

16. On September 20, 2012, I received a call from Rosebud County Commissioner Robert E. Lee. He told me that Geraldine Custer's decision was not final and that the Rosebud County Commission would have a public meeting to discuss the potential for a satellite county office location in Lame Deer, Montana. The meeting was scheduled for September 28, 2012 in Forsyth, Montana.
17. I attended the Rosebud County Commission's September 28, 2012 meeting. During the hearing, Geraldine Custer stated a satellite county office could not be opened in Lame Deer because of lack of staff, time, and office space with high speed wired Internet. She also stated that Tribal members could vote by mail or the Tribe could bus people to Forsyth to in person absentee vote.
18. Geraldine Custer offered to open a satellite county office in Lame Deer were they would have early voting and late registration would be allowed.
19. Four Directions offered to cover Rosebud County's additional expenses for a satellite early voting office in Lame Deer, Montana. Northern Cheyenne President Sprang offered to provide an office with high speed Internet and fax in Lame Deer, Montana.
20. The Rosebud County Commissioner Danny Sioux made a motion to table so this could be done right. The motion to table was approved by all the commissioners and scheduled a follow up meeting on October 2, 2012.
21. I attended the Big Horn County Commission's October 1, 2012 hearing. The County Commissioners, the Clerk and Recorder, the County Attorney, and members of Four Directions were present. Dulce Air Don't Walk stated a satellite

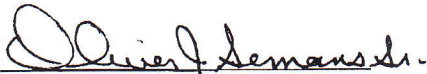
office could not be opened because of lack of office space, time constraints and to protect the integrity of the ballot.

22. County Commissioner and Crow Nation Tribal Member John Pretty on Top stated one of the problems in approving the request was because white people will get mad. The County Commission unanimously rejected the request.

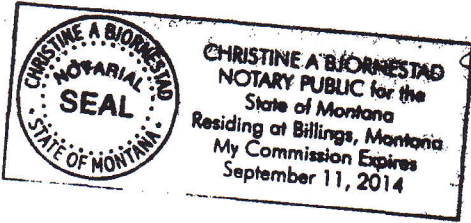
23. I was present at the Rosebud County Commission meeting on October 2, 2012. Geraldine Custer changed her position to establish a county satellite office for voting in Lame Deer. She said she had talked to her peers, including Sandy Boardman of Blaine County and concluded there was not enough time, office space, and staff to offer a satellite county office in Lame Deer. She also asserted that fraud could occur if Lame Deer had a satellite county office where people could vote in-person absentee. She also stated that whether "it was Negroes, Chinese, Asians, whatever, we still could not do it."

24. The Rosebud County Commission voted to deny the motion to grant the Northern Cheyenne Tribe's request by a 2-1 vote. County Commissioner and Tribal Member Danny Sioux voted to grant the motion.

YOUR AFFIANT FURTHER SAYETH NOT

By: 
Oliver J. Semans Sr.

Subscribed and sworn before me this 9 day of ~~February~~ ^{OCTOBER} 2012.



Christine A. Bjornestad

Notary Public

My Commission Expires: 11 September 2012

Residing at Billings, MT

SCANNED

FILED

OCT 10 2012

Clerk, U.S. District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MARK WANDERING MEDICINE, HUGH CLUB
FOOT, LENARD ELK SHOULDER, CHARLES
BEAR COMES OUT, WINFIELD RUSSELL,
JAMES DAY CHILD, WOODROW BRIEN,
SARAH STRAY CALF, MARTY OTHER BULL,
NEWLYN LITTLE OWL, DONOVAN
ARCHAMBAULT, ED MOORE, PATTY QUISNO,
MICHAEL D. FOX, FRANK JEFFERSON and
PHYLLIS POND CULBERTSON,
Plaintiffs,

v.

LINDA McCULLOCH in her official capacity as
MONTANA SECRETARY OF STATE,
GERALDINE CUSTER, in her official capacity of
ROSEBUD COUNTY CLERK AND RECORDER,
ROSEBUD COUNTY, ROBERT E. LEE,
DOUGLAS D. MARTENS, and DANIEL M.
SIOUX, in their official capacity as members of the
County Board of Commissioners for Rosebud
County, Montana, SANDRA L. BOARDMAN, in her
official capacity of BLAINE COUNTY CLERK
AND RECORDER, BLAINE COUNTY, CHARLIE
KULBECK, M. DELORES PLUMMAGE and
FRANK DEPRIEST in their official capacity as
members of the County Board of Commissioners for
Blaine County, Montana, DULCE BEAR DON'T
WALK, in her official capacity of BIG HORN
COUNTY ELECTION ADMINISTRATOR, BIG
HORN COUNTY, SIDNEY FITZPATRICK, JR.,
CHAD FENNER, JOHN PRETTY ON TOP, in their
official capacity as members of the County Board of
Commissioners for Big Horn County, Montana and
KIMBERLY YARLOTT, in her official capacity of
BIG HORN COUNTY CLERK AND RECORDER
BIG HORN COUNTY,

Defendants.

CIV NO. _____

CV 12-135-BLL

AFFIDAVIT OF
BRET HEALY

|

State of South Dakota)
) ss.
County of Minnehaha)

COMES NOW, Bret Healy in his capacity as a consultant for Four Directions, Inc. (“Four Directions”) and having been first duly sworn upon his oath, deposes and states as true and correct under penalty of perjury follows:

1. I am a consultant for Four Directions, a 501(c)(4) nonprofit dedicated to empowering American Indian citizens in the American electoral process.
2. I have communicated with representatives from the Montana Secretary of State’s office regarding Tribal Member and Tribal Leader requests for in person late registration and in person absentee voting at satellite clerk and recorder offices (“satellite office”) in Indian country for the 2012 general election. Blackfeet’s Nations attorney mailed a request for a satellite office in Browning, Montana dated May 2, 2012 – over five months before early voting was scheduled to begin on October 9, 2012.
3. I met with Montana Secretary of State Linda McCulloch at her office on July 31, 2012 where I informed her of Tribal Member and Tribal Leader requests for satellite clerk and recorder offices.
4. I have communicated with representatives from Blaine County, Glacier County, Rosebud County and Big Horn County regarding Tribal Member and Tribal Leader requests for satellite clerk and recorder offices in Indian country for the 2012 general election.

