

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Charles Walen and Paul Henderson,)
)
Plaintiffs,)
)
vs.)
)
Doug Burgum, in his official capacity as)
Governor of the State of North Dakota, and)
Alvin Jaeger, in his official capacity as)
Secretary of State of the State of North Dakota,)
)
Defendants.)

**ORDER GRANTING MOTION TO
INTERVENE**

Case No. 1:22-cv-31

Before the Court is a motion to intervene filed by The Mandan, Hidatsa and Arikara Nation (“MHA Nation”), Lisa DeVille, and Cesareo Alvarez, Jr. (collectively, “Tribal Defendants”) on March 30, 2022. Doc. No. 16. In the motion, the Tribal Defendants represent that Plaintiffs Charles Walen and Paul Henderson “have stated no objection to this motion,” and Defendants Doug Burgum and Alvin Jaeger “stated they do not intend to file a response to this motion.” Id. For the reasons set forth below, the motion is granted.

This is a declaratory and injunctive relief action where Walen and Henderson challenge “the implementation and use of the newly enacted legislative redistricting plan creating two new Subdistricts passed by the North Dakota Legislative Assembly and signed by Governor Doug Burgum on November 11, 2021.” Doc. No. 1. Specifically, Walen and Henderson allege the legislative redistricting plan, as to certain subdistricts, violates the Equal Protection Clause of the Fourteenth Amendment of the United States. Id. The Tribal Defendants seek to intervene as Defendants.

Rule 24 of the Federal Rules of Civil Procedure governs intervention by third parties. The Tribal Defendants seeks intervention as a matter of right pursuant to Rule 24(a). Alternatively, they seek permissive intervention pursuant to Rule 24(b). Rule 24(a)(2) of the Federal Rules of Civil Procedure provides for intervention as a matter of right by an interested third party who, on timely motion:

claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2).

The Eighth Circuit requires that an application for intervention satisfy the following three-part test to intervene pursuant to Fed. R. Civ. P. 24(a)(2): “1) the party must have a recognized interest in the subject matter of the litigation; 2) that interest must be one that might be impaired by the disposition of the litigation; and 3) the interest must not be adequately protected by the existing parties.” United States v. Union Elec. Co., 64 F.3d 1152, 1158-59 (8th Cir. 1995). It is well-established that Rule 24 is given a liberal construction. Courts must assess a motion to intervene “in a light most favorable to the prospective intervenor,” “construe the motion in favor of the prospective intervenor,” and accept all material allegations in the motion as true. Nat’l Parks Conservation Ass’n v. United States Env’tl. Prot. Assoc., 759 F.3d 969, 973-75 (8th Cir. 2014).

Here, the Tribal Defendants’ motion to intervene is unopposed. The Court finds the Tribal Defendants have Article III standing to intervene. Without any arguments to the contrary before it, the Court accepts the Tribal Defendants’ position that they have a legally protectable interest in the subject matter of this action that could be impaired by the disposition of the action and is not adequately protected by the existing parties. As a result, the Tribal Defendants have satisfied the

requirements for intervention as of right under Rule 24(a)(2) of the Federal Rules of Civil Procedure.

Accordingly, the unopposed motion to intervene (Doc. No. 16) is **GRANTED**.¹ The Tribal Defendants shall comply with the stipulated briefing and pleading schedule previously ordered by the Court (Doc. No. 15) and may file their answer in intervention and response to the motion for preliminary injunction in accordance with that schedule.

IT IS SO ORDERED.

Dated this 4th day of April, 2022.

/s/ Peter D. Welte

Peter D. Welte, Chief Judge
United States District Court

RETRIEVED FROM DEMOCRACYDOCKET.COM

¹ Pursuant to 28 U.S.C. § 2284(b)(3), “A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection.”