

No. 26-\_\_\_\_\_

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In the  
**Supreme Court of the United States**

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HAZEN HUNTER WINCKLER,  
*Petitioner,*

v.

STATE OF SOUTH DAKOTA,  
*Respondent.*

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**On Petition for Writ of Certiorari to the  
Supreme Court of South Dakota**

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**PETITIONER'S APPENDIX  
VOLUME 7  
APP. C-2 & App. D-1 – App. D-2**

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Tucker J. Volesky  
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Mitchell, SD 57301  
(605) 996-5542  
tucker.volesky@  
tuckervoleskylaw.com  
*Counsel for Petitioner*

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- App. A-2 – South Dakota Circuit Court Memorandum Decision (Jurisdiction), *State v. Winckler*
- App. A-3 – Transcript of Motions Hearing on Motions to Dismiss regarding Jurisdiction, *State v. Winckler*, held before the State Circuit Court on September 11, 2024 (including parties’ stipulations)
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### Appendix C:

- App. C-1 – Affidavit of Tucker J. Volesky, filed in *State v. Winckler* with exhibits:
  - Exhibit 3, United States Trust Patent dated May 8, 1891, filed with the Register of Deeds in Charles Mix County on December 2, 1903
  - Exhibit 12, U.S. Department of Commerce, 2020 U.S. Census Tribal Tract Map: Yankton Reservation
  - Exhibit 13, U.S. Department of Interior, Indian Affairs webpage, Yankton Agency
  - Exhibit 16, Letter from Yankton Sioux Tribe Chairman to United States Department of Interior, enclosing Protocols for Consultation with the Yankton Sioux Tribe
  - Exhibit 17, Argus Leader article titled, “*State says no to Yankton Sioux Tribe’s ask for National Guard help with flooding;*” published Sept. 24, 2019
  - Exhibit 21, Application and Grant Agreement between U.S. Department of Transportation and the Yankton Sioux Tribe, March 2021
  - Exhibit 22, Yankton Sioux Tribe Comprehensive Economic Development Strategy, September 2022
  - Exhibit 23, South Dakota Searchlight article titled, “*Homicide investigation sparks rare level of state-tribal cooperation;*” published May 31, 2024
- App. C-2 – Affidavit of Chelsea Wenzel, filed in *State v. Winckler* with exhibits:
  - State’s Exhibit F, Andes Central School District#11-1, Indian Policies and Procedures (IPP) Impact Aid Program

### Appendix D:

- App. D-1 – 2020 Census Tribal Tract Map: Yankton Reservation
- App. D-2 – 2020 Census Tribal Block Groups, Form G-600

STATE OF SOUTH DAKOTA	)	IN CIRCUIT COURT
: SS	)	
COUNTY OF CHARLES MIX	)	FIRST JUDICIAL CIRCUIT
STATE OF SOUTH DAKOTA,	)	
	)	11 CRI 23-172
Plaintiff,	)	11 CRI 23-297
	)	
v.	)	
	)	AFFIDAVIT
HAZEN HUNTER WINCKLER,	)	
	)	
Defendant.	)	
STATE OF SOUTH DAKOTA	)	
	)SS	
COUNTY OF HUGHES	)	

Chelsea Wenzel, being first duly sworn, upon her oath testifies and states as follows:

1. That I am an attorney with the Attorney General's Office in Pierre, South Dakota.
2. That I am counsel for the Plaintiff, State of South Dakota, in the above-captioned action.
3. That I make this Affidavit to make certain documents part of the record which are relevant to the Defendant's Motion to Dismiss.
4. That attached to this Affidavit are true and correct copies of the following:
  - Exhibit A – Copies of the Defendant's brief, State's brief, and Court's decision in *State v. Selwyn*, Charles Mix County Criminal No. 20-276.
  - Exhibit B – The chain of title for 126 North Second Avenue in Lake Andes, obtained from the Charles Mix County Register of Deeds.

Exhibit C – GIS Map, created by the Charles Mix County GIS Administrator, showing the parcels of land owned by the Yankton Sioux Tribe within the city limits of Lake Andes, South Dakota.

Exhibit D – Chapter 19 of the Lake Andes City Code, obtained from the City of Lake Andes Finance Officer.

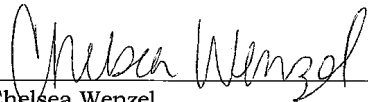
Exhibit E – Agreement for Law Enforcement Services between the City of Lake Andes and Charles Mix County, obtained from the Charles Mix County Sheriff's Office.

Exhibit F – Andes Central School District #11-1 Indian Policies and Procedures (IPP) Impact Aid Program, obtained from the Andes Central School website.


