



GIL ALMQUIST, COMMISSIONER | VICTOR IVERSON, COMMISSION CHAIR | ADAM SNOW,
COMMISSIONER

March 18, 2025

Senator Michael S. Lee
363 Russell Senate Office Building
Washington, D.C., 20510

Senator John R. Curtis
SR-B11 Russell Senate Office Building
Washington, D.C., 20510

Re: Letter of Support – Shivwits Band of Paiute Indians

Dear Senator Lee and Senator Curtis,

On behalf of Washington County, we write in support of congressional action led by Congresswoman Celeste Maloy to provide the Shivwits Band of Paiute Indians (the “Band”) a legislative fix to a judicially created problem that has stunted the Band’s ability to engage in economic development and self-determination.

The Tenth Circuit Court of Appeals recently held that, even where an Indian tribe has provided a clear and valid waiver of its sovereign immunity in an agreement, Utah state courts lack subject matter jurisdiction to hear cases arising under the agreement and within Indian country, unless the requirements of 25 U.S.C. §§ 1322 and 1326 are met. (See *Ute Indian Tribe of the Uintah and Ouray Reservation v. Lawrence*, 22 F.4th 892 (10th Cir. 2022) (hereinafter, “*Lawrence*”).) Federal law at 25 U.S.C. § 1322 provides that state courts can acquire jurisdiction over “civil causes of action arising within . . . Indian country” and involving Indian parties. *Lawrence* held that an Indian tribe must consent in advance to a state court’s jurisdiction under § 1322, by holding a special election pursuant to 25 U.S.C. § 1326.¹ *Lawrence* rejected valid and reasoned arguments that special elections under 25 U.S.C. § 1326 are only required where a tribe wishes to *permanently* authorize the state to assume *global* jurisdiction over the tribe and its affairs.

Contrary to the ruling in *Lawrence*, tribes should be able to selectively consent to state court jurisdiction in contracts, by agreeing to waive their sovereign immunity for suits arising under that contract and consenting to state court as a court of competent jurisdiction as to specific legal actions. The *Lawrence* decision has robbed tribes, including the Band, of their ability to so selectively consent to state court jurisdiction, resulting in uncertainty for outside investors looking to engage the Band in economic development and other business opportunities.

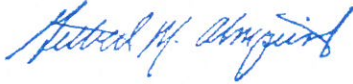
Because non-Indian businesses and entities are not guaranteed a state court forum for resolving disputes arising under contracts with the Band, those outside businesses and entities are hesitant to engage the Band in business relationships. Recently, the Band was presented with a promising business opportunity to develop its lands; however, without assurances that there will be a forum available in which to resolve disputes, the Band is concerned that this opportunity will not be realized. The Band’s self-determination and independence depends on a federal legislative fix that allows the Band to selectively consent to state court jurisdiction in individual agreements, rather than holding a special election to adopt a global and permanent consent to state court jurisdiction over the Band and its affairs.

Federal legislation to address the problem created by *Lawrence*, and allowing the Band to consent to state court jurisdiction in individual contracts and agreements, is essential to ensuring that the Band can engage outside businesses for long-term economic development benefitting not only the Band’s community, but local Utah communities as well.

¹ Section 1326 provides that “the enrolled Indians within the affected area” must “accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose.”

For these reasons, we strongly urge you to support legislation to assist the Band in resolving the issue created by *Lawrence*, so that the Band and surrounding community can enjoy the benefits of development, stability, and financial security.

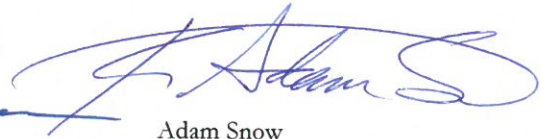
Sincerely,



Gil Almquist
County Commissioner



Victor Iverson
County Commission Chair



Adam Snow
County Commissioner

Cc: Representative Celeste Maloy