5. On or about September 18, 2012, the Blaine County Commission, Blaine County Clerk and Recorder Sandra Bordman and County Attorney Don Randstrom informed me at the Blaine County courthouse that they were going to establish a satellite clerk and recorder office in Fort Belknap, Montana for the 2012 general election beginning on October 9, 2012.
6. On October 3, 2012, I went to the Blaine County Courthouse and requested the meeting minutes from the Clerk and Court Recorder's office. The Blaine County Commission, Clerk and Recorder and County Attorney denied the request for a satellite clerk and recorder's office on September 12, 2012 - one day before the conference call where the request was initially made by the Ft. Belknap President Tracy King. When Ft. Belknap President King made the request at the September 13, 2012 meeting, County officials stated "it would be difficult to do" but did not respond to my question "whether the decision was already made?" I asked whether notice went to the Tribe regarding the October 2, 2012 agenda item about a satellite office. She responded, "no, the agenda was in the newspaper."
7. On October 2, 2012, the Rosebud County Commission passed a resolution, at the request of Rosebud County Clerk and Recorder Geraldine Custer, to deny the request from Northern Cheyenne Tribal members for a satellite clerk and recorder office in Lame Deer, Montana. Ms. Custer denied the request under her own authority also.
8. Four Directions had discussions regarding a satellite office with different Rosebud County officials approximately six times beginning on September 19, 2012. The Rosebud County Commission did not deny this request until October 2, 2012.

9. On or about October 1, 2012, the Big Horn County Commission and Big Horn County Election Administrator Dulce Bear Don't Walk denied Crow Tribal Chairperson Cedrick Black Eagle's written request for a satellite clerk and recorder office in Crow Agency, Montana. After the County Commission denied Chairman Black Eagle's request, the Election Administrator was asked by Oliver J. Semans if it was her decision to deny the satellite clerk and recorder office. The County Attorney instructed the Clerk and Recorder not to answer Mr. Semans' question.
10. Glacier County Commission Chairperson Michael DesRosier confirmed to me on or about October 4, 2012 that in person late registration and in person absentee voting would be available at a satellite location in Browning, Montana beginning on October 9, 2012.
11. The Secretary of State advisory opinion went to County election administrators at the same time on August 28, 2012. *See* Exhibit 8
12. Attached is **Exhibit 1** a true and correct copy of a chart of driving distances from Montana non-Indian and Indian population centers to the population centers' county seat.
13. Crow Tribal Members in the Tribe's capitol city, Crow Agency, must drive approximately 27 miles round trip for in person late registration and in person absentee voting. Id.
14. Northern Cheyenne Tribal members in the Tribe's capitol city, Lame Deer, must drive approximately 119 miles round trip for in person late registration and in person absentee voting. Id.

15. Gros Ventre and Assiniboine Tribal members in the Tribes' capitol city, Fort Belknap, must drive approximately 43 miles round trip for in person late registration and in person absentee voting. Id.
16. Blackfeet Tribal members in the Tribe's capitol city, Browning, do not have to travel long distances because Glacier County has established a satellite clerk and county recorder's office for late in person registration and in person absentee voting.
17. Attached is **Exhibit 2** a true and correct copy of a chart of absentee voting turnout for the 2000 General, 2004 General, 2006 General, 2008 Primary, 2008 General, 2010 Primary, 2010 General and 2012 primary.
18. Big Horn County, Blaine County, Glacier County and Rosebud County are consistently below state averages for absentee ballots as a percentage of votes cast.
19. Attached is **Exhibit 3** a true and correct copy of a July 25, 2012 letter from Montana Secretary of State's Chief Legal Counsel Jorge Quintana to Liz Howard, Attorney for Four Directions at Sandler, Reiff, Young & Lamp, P.C. where Mr. Quintana states that "such a program [for absentee in person voting at a satellite office] is not feasible."
20. Attached is **Exhibit 4** a true and correct copy of a July 31, 2012 letter from Attorney Liz Howard, Sandler, Reiff, Young & Lamb, P.C. to Attorney Jorge Quintana in support of Black Feet Nation's May 2, 2012 request for in person absentee voting in Browning, Montana.

21. Attached is **Exhibit 5** a true and correct copy of the Montana Attorney General's August 17, 2012 Letter of Advice Regarding Voting by Absentee Ballot to the Montana Secretary of State concluding that "county governments may provide absentee voting at satellite county offices."
22. Attached is **Exhibit 6** a true and correct copy of my September 10, 12 and 14, 2012 emails to Jorge Quintana requesting technical assistance for an in-person early voting satellite office in Glacier County.
23. Mr. Quintana did not respond to my requests for technical assistance until we met at the Montana Secretary of State's office on September 21, 2012. Mr. Quintana confirmed at this meeting that the Secretary of State had communicated to all Montana county clerk and recorders about the establishment of a satellite clerk and recorder's office before the Attorney General's office issued their August 17, 2012 advisory letter on satellite office locations.
24. I asked Kathy Bremer, Secretary of State's office, whether Tribal leaders attending the July 31, 2012 meeting (Rocky Boy Councilman Joe LaFromboise and Salish and Kootenai Vice-Chairperson Carole Lankford) had received the August 28, 2012 advisory letter. She responded that she did not have the contact information for the tribal leaders attending the meeting, and "it's your job to inform all Tribes in Montana."
25. Attached is **Exhibit 7** a true and correct copy of my August 17, 2012 email exchange with Jorge Quintana about the costs of in-person absentee voting. Mr. Quintana failed to provide any cost estimates.

