether Band Election Committees or the Tribal Election Board were established in conformance with tribal law and whether there was conformance with tribal law in the conduct of band and tribal elections in all their aspects, procedurally and substantively. The Tribal Courts have the constitutional authority and responsibility, pursuant to Const. Art. 8, to exercise the judicial powers of the Tribe and hear all such cases in law and equity arising therefrom under the Constitution or tribal enactments.

The Constitution at Art. 8, Sec. 3. Jurisdiction. Provides in full:

"The judicial power shall extend to all cases in law and equity arising under this Constitution or Tribal enactments. Decisions of the Tribal Courts shall be binding upon all persons and property within the jurisdiction of the Tribe as referenced in Article 2. Jurisdiction of suits against the Tribe or any constituent Band is limited to suits brought by a member, or members, of the Tribe or by one of the Bands – or by the Tribe. The appellate court of the Tribe shall be the final interpreter of this Constitution and tribal laws."

This Court notes that the Constitution is expansive of the Tribal Courts’ jurisdiction regarding band or tribal matters in that it provides for the possibility of suits against the Tribe itself or against one of the constituent Bands brought by tribal members, or by a Band or the Tribe, for redress in cases in law or equity. It would be incongruous with the letter and spirit of the Constitution to hold that suits brought by tribal members against or involving governance bodies or election bodies of the Tribe or Bands or their members, alleging controversies regarding the legitimacy of such bodies or their conduct of elections or disputes under tribal law (Constitution and Election Ordinance), cannot be heard by the Tribal Courts, as has been urged anew by Defendants/Counterclaimants in their briefing, alleging lack of equitable jurisdiction of this Court to enter injunctive relief in this action.⁴⁰

Further, this Court finds that a constitutional purpose for the establishment of Band Election Committees by proper appointment by each Band Council is “to conduct all Band elections in accordance with this Constitution and the Tribal Election Ordinance ...” Const. Art. 7, Sec. 9. This Court is mindful that Band and Tribal elections, and their manner of conduct, are integral to the constitutional framework for the democratic governance of the confederated Bands and Tribe and for the establishment and transition of governance authority according to the will of the members of the Bands and the Tribe. The court will give effect, in accord with such purpose, to the provisions of the Tribe’s Constitution and the Tribe’s Election Ordinance.

⁴⁰ Defendant/Counterclaimants, on April 22, 2025, filed a motion to dismiss on a more discrete jurisdictional ground, that the Court lacked authority to review an election dispute decision by the Tribal Election Board, citing the Te-Moak Election Ordinance Sec. 13-10-1 provision that in Band or Tribal election disputes “[t]he decision of the Band Election Committee Te-Moak Election Board shall be final.” This Court entered its Order Denying Motion to Dismiss on May 15, 2025, finding grounds as partly restated in this order.

This Court finds that in the circumstances of this matter, which includes dual election schemes in 2024 within the Te-Moak Tribe and within each of the four constituent Bands, that the constitutional scheme for unitary elections for the governance of the confederated Bands and Tribe, providing that “(T)he election for Band Council members shall be held on the same day in each Band”⁴¹, is of controlling effect and that the election for Elko Band Council conducted on October 12, 2024 must be deemed invalid and a new election ordered for the Elko Band Council in conjunction with new elections for Band Councils for the other three constituent Bands of the Te-Moak Tribe. This Court determines that this result is strongly consistent with public policy considerations supportive and integral to the purpose of the constitutional mandate for unitary elections for the governance of the confederated constituent Bands of the Te-Moak Tribe of Western Shoshone Indians of Nevada.

A further compelling public policy consideration is that the granting of Plaintiffs’ requested relief not result in a gap or void in Band and Tribal governance for the interim period of time necessary to effectuate the requested injunctive relief, new Band elections. The Court finds that tribal law provides a basis for provisional governance of the Bands and Tribe pending new elections. The Tribal Constitution at Article 4, Sec. 11, Composition of Band Councils, (b) provides: “The regular term of office shall be three (3) years in length and **until successors are duly elected and installed**” (emphasis supplied). Black’s Dictionary of Law, Revised Fourth Edition, defines “duly” as “according to legal requirements” and “according to law in both form and substance.” This Court has determined that members of the purported Band Councils for the Elko, South Fork, Wells and Battle Mountain Bands, elected and installed in office according to

⁴¹ Const. Art. 7, Sec. 4. Day of Election. (a).

the results of the October 12, 2024 Band elections, were not elected according to the legal requirements of Tribal law (Constitution and Election Code) in both form and substance and that, as such, they have not been “duly elected and installed” as Band Council members. The Band Councils so formed have not been duly formed. This Court therefore finds that the Band Councils for the Elko, South Fork, Wells and Battle Mountain Bands, as recognized by the Regional Director’s October 17, 2023 Decision Letter, have not been succeeded by duly elected Band Councils and that their terms of office continue and they remain empowered to act as the Band Councils of their respective Bands until they are so duly succeeded as a result of valid Band elections.

