

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

LOWER BRULE SIOUX TRIBE, NEIL
PIERRE RUSSELL, INDIVIDUAL
MEMBER OF THE LOWER BRULE SIOUX
TRIBE; STEPHANIE BOLMAN,
INDIVIDUAL MEMBER OF THE LOWER
BRULE SIOUX TRIBE; AND BEN JANIS,
INDIVIDUAL MEMBER OF THE LOWER
BRULE SIOUX TRIBE;

Plaintiffs,

vs.

LYMAN COUNTY, LYMAN COUNTY
BOARD OF COMMISSIONERS, BRIAN
KRAUS, IN HIS OFFICIAL CAPACITY AS
LYMAN COUNTY COMMISSIONER;
LESLIE REUER, IN HER OFFICIAL
CAPACITY AS LYMAN COUNTY
COMMISSIONER; ZANE REIS, IN HIS
OFFICIAL CAPACITY AS LYMAN
COUNTY COMMISSIONER; RYAN
HUFFMAN, IN HIS OFFICIAL CAPACITY
AS LYMAN COUNTY COMMISSIONER;
JARED SCHELSKE, IN HIS OFFICIAL
CAPACITY AS LYMAN COUNTY
COMMISSIONER; AND DEB
HALVERSON, IN HER OFFICIAL
CAPACITY AS LYMAN COUNTY
AUDITOR;

Defendants.

3:22-CV-03008-RAL

CONSENT DECREE

Plaintiffs, Neil Pierre Russell, Stephanie Bolman, and Ben Janis, filed their Complaint on May 18, 2022. To avoid the expense of further litigation and trial, both parties entered into mediation before the Honorable Magistrate Judge Mark A. Moreno and have come to an agreement. The Parties have submitted the following to the Court for approval as a Consent Decree. By entering into this Consent Decree, Defendants do not admit liability on any of the claims being settled herein.

Accordingly, based on the consent and agreement of the parties and this Court's previous findings and conclusions in its September 2, 2022, Opinion and Order Granting Motion for and Entering Preliminary Injunction to a Limited Extent (ECF No. 79), IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The Court retains jurisdiction over this action pursuant to 42 U.S.C. § 10302 (c) until December 1, 2034;
2. At the next regular county commission meeting, December 13, 2022, Commissioner Brian Kraus will resign his position as commissioner. Within the month of December, the remaining county commissioners will appoint to fill the vacancy, which will be an enrolled Lower Brule tribal member, to complete the remainder of Brian Kraus's term beginning January 1, 2023. The Tribe is invited to supply a list of recommended tribal members for the county commissioners' consideration, although the commission is not restrained to only those names recommended by the Tribe.
3. In furtherance of the efforts to compromise and settle, the parties stipulate and agree that the element of intentional wrongdoing by the Defendants, their predecessors, and subsequent parties has not been resolved by admission or adjudication. This settlement agreement should not be cited by any party as precedent or proof to resolve such questions in other cases. Plaintiffs and their legal counsel, including NARF, shall not state or infer in any manner that Lyman County officials acted with discriminatory intent, are racist, or engaged in racist conduct.

4. Defendants have agreed to pay Plaintiffs the amount of \$150,000 (\$100,000 in attorneys' fees due and payable no later than January 31, 2023, and \$50,000 in expenses due and payable no later than December 31, 2022), for past, present and future attorney's fees, costs and expenses, except that the parties acknowledge that a claim for future fees by either party will be limited to services specifically associated with a successful challenge to enforce this Consent Decree. The parties acknowledge that in the event Plaintiffs commence a proceeding to enforce the Consent Decree which the Court determines to be frivolous, the Defendants may be entitled to an award of attorneys' fees and expenses.
5. The Court finds that the New Ordinance 2022-01 does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color or in contravention of the voting guarantees set forth in 52 U.S.C. § 10301.
6. The County agrees not to change the New Ordinance 2022-01 until state statute requires a re-districting utilizing the next decade's census data.
7. The Tribe will not exercise Section 5 of the New Ordinance 2022-01, in that they will not appoint a liaison or require the County to utilize a liaison.
8. The County shall take reasonable steps to implement a voter education program to inform voters of the new changes to the voting system.
9. This decree is binding on the parties, their successors, agents, attorneys, and assigns.
10. This action shall be administratively closed and is removed from the Court's docket.

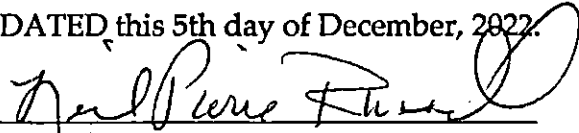
It is so ORDERED

Dated this 15th day of December, 2022.

Roberto A. Sanyal

*Chief Judge, U.S. District Court
for the District of South Dakota*

DATED this 5th day of December, 2022.



Neil Pierre Russell, *individual member of the Lower Brule Sioux Tribe* and authorized signatory for

Lower Brule Sioux Tribe

Stephanie Bolman, *individual member of the Lower Brule Sioux Tribe*

Ben Janis, *individual member of the Lower Brule Sioux Tribe*

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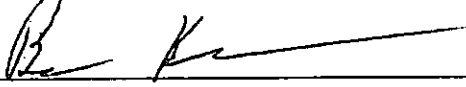
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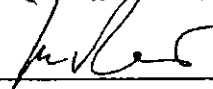
Lyman County Board of Commissioners
By **Zane Reis**, Chairman



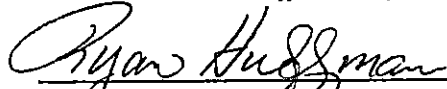
Brian Kraus, in his official capacity as Lyman County Commissioner



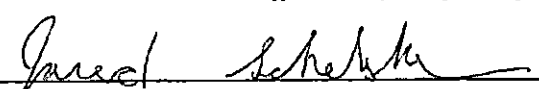
Leslie Reuer, in her official capacity as Lyman County Commissioner



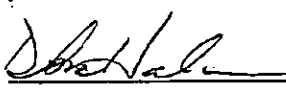
Zane Reis, in his official capacity as Lyman County Commissioner



Ryan Huffman, in his official capacity as Lyman County Commissioner




Jared Schelske, in his official capacity as Lyman County Commissioner



Deb Halverson in her official capacity as Lyman County Auditor

DEFENDANTS



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