26. Attached is **Exhibit 8** a true and correct copy of an email from the Montana Secretary of State's office to Montana election administrators and staff dated August 28, 2012 regarding establishment of satellite locations.
27. Attached is **Exhibit 9** a true and correct copy of the Montana Secretary of State's August 28, 2012 Election Advisory-#A01-12 regarding the establishment and management of satellite county clerk and recorder offices.
28. Attached is **Exhibit 10** a true and correct copy of a September 6, 2012 memorandum from Sandler, Reiff, Young & Lamb P.C. attorneys Joe Sandler and Liz Howard regarding the ability of Montana Counties to accept private gifts for funding satellite offices.
29. Attached is **Exhibit 11** a true and correct copy of a list of participant's phone numbers on a September 13, 2012 conference call regarding a potential satellite office in Ft. Belknap Agency.
30. Attached is **Exhibit 12** a true and correct copy of the Blackfeet Nation Tribal Chairman's Letter to the Montana Secretary of State dated May 2, 2012 where the Blackfeet Chairman requests the Secretary of State's assistance in a pilot program to offer an in-person absentee voting location in Browning, Montana. Tom Rogers delivered this memorandum via email to the Montana Secretary of State's office on or about May 15, 2012 in addition to the earlier mailing from Blackfeet Nation's legal counsel.
31. Attached is **Exhibit 13** a true and correct copy of a June 28, 2012 email from Sandler, Reiff, Young, & Lamb P.C. Attorney Liz Howard to Montana Secretary

of State's Office requesting in-person absentee voting guidance from the Secretary of State's office.

32. Attached is **Exhibit 14** a true and correct copy of Rosebud County Commission Resolution No. 879 dated October 2, 2012 denying the request for a satellite county clerk and recorder's office for a satellite office in Lame Deer, Montana.
33. Attached is **Exhibit 15** a true and correct copy of the Crow Tribal Chairman's letter to Big Horn County Election Administrator and Big Horn County Commissioners requesting a satellite location in Crow Agency.
34. Attached is **Exhibit 16** a true and correct copy of Northern Cheyenne Tribal Administration's September 18, 2012 letter to Rosebud County Commissioners and Rosebud County Clerk and Recorder requesting in person absentee voting at a satellite location in Lame Deer, Montana.
35. Attached is **Exhibit 17** a true and correct copy of Chippewa Cree Tribe of the Rocky Boy's Reservation letters to the Chouteau County Commission and Chouteau County Clerk and Recorder and to the Hill County Commission and Hill County Clerk and Recorder requesting in person absentee voting at a satellite location.
36. Attached is **Exhibit 18** a true and correct copy of Rosebud County Attorney's October 2, 2012 letter to the Northern Cheyenne Tribe.
37. Attached is **Exhibit 19** a true and correct copy of a listing of Montana county offices obtained from <https://doj.mt.gov/driving/county-treasurer-motor-vehicle-offices>.

38. Attached as **Exhibit 20** is a true and copy of my September 10, 2012 email to Jorge Quintana requesting technical assistance.
39. Attached as **Exhibit 21** is a true and correct copy of my September 12, 2012 email to Jorge Quintana.
40. Attached as **Exhibit 22** is a true and correct copy of my September 20, 2012 email exchange to Jorge Quintana.
41. Attached as **Exhibit 23** is a true and correct copy of Secretary of State chief counsel Jorge Quintana's email to me dated September 25, 2012.
42. Attached as **Exhibit 24** is a true and correct copy of Deputy Secretary of State Kathy Bramer's September 27, 2012 email to me.
43. Attached as **Exhibit 25** is a true and copy of Jorge Quintana's August 29, 2012 email to me regarding costs associated with a satellite location.
44. Attached as **Exhibit 26** is a true and correct copy of Kathy Bramer's October 1, 2012 email to me.
45. Attached as **Exhibit 27** is a true and correct copy of an article regarding the Glacier County satellite office obtained from <http://www.browningmontana.com/depts.html>.
46. Attached as **Exhibit 28** is a true and correct copy of Carlyle Consulting Principal Tom Rogers' May 15, 2012 email to Secretary of State employee Anna Gustina regarding Blackfeet Nation's request for in person absentee voting at a satellite location in Browning, Montana.
47. Attached as **Exhibit 29** is a true and correct copy of Big Horn County statistics from <http://quickfacts.census.gov/qfd/states/30/30003.html>.

48. Attached as **Exhibit 30** is a true and correct copy of Big Horn County statistics from <http://quickfacts.census.gov/qfd/states/30/30087.html>.
49. Attached as **Exhibit 31** is a true and correct copy of Rosebud County statistics from quickfacts.census.gov/qfd/states/30/30003.html.
50. Attached as **Exhibit 32** is a true and correct copy of the Blaine County Commission's September 20, 2012 letter to Fort Belknap Tribal leaders.
51. Attached as **Exhibit 33** is a true and correct copy of an October 3, 2012 article about satellite voting published in the Blaine County Journal News.
52. Attached as **Exhibit 34** is a true and correct copy of Blaine County Commission minutes for September 12, 13, 14, 17, 18 and 19, 2012.
53. Attached as **Exhibit 35** is a true and correct of Attorney Liz Howard's email dated July 3, 2012 to Jorge Quintana delivering a copy of Blackfeet Nation's request dated May 2, 2012.
54. Attached as **Exhibit 36** is a true and correct copy of the Rosebud County Commission Minutes dated September 28, 2012.
55. I participated in the September 13, 2012 teleconference attended by participants in Exhibit 11 that included myself, former Ft. Belknap President William "Snuffy" Main, Blaine County Clerk and Recorder Boardman, Blaine County Attorney Ranstrom, Fort Belknap President Tracy King and Administrative Assistant to President Shawn Ironmaker. During the teleconference, Blaine County officials stated that they could not provide an in person absentee voting location in Ft. Belknap during the 2012 general election cycle because they did not believe they had enough time to make preparations to offer the service.