Conclusion.

This Court determines that Plaintiffs’ claims seeking the following relief have been established by clear and convincing evidence and should be granted: 1) A declaration that the October 12, 2024 Band elections and, by extension, the Tribal Council appointments and November 2, 2024 Tribal Chairperson election are invalid; 2) An injunction halting any further action by Defendants based upon the results of the October 12, 2024 Band elections, subsequent Tribal Council appointments and November 2, 2024 Tribal Chairperson election; 3) An injunction ordering new Band elections, to occur within approximately sixty (60) days; and 4) further relief the court deems proper.

This Court determines that Defendants/Counterclaimants’ cause of action seeking the following relief: a declaration that the October 12, 2024 Band elections and, by extension, the Tribal Council appointments and November 2, 2024 Tribal Chairperson election are valid is not supported by the evidence and should be denied.

This Court determines that new elections are required for the October, 2024 Band/Tribal election cycle, that the new elections shall be the regular elections relating back to the October, 2024 election cycle with the regular terms of office lasting until successors are duly elected and installed resulting from the next regularly scheduled elections in October, 2027.

This Court determines that the Election Committees for the Elko, South Fork, Wells and Battle Mountain Bands as appointed by the Band Councils, as recognized by the Regional Director's October 17, 2023 Decision Letter, and which were duly authorized to conduct the October, 2024 Band Elections, are deemed by the Court to have continuing authority to organize and conduct the new Band Elections in October, 2025 as hereinafter ordered by the Court, given that the new Band Elections relate back to the October, 2024 election cycle and are compliant with the constitutionally and statutorily mandated three year election cycle.

This Court determines that, given the lack of electoral validity for the Elko, South Fork, Wells and Battle Mountain Band Councils serving as a result of the October 12, 2024 elections and, by extension, the Tribal Council so serving, that it is necessary to enjoin any further actions by the members of said Band and Tribal councils based upon the results of the October 12, 2024 elections.

This Court further determines that a gap or void in band and tribal governance will not result due to such injunctive relief for the reason that the Band Councils for the Elko, South Fork, Wells and Battle Mountain Bands, as recognized by the Regional Director's October 17, 2023 Decision Letter, remain empowered to act as the Band Councils of their respective Bands for the interim period of time necessary to effectuate new Band elections and until they are duly succeeded as a result of valid new Band elections.

This Court does not conclude that the individuals serving as Band Council members for the Elko, South Fork, Wells and Battle Mountain Bands as a result of the October 12, 2024 elections have acted in bad faith regarding their candidacies or elections or in their service thereafter. This Court rather finds that the initial and continuing construct for the organization and conduct of the October 12, 2024 Band elections was fatally flawed, constitutionally and statutorily, by the legally unauthorized establishment of the purported Tribal Election Board and by that purported Tribal Election Board's actions as the organizer and conductor of the relevant Band elections.

Based upon the foregoing, and with good cause appearing and found:

IT IS HEREBY ORDERED that trial on the merits of Plaintiffs' causes of actions seeking certain declaratory and injunctive relief and Defendants/Counterclaimants' cause of action seeking certain declaratory relief has been advanced and consolidated with the hearing on Plaintiffs' Motion for Preliminary Injunction pursuant to FRCP 65(a)(2).

IT IS FURTHER ORDERED that Plaintiffs are granted final judgment in their favor, and against Defendants and Defendants/Counterclaimants, on their claim for declaratory relief that the October 12, 2024 Band Council elections for the Elko, South Fork, Wells and Battle Mountain Bands and subsequent Tribal Council appointments and November 2, 2024 Tribal Chairperson election are invalid as violative of the Te-Moak Constitution and Election Ordinance.

IT IS FURTHER ORDERED that a permanent injunction is entered requiring the following:

1. New Band Council elections and a new Tribal Chairperson election shall be conducted within approximately sixty (60) days.

2. The new elections shall be the regular elections relating back to the October, 2024 election cycle with the terms of office lasting until the next regularly scheduled elections in October, 2027.
3. Pending the final results of the new elections, the Band Councils recognized by the Regional Director's October 17, 2023 Decision Letter remain empowered to act as the Band Councils of their respective Bands.
4. The South Fork, Wells and Battle Mountain Bands of the Te-Moak Tribe, by and through the Band Election Committees recognized as valid herein at pages 10-11, paragraphs 20, 22 and 24, respectively, shall conduct new Band Council elections as ordered herein.
5. The Elko Band of the Te-Moak Tribe, by and through the Band Election Committee, as appointed prior to the 2024 election cycle by the Elko Band Council as recognized by the Regional Director's October 17, 2023 Decision Letter, shall conduct a new Band Council election as ordered herein.
6. Should any member of the Band Election Committees recognized herein be unwilling or unable to serve, the Band Councils, as recognized in the Regional Director's October 17, 2023 Decision Letter, shall fill any such vacancy in compliance with the Te-Moak Election Ordinance.
7. Within fourteen (14) days of the Court's entry of this Order, each of the several Band Election Committees shall select from within their body a member to serve on the Tribal Election Board.
8. The new Band Council elections shall be held on October 14, 2025. The Band Election Committees shall use this election date to create the dates of events and election schedule.