Exhibit G – Charles Mix County GIS Fire District Map, obtained from the County GIS website.

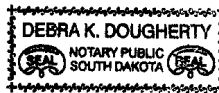
FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 6th day of September 2024.

  
Chelsea Wenzel  
Assistant Attorney General  
1302 E. Hwy. 14 Suite 1  
Pierre, SD 57501  
605-773-3215  
Email: Chelsea.Wenzel@state.sd.us

Subscribed and sworn to before me this 6th day of September 2024.

  
Notary Public – South Dakota  
(SEAL)



My Commission Expires: September 12, 2029

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The following policies and accompanying

**POLICY (1):** The Andes Central School  
plans, and information related to educat  
Yankton Sioux Tribe Business and Clair  
and make recommendations. [34CFR22

**PROCEDURES:**

The Andes Central School Distri  
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Minutes from the Indian Education meetings will be posted on the District's website for all parents and officials to review. In addition, participation information will be shared on the District's website for ongoing dissemination of information.

**POLICY (2):** The Andes Central School District will provide an opportunity for the Yankton Sioux Business and Claims Committee and parents of Indian children to provide their views on the District's educational programs and activities, including recommendations on the needs of their children and on how the District can ensure that all children realize the benefits of the educational programs and activities. [34CFR222.94(a)(2)]

**PROCEDURES:**

The Indian Education Committee of the Andes Central School District will meet during the first week of each month for the purpose of addressing comments and concerns of parents of Indian children regarding the District's educational programs and activities. The meeting agendas are posted one week before each meeting in the local newspaper and all meetings are open to the public allowing for tribal representatives and parents of Indian children the opportunity to submit comments and recommendations (either orally or in writing) for consideration. All Indian Education Committee members are available to share information with patrons during the monthly meetings. There is no time restriction on when parents can meet with committee members, as this is ongoing.

A school board representative is a non-voting member of the Indian Education Committee. This allows for the discussion of the needs of the students and ideas to be brought forward to both the Indian Education Committee as well as the School Board.

At each of the monthly school board meetings, (held on the second Monday of each month) a portion of the meeting is set aside for communications from the public. This is a time to offer comments and suggestions regarding programming for Indian students. In addition, two public hearings are scheduled (January and July) which are specifically devoted to addressing questions regarding federal programs. Based upon suggestions from the public, methods of communication as well as ways to maximize participation, and times for meeting from the school board as well as parents of Indian children will be seriously considered to ensure maximum participation. Information will be shared at Indian Education Committee meetings and at meetings with the Yankton Sioux Tribe Business and Claims Committee.

Information will be included in student handbooks/enrollment packets regarding opportunities for participation in the District.

The District representatives will schedule meetings with the Yankton Sioux Tribe Business and Claims Committee to discuss ongoing programming goals.

**POLICY (3):** The Andes Central School District will annually assess the extent to which Indian children are participating on an equal basis with non-Indian children in the District's education program and activities. [34CFR222.94(a)(3)]

PROCEDURES:

The Andes Central School District's Superintendent and school staff, in conjunction with the Indian Education Committee, will review annual participation data and comments gathered from families, students, and staff throughout the year. The results of the data and its comments will be compiled and shared with the Indian Education Committee and school board and posted on the district's website. In addition comments and/or suggestions brought forth from these conversations will become part of the Committee's approved minutes. This data will be utilized to develop appropriate supports for various programs.

During the public hearings in January and June, information will be gathered relating to Indian children's participation in the LEA's education programs and activities. Schools will attempt to identify all programs including extra-curricular as well as courses, clubs, activities that are not sanctioned by the state's Activities Association to better meet student needs. This listing is fluid as programs may change within the school from year to year. A listing of total enrollment for an identified activity, as well as Native American student enrollment is summarized. For advanced level courses, success rates are also considered.

The Indian Education Committee reviews the participation information and offers suggestions. This review takes place at their regularly scheduled meetings on an ongoing basis as data is collected. It is placed on the IEC agenda, and published in the newspaper for patrons and Tribal officials to respond. This allows for ongoing input from patrons and tribal officials. All suggestions and input will be considered when planning schedules and activities for the upcoming school year.

**POLICY(4):** The Andes Central School District will modify the IPPs if necessary, based upon the results of any assessment or input described in this document. [34CRF222.94(a)(4)]

PROCEDURES:

During the organization meeting of the Indian Education Committee held annually the first week in October, the Indian Policies and Procedures will be reviewed and revised if necessary. Once this had happened, the document will be forwarded to the Andes Central School Board as well as the Yankton Sioux Tribe Business and Claims Committee for review. If necessary, the Indian Education Committee, may suggest revisions at other times of the year as appropriate.

