

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

MARGRETTY RABANG, *et al.*,

Plaintiffs,

v.

ROBERT KELLY, JR., *et al.*,

Defendants.

Case No. 2:17-cv-00088-JCC

**PLAINTIFFS' SUPPLEMENT TO
JOINT STATUS REPORT**

Pursuant to the Court's October 25, 2017 stay Order (Dkt. # 130), and based upon Freedom of Information Act documentation received by Plaintiffs today, Plaintiffs file this supplement to the Parties' Joint Status Report. Dkt. # 132.

On January 12, 2018, Kelly Defendants¹ represented to this Court that "the DOI did not, at any time, notify the Tribe that it was out of compliance with the MOA (MOA ¶ H)" *Id.* at 11. Kelly Defendants also represented to this Court on December 22, 2017, that "DOI has never notified the Tribe in writing or otherwise of any observed 'irregularities' and the Assistant Secretary – Indian Affairs has never notified the Tribe that it is in non-compliance with the MOA" Dkt. # 131 at 2.

These are misrepresentations.

¹ This includes all Defendants except Defendant Raymond Dodge.

1 On September 7, 2017, DOI, by and through its BIA, advised Defendant Kelly that it was
2 out of compliance with the MOA in at least six ways. Ex. A at 1 (citing MOA ¶ H).

3 Most notably, the BIA instructed Defendant Kelly: “Appoint a new Election
4 Superintendent.” *Id.* BIA Acting Northwest Regional Director Bodie Shaw explained that
5 Defendant Kelly’s “appointment of the twin sister of Katherine Canete, one of the so-called
6 ‘holdover’ council members and the Tribe’s General Manager, who was involved in the
7 termination of Tribal Court Judge Alexander after she issued her ruling in favor of the purported
8 disenrollees, gives the appearance of skewing the election process” *Id.*

9
10 Acting Northwest Regional Director Shaw also instructed Kelly:

11 Within seven days, reinstate Councilmember [Carmen] Tageant, and ensure her full access
12 to Council meetings. . . . Ensure the actual provision of tribal benefits to the purported
13 disenrollees.

14 Exhibit A at 2 (emphasis in original). Defendant Kelly responded to him the next day, refusing to
15 adhere to any of DOI’s clear mandates. Ex. B at 1-2.

16 As to Councilwoman Tageant, whose seat at the Tribal Council table PDAS Lawrence
17 Roberts first recognized on October 16, 2016, and Interior further recognized in the MOA (Dkt. #
18 74-16 at 1 n1; MOA ¶B), Defendant Kelly quipped that the MOA “lack[s] any requirement that
19 she be reinstated” Ex. B at 1.

20 As to equal protection for Plaintiffs and other purported disenrollees, Defendant Kelly
21 admitted that “the MOA mandated the Tribe to treat purported disenrollees on an equal basis as
22 other tribal members with regard to the receipt of tribal benefit and certain rights,” but lied that
23 “[t]he Tribe has done so and will continue to do so for the duration of the MOA.” MOA ¶E; *see*,
24 *e.g.*, Dkt. # 97.
25

1 DATED this 16th day of January, 2018.

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