56. During the September 13, 2012 teleconference, I made four offers, on behalf of Four Directions, to completely fund a satellite in-person absentee voting location in Ft. Belknap.

57. I asked Blaine County officials at the September 13, 2012 teleconference call whether there would be an in-person absentee voting location in Ft. Belknap. Blaine County officials did not say “no” and suggested that we visit again. Further, County officials stated that the Blaine County Commissioners were not supportive of an in-person absentee voting location in Ft. Belknap. Ft. Belknap President Tracy King requested a face-to-face meeting with Blaine County officials.

58. Blaine County officials did not contact me the following day September 14, 2012. Former Ft. Belknap President William “Snuffy” Main scheduled a meeting for September 17 at 3:00 pm in Chinook with Blaine County Commission Chairman Dolores Plumage.

59. I attended a meeting on September 17, 2012 at the County Commissioner’s meeting room in the Blaine County Courthouse beginning at approximately 3 p.m. and lasting approximately two hours. Attendees included County Commissioners Dolores Plumage, Frank DePreist, Charlie Kulbeck and County Attorney Donald Ranstrom, County Sheriff, County Clerk and Recorder Sandra Boardman, Ft. Belknap Tribal Councilman Donovan Archambault, Ft. Belknap Councilman Ed “Buster” Moore, Former Ft. Belknap Tribal President William “Snuffy” Main and myself. County Attorney Ranstrom stated “Oh Buster over there is giving me the *old stink eye*” at the beginning of the meeting. Tribal

Councilman Moore held his comment until the end of the meeting before voicing his displeasure with County Attorney Ranstrom's comment in a professional manner.

60. At the September 17, 2012 meeting, I provided an overview of Four Directions' efforts to encourage in-person absentee voting locations for tribal members. Blaine County Clerk and Recorder Boardman stated there was no communication between her office and the Montana Secretary of States' Office about the Secretary of State's August 28, 2012 memorandum on county satellite offices. Further, Blaine County Clerk and Recorder Boardman stated she did not reach out to the Ft. Belknap Indian Community to discuss in-person absentee voting locations on their reservation.
61. At the September 17, 2012 meeting, I asked Blaine County Officials whether they thought it was equal to not have an in-person absentee voting location in Ft. Belknap. Tribal Councilman Moore explained public transportation services available to Ft. Belknap Tribal members. County Commissioner DePriest stated, "if they did it for Ft. Belknap then it would be unequal for them not to do it for all the other small towns in Blaine County." I explained the special status of Indian tribes and conduct benefitting government-to-government relationship with federally-recognized Indian Tribes. County Attorney, Clerk and Recorder and Commissioner DePriest stated it was equal with status quo. Commissioners Plumage and Kulbeck declined to answer.
62. At the September 17, 2012 meeting, Commissioner Plumage requested background information on Four Directions. I offered a flash drive with Four

Directions background documents immediately. The County Commissioners explained I.T. policy restrictions on flash drives. I offered to and did email the background documents after the meeting on September 17, 2012.

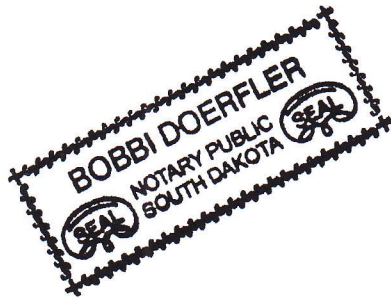
63. At the September 17, 2012 meeting, County Attorney Ranstrom stated that although the County could legally accept money from Four Directions, he considered it unethical and inappropriate. Commissioner Plumage stated she was concerned there would be scrutiny from the Republican Party if they accepted funding for an in-person absentee voting location from Four Directions.
64. At the September 17, 2012 meeting, Tribal Councilpersons expressed concern that Blaine County officials closed the Lodge Pole precinct without consultation. County Commissioners responded that on-reservation closures were based upon funding restrictions.
65. On or about September 28, 2012, Rosebud County Clerk and Recorder Geraldine Custer stated at a meeting that 2 of 60 Rosebud County election judges were Tribal members and there was no outreach to the Northern Cheyenne Tribal Government to increase the number of Tribal member election judges.
66. On October 2, 2012, I attended a Rosebud County Commission meeting where Rosebud County Clerk and Recorder Geraldine Custer referred to African Americans as "negros."

YOUR AFFIANT FURTHER SAYETH NOT

Dated this 2nd day of October, 2012.

By: Bret Healy
Bret Healy

Subscribed and sworn before me this 8th day of October, 2012.



Bobbi Doerfler
Notary Public
My Commission Expires: 12-3-14

P.O. BOX 47
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ROSEBUD COUNTY COMMISSIONERS

Robert E. Lee, Member
Douglas D. Martens, Member
Daniel M. Sioux, Member

RESOLUTION # 879

Regarding the Northern Cheyenne Tribe's Request for an Early Voting Satellite Office in Lame Deer for the November 2012 Election

WHEREAS, before this Commission is the September 18, 2012, letter of request from the Northern Cheyenne Tribe which seeks establishment of a satellite Early Voting office in the Lame Deer community.

WHEREAS, based on the request the matter was docketed for public hearing on Friday, September 28, 2012. Notice of the public hearing was provided through the posted agenda based on this Commission's standard practice. In addition, notice of the public meeting was published in the September 27, 2012, Independent Press newspaper, a newspaper serving all of Rosebud County. Notice of the public meeting was also provided to the Northern Cheyenne Tribe/Four Directions Native American voting advocacy group one week prior to September 28, 2012.