The Indian Education Committee is the primary entity which evaluates suggestions and recommendations for changes. Once draft revisions have been recommended by the Indian Education Committee, the Yankton Sioux Tribe Business and Claims Committee is given a written copy for review. It becomes the Superintendent's responsibility to offer suggestions to the school board regarding changes in the approved Indian Policy and Procedure document. If acceptable, the school board approves the recommendations. The official minutes of the school board make note of the approval by the school board. These minutes are published in the paper as well being available on the District's website.

A written copy of the approved Indian Policies and Procedures document is provided annually to all parents when they enroll their children in the District. The approved IPP is also available on the District's website.

POLICY (5): The Andes Central School District will at least annually respond in writing to comments and recommendations made by the Yankton Sioux Tribe Business and Claims Committee or parents of Indian children, and disseminate the responses to all parties prior to the submission of the IPPs by the District. [34CRF222.94(a)(S)]

PROCEDURES:

The Indian Education Committee, the Superintendent, and building level staff will review parent and student input prior to the preparation of program applications. A summary of the results of the surveys along with how the District proposes to address areas of concern will be distributed to all patrons during fall Parent/Teacher conferences.

Any concerns that are brought forth through the Indian Education Committee or via conversations with the Yankton Sioux Tribe Business and Claims Committee will be responded to in an expedient manner. A summary of recommendations/suggestions will be kept on file in the Superintendent's Office for review and examination.

POLICY (6): The Andes Central School District will annually provide a copy of the IPP to the Yankton Sioux Tribe Business and Claims Committee. [34CRF 222.94(a)(6)]

PROCEDURES:

The Andes Central School District will annually provide a copy of the Indian Policy and Procedures to the Yankton Sioux Tribe Business and Claims Committee for review. This will occur during face to face meetings scheduled. Review of the information and any suggestions they have will be submitted to the Indian Education Committee for consideration at their reorganization meeting held the first week in October.

Signatures represent approval by the designated councils/boards of the attached Indian Policies and Procedures:

  
\_\_\_\_\_  
Ashley Mousseau, Indian Education Committee Chair

12-5-23  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Brad Peters, Andes Central Superintendent

