



Narragansett Indian Tribal Court

NOTICE OF ORDER TO ENJOIN

Domingo Talldog Monroe, Adam Jennings, Chastity Ann Machado, Randy Noka and Ollie Best, identified as the “TRIBAL COUNCIL OF THE NARRAGANSETT INDIAN TRIBE,” in the Motion to Intervene filed before the Rhode Island Energy Facility Siting Board (The RIESFB) by Attorney Shannah Kurland, Esq.

ISSUE

This matter came before the Narragansett Indian Tribal Court for a second time on November 22, 2017 through Plaintiff’s Motion for Preliminary Injunction. In reaching its determination, this Court has considered Plaintiff’s argument, submitted directly to the Court. It includes a Motion, the previously submitted Memorandum of Law and accompanying Exhibits, oral arguments, and testimony that claim Defendants do not have the rank and authority they profess. Defendants have chosen to make their argument less direct. A response to Plaintiff’s challenges appears in *Reply to Objection by Invenergy to the Motion for Intervention of the Tribal Council of the Narragansett Indian Tribe* [“the Reply”], which gives offhand treatment of tribal law, as though inconsequential.

For example, this Court previously issued a temporary restraining order (a TRO without Notice) in this matter on October 25, 2017. Even after service due, Defendant willfully proceeded to violate the TRO by filing additional memorandum with the Rhode Island Energy Facility Siting Board (“RIEFSB”), purportedly to represent the Tribe as the “Narragansett Indian Tribal Council.”

This second review of the record, with the added documentation, strengthens the initial conclusion. Plaintiff, again, sets forth clear and convincing evidence that it will suffer immediate and irreparable injury if the Court does not grant this injunction and that the equities favor tribal interests over Defendants' claims. The record shows that neither the sitting Narragansett Indian Tribal Council—nor any other customary, constitutional or statutory based entity, empowered to speak for or on behalf of the Narragansett Indian Tribe—is represented by Attorney Kurland, nor has sought or wishes to intervene before the RIESFB.

MOTION HEARING

Plaintiff moved for a preliminary injunction hearing, with notice to Attorney Kurland. Neither Attorney Kurland nor any Defendant presented himself or herself for the hearing on the motion for preliminary injunction.

At the hearing, the Court heard testimony from Tribal Administrator Anthony Dean Stanton. He testified that the sitting Tribal Council had not engaged the services of Attorney Kurland. He has not been given or seen any record of endorsed approval that Attorney Kurland may represent tribal interests nor did his office approve any filings by Attorney Kurland before the RIEFSB.

DISCUSSION

This matter, at its base, is bothersome to the Court. An attorney first represents unnamed clients, before a state administrative body, with a blanket inference of standing under uncorroborated legal claim. The initial reasoning cited for this posture was to avoid discussion of internal tribal matters; however, the Reply introduces them. In doing so, the

Reply discloses further cause to refute Defendants' asserted standing to appear before the Board because they attempt to side step consideration of standing tribal law and verification under Narragansett norms. Defendants do not collectively represent Tribe. They represent themselves and carry protracted argumentation about a previously settled objection regarding the Tribal Court.

Contrary to their current assentation, the Narragansett Tribal Court is a functioning court, which validly exercises jurisdiction over matters reserved to it under tribal and federal Indian law. Attorney Kurland's challenge to the Tribal Court's jurisdiction and its duty to administer tribal law is without merit. Precedence is set through acknowledgement in tribal, state and federal forums' recognition of this Court. For example, *see Luckerman v. Narragansett Indian Tribe*, No. 13-cv-185S (August 29, 2013). There, the Chief Judge of the United States District Court for the District of Rhode Island stayed a federal court case pending (1) referral to the Narragansett Indian Tribal Court and (2) a decision by the Narragansett Indian Tribal Court. Judge Smith ruled, "The case is stayed pending tribal exhaustion" and "tribal court [assertion of] jurisdiction and adjudicat[ion] of the merits of the case." *See also, Luckerman v. Narragansett Indian Tribe*, 965 F.Supp.2d 224 (D.R.I. 2014).