WHEREAS Rosebud County is a large county, within which the population is distributed among communities including the County seat of Forsyth, Lame Deer (51 miles from Forsyth), Colstrip (36 miles from Forsyth), Rosebud (10 miles from Forsyth), Ashland (79 miles from Forsyth), Birney (99 miles from Forsyth), Ingomar (43 miles from Forsyth), and a significant number of rural residences. Approximately 20% of Rosebud County's population resides in Forsyth. The Northern Cheyenne tribal government is centered in Lame Deer, Montana. Native Americans reside throughout the County but the communities of Lame Deer, Ashland, Birney and Colstrip enjoy the highest numbers of Native American residents. Northern Cheyenne tribal members do not reside exclusively in Lame Deer, nor exclusively on the Northern Cheyenne Reservation.

WHEREAS, the public has had the opportunity to comment on the request including advocacy from OJ Semans and Brett Healy on behalf of Four Directions and the request by the Northern Cheyenne Tribe.

Four Directions indicates that the Northern Cheyenne Tribe's request is for a single-stop voter registration and early voting satellite office. Four Directions was clear that same-day late registration and voting during business hours ("just like standing in the clerk's office at the courthouse") are essential elements of the Tribe's request. The Tribe requests that satellite registration and voting be available in Lame Deer during business hours beginning October 9, 2012, through and including Election Day.



WHEREAS, Rosebud County Clerk and Recorder Geraldine Custer has presented the concerns of her office in meeting the logistical requirements necessary to satisfy the request from the Northern Cheyenne Tribe and Four Directions.

A single-stop satellite late registration and voting station will require computers linked to the Office of the Montana Secretary of State. Same day late voter registration invokes significant additional requirements. The pen-and-paper alternatives proposed by the Secretary of State will not allow the single-stop late registration and voting process deemed critical by the Northern Cheyenne Tribe and Four Directions. To meet the Four Directions request, a satellite Early Voting station must have an independent, secure, wired, internet connection consistent with the Montana Votes Security and Access Plan, a telephone, trained election staff, be ADA access compliant, and meet other requirements. See Election Advisory memo #A01-12 from the Montana Secretary of State.

The Office of the Rosebud County Clerk and Recorder is staffed by 3 people including the elected Clerk and Recorder. An Early Voting station must be staffed by a minimum of two election-trained personnel at all times. Two personnel are required to transport ballots to-and-from the satellite station. Therefore based on absences and overtime considerations, during the course of early voting no less than 3 election-trained personnel would be required to provide the requested service at a Lame Deer satellite Early Voting station. More realistically, 4 or more election-trained personnel would be needed to cover the office hours and ballot transfer each day, five days per week, for the four weeks leading up to election day.

The Early Voting station personnel requirements are in addition to the personnel required at the Clerk and Recorder's Office at the Courthouse in Forsyth. At present the Courthouse staff of the Clerk and Recorder's Office manages early voting and Election Day preparation as well as the Office's regular responsibilities. The Clerk and Recorder's office is responsible for processing payroll for 150 employees, payment of all County claims to vendors and contractors, and the recording of deeds and other documents. Additionally, during the relevant time period the Office is proceeding with the annual audit required by Montana law. These responsibilities of the Clerk and Recorder's Office are ongoing and cannot be left undone during election season. Immediate arrangements for three, four, or more additional election-trained personnel would be needed to supplement the Clerk and Recorder's Office to service a satellite Early Voting station.

An Early Voting satellite station must comply with all requirements of state and federal law. The satellite station cannot operate if the Rosebud County Clerk and Recorder and the Montana Secretary of State cannot certify the satellite station complies with all applicable laws, regulations, and requirements.

WHEREAS, at the conclusion of the September 28, 2012, public meeting the matter was tabled until the Commission's regular meeting on October 2, 2012, to allow the Rosebud County Clerk and Recorder and OJ Semans time to begin fulfilling the requirements to satisfy the request;

And WHEREAS the matter has again come before this Commission on October 2, 2012, for a report on the County's ability to fulfill all requirements to satisfy the request;

WHEREAS based on the foregoing considerations the Rosebud County Commissioners determine that the technical, personnel, and ballot security issues offer a significant, perhaps insurmountable, logistical challenge to the 3 person Clerk and Recorder's office – to be met within the time line of the November 2012 election.

NOW THEREFORE IT IS HEREBY RESOLVED, the Rosebud County Commissioners determine that the logistical hurdles cannot be reasonably met to implement the Lame Deer Early Voting station in time for early voting for the November 2012 election.

An Early Voting satellite station must comply with all requirements of state and federal law. At this late date there are inadequate procedures and guidance from the Montana Secretary of State for procedures to implement a satellite office, as well as inadequate time to make all necessary preparations for the Rosebud County Clerk and Recorder to certify the satellite station complies with all applicable laws, regulations, and requirements.

IT IS FURTHER RESOLVED that even as this decision is made, this Commission recognizes the importance to our democracy of the voting participation of every citizen, and this Commission specifically recognizes the importance of voting participation by members of the Northern Cheyenne Tribe. Rosebud County supports efforts to increase voter participation by members of the Northern Cheyenne Tribe.

Many measures can be implemented to further extend the convenience of early voting to the residents of Lame Deer without necessitating the logistical arrangements required of a satellite Early Voting station.

All required logistics are in place for all eligible Rosebud County Citizens to vote by:

- Personally voting on Election Day (including a precinct located in Lame Deer).
Noting, even 'inactive' status voters can vote on election day by personally appearing at the precinct. No 'courthouse' voter registration is required to activate an 'inactive' voter;
- Personally coming to the County Courthouse for late registration and/or early voting during business hours beginning October 9, 2012;
- An Early Voting/Absentee ballot delivered to the individual through the US Mail;
- An Early Voting/Absentee ballot delivered to the individual through a third person (Section 13-13-214, M.C.A.).

