

**United States Court of Appeals**  
***For The Eighth Circuit***  
Thomas F. Eagleton U.S. Courthouse  
111 South 10th Street, Room 24.329  
**St. Louis, Missouri 63102**

**Susan E. Bindler**  
*Clerk of Court*

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May 14, 2025

Scott K. Porsborg  
SMITH & PORSBORG  
P.O. Box 460  
122 E. Broadway Avenue  
Bismarck, ND 58501

RE: 23-3697 Turtle Mountain Chippewa, et al v. N. Dakota Legislative Assembly  
24-1171 Turtle Mountain Chippewa, et al v. N. Dakota Legislative Assembly

Dear Counsel:

The court has issued an opinion in these cases. Judgment has been entered in accordance with the opinion.

Please review [Federal Rules of Appellate Procedure](#) and the [Eighth Circuit Rules](#) on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing and petitions for rehearing en banc must be received in the clerk's office within 14 days of the date of the entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. Except as provided by Rule 25(a)(2)(iii) of the Federal Rules of Appellate Procedure, no grace period for mailing is allowed. Any petition for rehearing or petition for rehearing en banc which is not received within the 14 day period for filing permitted by FRAP 40 may be denied as untimely.

Susan E. Bindler  
Clerk of Court

BNW

Enclosure(s)

cc: Philip J. Axt  
Grant Bakke  
Matthew Lee Campbell  
Clerk, U.S. District Court, North Dakota  
Mark P. Gaber  
Samantha Blencke Kelty  
Melissa L. Neal  
Allison A. Neswood  
David Ray Phillips  
Timothy Q Purdon

Matthew A Sagsveen  
Brian D. Schmidt  
Bryan L. Sells  
Bradley Wiederholt

District Court/Agency Case Number(s): 3:22-cv-00022-PDW

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May 14, 2025

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Eagan, MN 55123-0000

RE: 23-3697 Turtle Mountain Chippewa, et al v. N. Dakota Legislative Assembly  
24-1171 Turtle Mountain Chippewa, et al v. N. Dakota Legislative Assembly

Dear Sir or Madam:

A published opinion was filed today in the above cases.

Counsel who presented argument on behalf of the appellant and appeared on the brief was Scott K. Porsborg, of Bismarck, ND. The following attorney(s) appeared on the appellant brief; Brian D. Schmidt, of Bismarck, ND.

Counsel who presented argument on behalf of the appellees Turtle Mountain Band of Chippewa Indians, Spirit Lake Tribe, Zachery S. King, Collette Brown and Wesley Davis and appeared on the brief was Mark P. Gaber, of Washington, DC. The following attorney(s) appeared on the appellees brief; Timothy Q Purdon, of Bismarck, ND., Bryan L. Sells, of Atlanta, GA., Matthew Lee Campbell, of Boulder, CO., Molly E. Danahy, formerly of Washington, DC., Allison A. Neswood, of Boulder, CO., Michael Stephen Carter, of Sacaton, AZ., Samantha Blencke Kelty, of Washington, DC., Melissa L. Neal, of Washington, DC. The following attorney(s) appeared on the appellee Michael Howe brief; David Ray Phillips, Special AAG, of Bismarck, ND., Philip J. Axt, AAG, of Bismarck, ND.

The judge who heard the cases in the district court was Honorable Peter D. Welte.

If you have any questions concerning this case, please call this office.

Susan E. Bindler  
Clerk of Court

BNW

Enclosure(s)

cc: MO Lawyers Weekly

District Court/Agency Case Number(s): 3:22-cv-00022-PDW

**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 23-3697

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Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;  
Zachery S. King; Collette Brown

*Plaintiffs - Appellees*

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

*Defendant - Appellee*

North Dakota Legislative Assembly

*Movant - Appellant*

William R. Devlin, Representative also known as Bill Devlin; Senator Ray  
Holmberg, Representative; Senator Richard Wardner, Representative; Senator  
Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones,  
Representative; Claire Ness, Senior Counsel at the North Dakota Legislative  
Council

*Movants*

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No. 24-1171

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Turtle Mountain Band of Chippewa Indians; Spirit Lake Tribe; Wesley Davis;  
Zachery S. King; Collette Brown

*Plaintiffs - Appellees*

v.

Michael Howe, in his Official Capacity as Secretary of State of North Dakota

*Defendant - Appellee*

North Dakota Legislative Assembly

*Movant - Appellant*

William R. Devlin, Representative also known as Bill Devlin; Senator Ray Holmberg, Representative; Senator Richard Wardner, Representative; Senator Nicole Poolman, Representative; Michael Nathe, Representative; Terry Jones, Representative; Claire Ness, Senior Counsel at the North Dakota Legislative Council

*Movants*

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Appeal from United States District Court  
for the District of North Dakota - Eastern

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Submitted: October 22, 2024

Filed: May 14, 2025

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Before COLLOTON, Chief Judge, GRUENDER and KOBES, Circuit Judges.

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GRUENDER, Circuit Judge.

The facts of this case are set out in *Turtle Mountain Band of Chippewa Indians v. Howe*, No. 23-3655, \_\_\_ F.4th \_\_\_ (8th Cir. May 14, 2025). In this appeal, North Dakota's Legislative Assembly seeks to intervene in *Turtle Mountain Band of Chippewa Indians v. Howe* to appeal the district court's order imposing the remedial map. Because we concluded in *Turtle Mountain Band of Chippewa Indians v. Howe*

that the plaintiffs do not have a cause of action and, therefore, vacated the judgment of the district court, we dismiss this appeal as moot.

COLLTON, Chief Judge, dissenting.

Having voted to affirm in No. 23-3655, I do not believe that these appeals should be dismissed as moot. I would affirm the district court's order denying the North Dakota Legislative Assembly's motion to intervene on the ground that the motion was untimely. *See* Fed. R. Civ. P. 24; *United Food & Com. Workers Union, Local No. 663 v. U.S. Dep't of Agric.*, 36 F.4th 777, 780 (8th Cir. 2022). I would affirm the district court's order denying the Assembly's motion for extension of time to file a remedial plan, because the Assembly was afforded a reasonable opportunity to submit a plan, and no party to the case sought an extension of time.

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