Moreover, claim of usurping the Tribal Court by proclamations and affidavits is a tactical argument without legal basis. Magistrate Judge Almond, in a recent ruling, affirmed by Chief Judge Smith, announced that this reasoning failed to show the Narragansett Tribal Court was disestablished, or not functioning. *See, Luckerman v. Narragansett Indian Tribe*, No. 13-cv-185S (December 22, 2016).

Consequently, under a freedom of speech argument, defendants Domingo Talldog Monroe, Adam Jennings, Chastity Ann Machado, Randy Noka and Ollie Best can speak as any other individual before the Siting Board, who—if so accorded right—may speak; however, in doing so, they may not and do not speak on behalf of the Tribe in any official

capacity.¹ Regarding the subject matter of the Board's hearing, the Tribe has not had an opportunity to address new points of information or analysis missed since public notice and debate. Another issue, related to the tribal electoral process, is currently in deliberation. Tribal elections constitute an internal, tribal matter and as such, under federal law, fall squarely within Tribal law, which directs tribal court jurisdiction through tribal codified law.

Due diligence by Defendants' attorney would require exploration into a client's claim, especially when the issue of tribal sovereignty arises. When it does, a client's claim of officially sanctioned leadership based upon a superficial constitutional argument and proclamations require examination under the sovereign's law. Yet, Defendants' attorney superciliously inserts herself into their transparently cloaked, partisan argument. This Court reiterates Defendants' claim of official tribal authority to intervene in a state administrative board's proceedings on behalf of the Tribe has no basis in standing tribal law or policy. Furthermore, this Court has previously addressed their claims and methodologies by administering standing tribal law and policy and cautioned that they travel beyond safe haven. Under these circumstances, Attorney Kurland's support for their claims and posture strains professional ethical practice.

Advancing misleading information to take ad hoc actions in the name or authority of Tribe handicaps the Tribe. [This Court] has forewarned that internal or public action based on legal misrepresentations, which unabashedly ignores adjudicated determinations of tribal law and policy, customary practices and the reserved right(s) of Tribe in an effort to assert political authority, constitutes harm to the Tribe. Consequently, if Defendants were able to proceed with their activities—claiming to be the duly authorized representative body of the Narragansett Indian Tribe—Plaintiff will suffer immediate and irreparable harm because Tribal interests favor examining and upholding tribal law when such claim(s) arise, which

¹ In addition to the Court's 2014 Election Determinations, contradicted by Defendant's reference in the Reply, individuals from this collective group are currently under traditional sanctions or other forms of progressive discipline for eye witnessed or documented actions contrary to tribal law, allegations of criminal behavior or violations of customary practices.

supports issuance of a TRO without Notice at this time.

Tribal Court TRO, October 25, 2017.

It remains so. No submitted evidence introduces germane argument, based upon tribal law and policy, to conclude otherwise.

DETERMINATION

That the Defendant clients have not presented germane argument about their ‘legal standing’ before the Tribal Court does not alter tribal law, its administration or viable practice. They maneuver outside of Tribe—with Attorney Kurland’s assistance—to seek recognition that neither Tribal law nor internal political consensus bestows.

Accordingly, it is hereby:

ORDERED, ADJUDGED AND DECREED that:

1. Defendants: Domingo Talldog Monroe, Adam Jennings, Chastity Ann Machado, Randy Noka and Ollie Best and their named counsel Shannah Kurland, Esq., are enjoined from (a) identifying themselves as the “Tribal Council of the Narragansett Indian Tribe” and (b) pursuing a Motion to Intervene in that name before the Rhode Island Energy Facility Siting Board;
2. The Rhode Island Energy Facility Siting Board is hereby advised that the so-called “Tribal Council of the Narragansett Indian Tribe” cited in the filed RIEFSB


Motion is not the lawful representative of the Narragansett Indian Tribe and was not elected by a duly authorized Tribal Election; and

3. This Order automatically converts to a permanent injunction if neither Attorney Kurland nor Defendant files an objection with the Tribal Court within ten days of injunction service on Attorney Kurland. If either files an objection, then this Court will schedule a date with notice for a hearing on the issuance of a permanent injunction.

Entered as an Order of this Court this 27nd day of November, 2017.