IT IS FURTHER RESOLVED that Rosebud County will support the efforts of the Northern Cheyenne Tribe and Four Directions to educate and encourage voting by Tribe members. Specifically, in the upcoming weeks Rosebud County will submit articles to the Independent Press and Cheyenne Voice newspapers detailing the mechanisms available to vote and early vote, as well as important election deadlines.

Further, Northern Cheyenne Tribal President Leroy Spang has pledged that the "Northern Cheyenne Tribe working with our friends from Four Directions will provide any additional funding that the County may incur in achieving this request for equal access. We will also provide the County with a secure office and services in kind of employees to assist the Clerk and

Recorders' Office in accomplishing this request." September 18, 2012, letter of request from Leroy Spang on behalf of the Northern Cheyenne Tribe.

The provision of financial resources from Four Directions to support an Early Voting satellite station can still be used to support and facilitate greater opportunity for voter participation by members of the Northern Cheyenne Tribe. With the cooperation of the Tribe and Four Directions, the newspaper articles could direct interested voters to an 'Election Information Office' located in Lame Deer. The 'Election Information Office' could provide forms to register to vote or request an Early Voting ballot. Interested voters could also use a telephone in the Office to telephone the Clerk and Recorder's Office in Forsyth to address more complex issues.

Ideally the 'Election Information Office' would be staffed by an election-trained election judge who could answer basic election questions. But an 'Election Information Office' would not require the 3, 4, or more election-trained personnel of a satellite Early Voting station. It is also noteworthy that Rosebud County has traditionally had difficulty securing Tribal member election judges and Cheyenne language interpreters to serve in Lame Deer. Perhaps this collaborative effort between the County and the Tribe will help address this ongoing concern.

With the pledged assistance from the Northern Cheyenne Tribe and Four Directions an 'Election Information Office' located in Lame Deer could be operational almost immediately. The personnel assistance offered by the Tribe could staff the Office and provide voters information and assistance. The Office of the Clerk and Recorder routinely provides training to election judges. **IT IS RESOLVED** that the Rosebud County Clerk and Recorder will provide election forms, 'Election Information Office' personnel training, and information resources to support the Four Directions and/or Northern Cheyenne Tribe's establishment of an 'Election Information Office', and to support the voters who use the 'Election Information Office' services.

It is even possible that an 'Election Information Office' would allow Lame Deer residents to use the provisions of Section 13-13-214(1c), M.C.A. to request a ballot be brought to the 'Election Information Office' in Lame Deer for later hand-delivery to the voter at the Office. The completed ballot can be returned to the Clerk and Recorder by mail or as otherwise provided by law.

If the 'Election Information Office' is equipped with an internet connected computer, voters could access the "My Voter Page" maintained by Montana's Secretary of State. Through the 'My Voter Page' voters can confirm their voter registration status as well as their early voting status. The page even reports the day an absentee ballot is mailed to an individual and reports the date the absentee ballot is received by the local Clerk and Recorder. The page requires an ordinary internet connection -- and does not require the independent, secure, wired, internet connection required of a satellite Early Voting station (based on the Montana Votes Security and Access Plan).

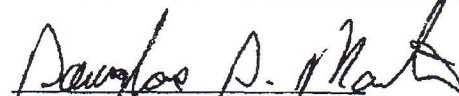
Rosebud County also invites Northern Cheyenne Transportation and the Northern Cheyenne Tribe to organize trips to bring eligible voters to Forsyth to register to vote, and/or vote early at the Rosebud County Courthouse.

Although not precisely as requested, the essence of the voter participation measures requested by the Northern Cheyenne Tribe and Four Directions are able to be implemented for the November 2012 election.

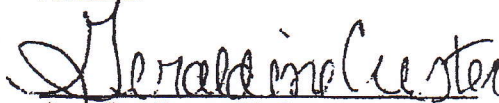
IT IS RESOLVED Rosebud County seeks to support voter participation by members of the Northern Cheyenne Tribe through education and provision of local services by the Northern Cheyenne Tribe and supported by the Rosebud County Clerk and Recorder as set forth herein. With the cooperation of the Northern Cheyenne Tribe and Four Directions, Rosebud County supports efforts to increase voter participation by members of the Northern Cheyenne Tribe as set forth herein.

So Agreed and Resolved this 2nd day of October, 2012.

ROSEBUD COUNTY COMMISSIONERS


Douglas A. Martens, Presiding Officer

ATTEST:


Geraldine Custer, Clerk and Recorder

Daniel M. Sioux, Member


Robert E. Lee, Member

Rosebud County Commissioners Minutes

10-02-12

Present:

Doug Martens

Danny Sioux

Robert Lee

Geraldine Custer

Michael Hayworth

Bret Healy

Oliver J. Seamans Sr.

Doug Martens asks if there is a Motion to bring Motion for Satellite Office off the table

Bob Lee moves to bring the Motion off the table

Danny Sioux seconds motion

Discussion to follow:

Geraldine Custer recommends a "no" due to lack of equipment, personnel and time.

Oliver J. Seamans Sr. states he has met with President Spang to secure an office. They have office with one lock, high-speed internet, fax machine, and everything else asked for last meeting. Janet Wolfname would be available to coordinate (gives me card). He does not want to listen for one hour to "Why we can't" He sates his tribe and the Northern Cheyenne are honest people and can be audited at any given time. He wants the commission to give an answer.

Bret Healy states that Rosebud County still has time. It is more that you do not want to rather than you can't.

Geraldine Custer states that it would not matter where in the county this was proposed. She can not staff this project.

Danny moves to approve Motion

Doug states the Motion has already been made and seconded. The only thing left to do after discussion is to vote on the Motion. He then asks if there is any more discussion.