12-11-23  
\_\_\_\_\_  
Date

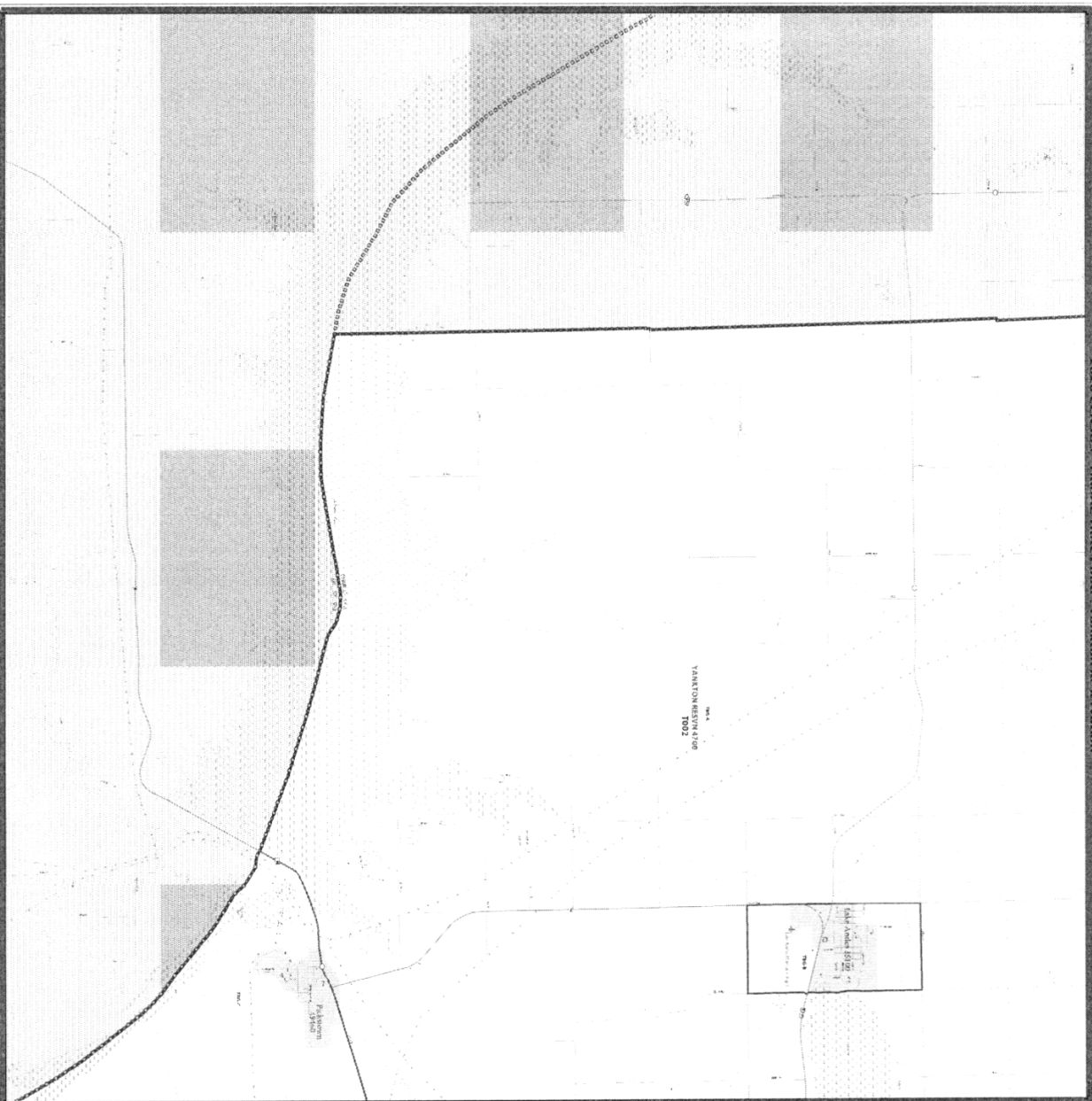
#### ATTESTATIONS

The Andes Central School District attests that it has established the attached Indian Policies and Procedures (IPPs) as required in section 7003 of the Impact Aid law for any children claimed who reside on eligible Indian lands. The IPPs have been adequately disseminated to the tribes and parents of children residing on eligible Indian lands. A copy of the current policies and procedures was attached to the Impact Aid application.

The Andes Central School District attests that it has provided a copy of written responses to comments, concerns and recommendations received from tribal leaders and parents of Indian children through the Indian policies and procedures consultation process and disseminated these responses to tribal leaders and parents of Indian children prior to the submission of their Impact Aid application.

  
\_\_\_\_\_  
Debra Houseman, Andes Central School Board President

12/12/23  
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## 2020 Census Participant Statistical Areas Program (PSAP) Quick Reference: Tribal Block Groups

A tribal block group<sup>1</sup> is a statistical geographic subdivision of a tribal census tract. Tribal block groups are defined by the Census Bureau in cooperation with tribal officials to provide meaningful, relevant, and reliable data for small geographic areas within the boundaries of federally recognized American Indian reservations (AIRs) and/or off-reservation trust lands (ORTLs) without the imposition of state or county boundaries. The Census Bureau uses tribal block groups in the tabulation and presentation of data from the decennial census and the American Community Survey (ACS).

Census Bureau criteria specify that tribal block groups must:

- Nest within tribal census tract boundaries and by default, nest within the American Indian reservation (AIR) and off-reservation trust land (ORTL) boundaries.
- Cover the entire AIR and/or ORTL. However, defining tribal census tracts and tribal block groups is optional.
- Comprise a reasonably compact and contiguous land area. A non-contiguous tribal block group is permitted if there are physically separate areas that would not meet population or housing unit requirements on their own, in which case the non-contiguous area must be combined with other nearby land area to form the tribal block group.
- Meet the population and/or housing unit thresholds as specified in Table 1. A tribal block group that exceeds thresholds, either above or below, may remain unchanged with justifications. For federally recognized American Indian tribes with AIRs and ORTLs that have fewer than 1,200 residents, the Census Bureau will define one tribal census tract and one tribal block group that encompasses the entirety of the AIR or ORTL.
- Use the letter range A through K (except "I," which could be confused with a number "1") to identify and code the tribal block groups within a tribal census tract. Census blocks will be numbered uniquely within county-based block groups, and thus there will not be a direct relationship between a tribal block group and the census block number.

Census Bureau guidelines recommend that tribal block groups:

- Have boundaries that follow visible features (e.g., roads, rivers) or other acceptable features (e.g., tribal subdivision, incorporated place, and minor civil division boundaries).

<sup>1</sup> Tribal block group was delineated under Tribal Statistical Areas Program (TSAP) in 2010.

**Table 1: Block Group Thresholds**

Block Group Type	Population Threshold	Housing Unit Threshold	Area Measurement Threshold
<b>Tribal Block Groups</b>	Min.: 600	Min.: 240	None
	Max.: 3,000	Max.: 1,200	None

***Refer to the Respondent Guide for complete instructions.***