9. The Tribal Election Board shall conduct a new Tribal Chairperson election on November 4, 2025. The Tribal Election Board shall use this election date to create the dates of events and election schedule.
10. Within fourteen (14) days of the Court's entry of this Order, the Band Councils as recognized in the Regional Director's October 17, 2023 Decision Letter, shall appoint their representatives to the Tribal Council to function pending the results of the new elections.
11. Within fourteen (14) days of the establishment of the provisional Tribal Council, such Council shall appoint one member of the Council to serve as the temporary interim Tribal Chairperson pending the results of the new election.
12. The new Band Council and Tribal Chairperson elections shall be conducted in compliance with the Te-Moak Constitution and election laws. This Court retains continued jurisdiction to hear and resolve any disputes with respect to the new elections that are properly brought before the Court.
13. Pending the final results of the new elections, Band and Tribal staff and employees and Board members of the Te-Moak Housing Authority pre-October 12, 2024 shall be reinstated and/or continue to function in their prior positions.
14. Defendants/Counterclaimants and any individuals elected on October 12, 2024 as members of the constituent Band Councils of the Te-Moak Tribe or subsequently appointed to the Tribal Council of the Te-Moak Tribe by said Band Councils or thereafter elected Tribal Chairperson or Tribal Vice-Chairperson are enjoined from exercising the duties, responsibilities and authorities of those offices and from taking any further action based upon, or in reliance upon, the results of the October 12, 2024 and November 2, 2024 elections.

15. Defendants/Counterclaimants and any individuals elected on October 12, 2024 as members of the constituent Band Councils of the Te-Moak Tribe or subsequently appointed to the Tribal Council of the Te-Moak Tribe by said Band Councils or thereafter elected Tribal Chairperson or Tribal Vice-Chairperson, and any persons currently employed by or for a Band or the Tribe or by or for the Te-Moak Housing Authority by said individuals or governmental bodies, are enjoined from removing any Band or Tribal property, of any type or kind, from Band or Tribal administration buildings and premises or from the premises of any usual or common location of keeping or storing Band or Tribal property, of any type or kind.

16. Defendants/Counterclaimants and any individuals elected on October 12, 2024 as members of the four Band Councils of the Te-Moak Tribe or subsequently appointed to the Tribal Council of the Te-Moak Tribe by said Band Councils or thereafter on November 2, 2024 elected Tribal Chairperson or Tribal Vice-Chairperson, and any persons currently employed by or for a Band or the Tribe or by or for the Te-Moak Housing Authority by said individuals or governmental bodies, are ordered to return all Band or Tribal property, of any type or kind, in their possession or control, to its usual or common location of keeping or storing Band or Tribal property, of any type or kind, to its usual place of keeping or storage, whether that be Band or Tribal administration buildings and premises or other Band or Tribal premises.

17. Defendants/Counterclaimants and any individuals elected on October 12, 2024 as members of the four Band Councils of the Te-Moak Tribe or subsequently appointed to the Tribal Council of the Te-Moak Tribe by said Band Councils or thereafter on November 2, 2024, elected Tribal Chairperson or Tribal Vice-Chairperson, and any persons currently employed

by or for a Band or the Tribe or by or for the Te-Moak Housing Authority by said individuals or governmental bodies, shall have until August 17, 2025 at 5:00 p.m. to vacate their workplace premises of the Band or Tribe and to remove all their personal property and items. In the event any person to whom this provision applies is unable to remove their personal property and items by the designated date and time, reasonable accommodation for retrieval or delivery of personal property of any such person shall thereafter be made by the Band Councils recognized by the Regional Director's October 17, 2023 Decision Letter.

18. The Band Councils recognized by the Regional Director's October 17, 2023 Decision Letter and found to have continuing power to act as the Band Councils of their respective Bands may utilize and assert control over the premises of Band administrative, governmental and service buildings, facilities and equipment commencing on August 18, 2025 at 8:00 a.m., in the performance of the duties of their respective offices.

IT IS FURTHER ORDERED that because the Court is issuing a permanent injunction, there is no requirement for Plaintiffs to post a bond.

IT IS FURTHER ORDERED that Defendants/Counterclaimants' cause of action seeking the following relief: a declaration that the October 12, 2024 Band elections and, by extension, the Tribal Council appointments and November 2, 2024 Tribal Chairperson election are valid is denied.

IT IS SO ORDERED this 14th day of August, 2025.

/s/ Albert Ghezzi

Albert Ghezzi, Magistrate