Doug Martens: Opposed

Danny Sioux: In favor

Robert Lee: Opposed

Alicia D. Fritz

Rosebud County Commissioners Meeting

September 28, 2012

Re: Election Issues for the Northern Cheyenne Tribe

Present: Bret Healy, Oliver J. Semans, Sr., Doug Martens, Bob Lee, Daniel Sioux, Geraldine Custer, Michael Hayworth, Martina Hould, Barb Warner, Joan Duffield, Tom Rollefson, Byron Hould, Jennifer Anderson, Undersheriff Arlen Thingvold, Marvin Quinlan, and Mariys Lee.

Mr. Martens called the meeting to order at 10:07 a.m. He asks if there is any public comment for non-agenda items. He states that a request has been made to create a satellite absentee voting station for the Northern Cheyenne Tribe in Lame Deer.

Mr. Lee makes a motion to approve the request, Second by Mr. Sioux.

Mr. Martens asks for discussion regarding the motion.

Mr. Lee reads a letter signed by Leroy Spang, Chairman of the Northern Cheyenne Tribe, dated September 18, 2012, that was faxed into the Commissioners office on that date, requesting that the County open an absentee early voting satellite station in Lame Deer.

Mrs. Custer addresses the meeting stating her opinion regarding the request and explains the issues involved in creating this station. She does not believe the office can be setup at this late date and gives a detailed explanation of the reasons. She states that the Secretary of State's office has been made aware and it may be possible in the future. She continues stating alternative efforts that could help with the problems that the tribe is having in this election year. She states that a Federal Mandate would help with the process in the coming years.

Mr. Rollefson addresses the meeting asking how the ballots are secured here in Forsyth and what alternative could be used in Lame Deer. Ms. Custer responds. Open discussion regarding those issues and paper ballots and how they are counted.

Ms. Duffield asks for a clarification of what the tribe is requesting regarding the satellite station.

Mr. Semans responds that the tribe is requesting a person to register and respond to questions from the Clerk and Records office starting October 9th.

Mr. Semans addresses the meeting stating the tribe is only asking to be treated the same as the persons living in the county seat for 20 days out of the year and explains. He states that a Federal Law is already in place called the Voting Rights Act.



Mr. Healy addresses the meeting stating that he does not believe that legislation is needed and that he has supplied a letter of advice from the Attorney General to the commissioners and the County Attorney. Mr. Healy continues his statements referencing the Voting Rights Act and the Secretary of States Guidance Advisory document.

Mrs. Hould addresses the meeting stating that she is an election judge and responds to statements made by Mr. Healy regarding staffing of the satellite station.

Mr. Healy continues his statements regarding the request and explains how he believes that the satellite office could and should be implemented by the October 9, 2012 date with the help of the tribe. Mr. Healy states that he was informed by the Secretary of State's office that the Election Administrator in every county of the state was notified in July or August of the Secretary of State's Guidance Advisory Document. Open discussion.

Mr. Semans asks if any of the 60 election judges are northern Cheyenne tribal members. Mrs. Custer responds that a few of the judges are members of the tribe.

Mr. Hayworth asks why there are only a few judges from the tribe. Mrs. Custer and Mr. Sioux respond that it is very difficult to get people from the tribe to commit to the long complicated process involved in being an election judge.

Mr. Healy continues to address the meeting apologizing for his tone and explaining that he is very passionate about the Voting Rights Act and the Native American Vote in this nation. He explains that Four Directions is prepared to help offset costs of the satellite office. Mr. Healy states that there is an ongoing court case in South Dakota regarding very similar issues and explains.

Mr. Rollefson states Mrs. Custer has been reaching out to the Northern Cheyenne tribe. He states that the Native Americans in this county have been treated poorly at times.

Mr. Healy states that Four directions would much rather work out any issues with the County without spending time and money on attorney fees to force the issue.

Mrs. Custer addresses the meeting regarding certain aspects of satellite offices in other counties. Open discussion. She also explains that the process involved in training election judges. Mrs. Custer states that she would like federal guidelines to involve the whole country in creating satellite offices. Open discussion with Mr. Healy regarding those issues.

Mrs. Lee addresses the meeting with questions regarding the Missoula office. Mrs. Custer responds that only one office is operating it is just in a different location. Mrs. Lee questions the ability of the county to proceed with this satellite office in this election year.

Mr. Semans asks if it would be possible to close the office in Forsyth and move it to Lame Deer and have the citizens of the county drive to Lame Deer for their absentee ballot and registration needs. Mr. Semans states that he is asking for the spirit of cooperation and explains.

Mr. Quinlan addresses the meeting asking who Four directions is and also if it is possible to find a compromise to having an office open for 8 hours a day for 20 days and explains.

Mr. Healy responds to questions by Mr. Quinlan. He explains that 4 directions is an organization dedicated to voter registration, education and protection of tribal members. He names a few of the people associated with four directions. He also addresses the question of a compromise and how many hours an office would be open in Lame Deer.

Mr. Quinlan responds that he believes a compromise could be made and explains. Open discussion with comments by Mr. Rollefson regarding his belief that Native Americans have been discriminated against in the past by the county.

Mr. Lee questions Mr. Healy regarding early voting and registration wording in the Guidance Advisory supplied by the Secretary of State. Mr. Healy responds that the satellite office requested would be a full mirror of what is available in Forsyth. Continued statements by Mr. Healy and Mrs. Custer regarding the time frame involved in the process of getting satellite offices for this election year. Mrs. Custer makes statements regarding voter turnout.

Ms. Warner asks Mr. Healy why four directions waited so long to request this satellite office in Rosebud County. Mr. Healy responds that the process was started in April and explains. Mr. Healy explains what hurdles were encountered in the process and that until the Guidance from the Secretary of State's office came out they could not approach the County Commissioner's or the Election Administrator.

Mr. Rollefson states that he has directed questions to the Secretary of State and has not received a response. He also states that he has had questions answered by Mrs. Custer.