A handwritten signature in cursive script, appearing to read "Judge D. Dowdle". The signature is written in black ink and is positioned above the printed name of the Chief Judge.

Chief Judge, Narragansett Indian Tribal Court

 <p>NARRAGANSETT INDIAN TRIBAL COURT Hearing Address: Longhouse, 4425 South County Trail, Charlestown, RI Telephonic Contact through 401-364-1107</p>	<p><i>FOR COURT /TRIBUNAL USE ONLY</i></p>
<p>PLAINTIFF: The Narragansett Indian Tribe</p> <p style="text-align: center;">v</p> <p>DEFENDANT: "TRIBAL COUNCIL OF THE NARRAGANSETT INDIAN TRIBE," as identified in the Motion to Intervene filed before the Rhode Island Energy Facility Siting Board by Attorney Shannah Kurland, Esq.</p>	<p>CALL NUMBER: CASE NUMBER: CA-2017-02</p>
<p>The above named Plaintiff has petitioned the Court for a Preliminary Injunction (a PI) against the named Defendant. A PI requires (1) specific evidence clearly and convincingly proves that the applicant(s) will suffer irreparable harm during the pendency of the litigation unless a preliminary injunction is issued and (2) that the balance of equities favors the applicant(s) over the party sought to be enjoined. NARRAGANSETT INDIAN COMPREHENSIVE CODES OF JUSTICE, IV-4-401.</p> <p>Evidence submitted clearly and convincingly proves that Plaintiff meets its burden of production. The Court grants a <i>Preliminary Injunction</i>. It has determined that the current circumstances require immediate court intervention because irreparable harm will be suffered if activities by the Defendant are not enjoined and that the Tribe's interests greatly outweigh the interests of the party enjoined.</p>	

1. TO DEFENDANT: Domingo Talldog Monroe, Adam Jennings, Chastity Ann Machado, Randy Noka and Ollie Best, identified as the "TRIBAL COUNCIL OF THE NARRAGANSETT INDIAN TRIBE," in the Motion to Intervene filed before the Rhode Island Energy Facility Siting Board (The RIESFB) by Attorney Shannah Kurland, Esq.

2. NOTICE OF DEFAULT JUDGMENT:

Defendant: Notice of this preliminary injunction, served against you, comes through service to your attorney, Shannah Kurland. If you fail to respond—by requesting a date to appear in a hearing before the Court—and continue to stand outside proffered procedure, the Court will enter a default judgment, permanently granting the relief sought in the complaint.

Plaintiff: Should you fail to respond if Defendant requests a hearing, then the Court may dismiss the case for failure to prosecute.

For good cause shown by either party, the Court may set aside entry of a default judgment or dismissal for failure to prosecute.

PRELIMINARY INJUNCTION

THE COURT FINDS

The Defendant is Domingo Talldog Monroe, Adam Jennings, Chastity Ann Machado, Randy Noka and Ollie Best, identified as the "TRIBAL COUNCIL OF THE NARRAGANSETT INDIAN TRIBE," in the Motion to Intervene filed before the Rhode Island Energy Facility Siting Board (The RIESFB) by Attorney Shannah Kurland, Esq.

The Protected Entity is The Narragansett Indian Tribe

THE COURT ORDERS

1. Defendant, and its named counsel Shannah Kurland, Esq., are enjoined from (a) identifying itself and therefore themselves as the "Tribal Council of the Narragansett Indian Tribe" and (b) pursuing a Motion to Intervene before the Rhode Island Energy Facility Siting Board;
2. The Rhode Island Energy Facility Siting Board is hereby advised that the so-called "Tribal Council of the Narragansett Indian Tribe" cited in the filed RIEFSB Motion is not the lawful representative of the Narragansett Indian Tribe and was not elected by a duly authorized Tribal Election; and
3. This Order automatically converts to a permanent injunction if neither Attorney Kurland nor the Defendant files an objection with the Tribal Court within ten days of its' service on Attorney Kurland. If an objection is filed, then this Court will schedule a date with notice for a hearing on the issuance of a permanent injunction.

Date: 11/27/2016



Signature: Tribal Court Judge / Clerk