Open discussion by Ms. Warner, Mr. Semans and Mr. Healy regarding the time frame needed to open the satellite office.

Mr. Semans states it his understanding that Mrs. Custer is the one who may open the office or choose not to. Mrs. Custer asks if a compromise could be made for this election year. Open discussion with Mr. Healy regarding if the compromise would be allowable under Montana law. Mrs. Custer gives details as to what she would be able to do to have a satellite office ready including the sequential numbering system that is necessary in absentee ballots. Open discussion regarding late registration needs between the Clerk and Records office and any satellite office. Mr. Healy states that if he could get at least 6 hours for the 20 days that would be acceptable.

Mr. Lee asks Mr. Semans if a good location would be available in Lame Deer. Mr. Semans responds that he believes there is and makes a suggestion to contact chairman Spang. Mr. Hayworth requests clarification about whether or not they are requesting that someone be in the satellite office on Election Day itself. Mr. Healy responds that, no not at this time, they are not requesting that. Question by Mr. Rollefson as to whether or not someone can register on Election Day. Mrs. Custer responds that yes but only at the county courthouse. Open discussion regarding the rules of late voter registration on the day of election.

Mrs. Hould makes a statement regarding the responsibility involved in running a satellite station and the time involved. Open discussion with mention of many different options that could be implemented to make the satellite office up and running by October 9th.

Mr. Lee asks who might be available to troubleshoot. Mr. Semans states that he would be available.

Mr. Lee asks if Mrs. Custer would be willing to attempt to open the satellite office. Mrs. Custer states that she would be willing if it could be done.

Mr. Sioux moves to have the issue tabled until the regular meeting on Tuesday so that Mrs. Custer could do research to have answers to the concerns she has about getting the office open and the staff needed and security. Mr. Semans states that he does not object to tabling until Tuesday. Mr. Lee seconds the motion. Discussion is held.

Mr. Martens asks for a vote on the Motion to table. All present vote to table. The Motion passes.

Mrs. Hould is asked to put the matter on the Agenda for the regular meeting on Tuesday.

Meeting is adjourned at 12:15 p.m.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MARK WANDERING MEDICINE, HUGH CLUB
FOOT, LENARD ELK SHOULDER, CHARLES
BEAR COMES OUT, WINFIELD RUSSELL,
JAMES DAY CHILD, WOODROW BRIEN,
SARAH STRAY CALF, MARTY OTHER BULL,
NEWLYN LITTLE OWL, DONOVAN
ARCHAMBAULT, ED MOORE, PATTY QUISNO,
MICHAEL D. FOX, FRANK JEFFERSON and
PHYLLIS POND CULBERTSON,
Plaintiffs,

v.

LINDA McCULLOCH in her official capacity as
MONTANA SECRETARY OF STATE,
GERALDINE CUSTER, in her official capacity of
ROSEBUD COUNTY CLERK AND RECORDER,
ROSEBUD COUNTY, ROBERT E. LEE,
DOUGLAS D. MARTENS, and DANIEL M.
SIOUX, in their official capacity as members of the
County Board of Commissioners for Rosebud
County, Montana, SANDRA L. BOARDMAN, in her
official capacity of BLAINE COUNTY CLERK
AND RECORDER, BLAINE COUNTY, CHARLIE
KULBECK, M. DELORES PLUMMAGE and
FRANK DEPRIEST in their official capacity as
members of the County Board of Commissioners for
Blaine County, Montana, DULCE BEAR DON'T
WALK, in her official capacity of BIG HORN
COUNTY ELECTION ADMINISTRATOR, BIG
HORN COUNTY, SIDNEY FITZPATRICK, JR.,
CHAD FENNER, JOHN PRETTY ON TOP, in their
official capacity as members of the County Board of
Commissioners for Big Horn County, Montana and
KIMBERLY YARLOTT, in her official capacity of
BIG HORN COUNTY CLERK AND RECORDER
BIG HORN COUNTY,

Defendants.

FILED

OCT 10 2012

Clerk, U.S. District Court
District Of Montana
Billings

CV 12-135-BLU

**AFFIDAVIT OF
DONOVAN ARCHAMBAULT**

State of Montana)
) ss.
County of Blaine)

COMES NOW, Donovan Archambeau and having been first duly sworn upon his oath, deposes and states as follows:

1. I am a Ft. Belknap Councilman in my fourth term and I served as Tribal Chairman in 1989-90.
2. I attended a September 17, 2012 meeting including Blaine County officials, tribal officials and Bret Healy at the courthouse in the Chinook. We discussed the potential for having a satellite in person absentee voting location at Fort Belknap Agency. At the meeting, the Blaine County officials said that it was not feasible to have a satellite office for the 2012 general election and we could mail in our ballots or drive to Chinook.
3. The travel for our tribal members to and from Chinook is a financial hardship. Our employment rate is nearly 85%.
4. We have a wide array of Veterans -- both men and women -- who would prefer voting at Fort Belknap.
5. Many of our tribal members do not vote because there is not a local polling place.
6. Many of our tribal members do not like to travel to Chinook because they feel discriminated against there because of their Indian status.
7. When I go to Chinook, I feel tense because of the way my relatives and I have been treated there due to our race. I have experienced open discrimination.

- 8. I will not absentee vote by mail because I do not trust that my vote will be counted if I mail it. I prefer to vote in person because I can see my ballot enter the ballot box.
- 9. As a Tribal leader, I am very aware of tribal members' beliefs and opinions.
- 10. Our Tribe has made good faith attempts to development government-to-government relationships with Blaine County with very little success.

YOUR AFFIANT FURTHER SAYETH NOT

Dated this 23 day of September, 2012.

By: *Donovan Archaibeau*
Donovan Archaibeau

Subscribed and sworn before me this 16th day of September, 2012.



Kristi L. Doney
Notary Public
My Commission Expires: April 10, 2016