## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF IDAHO

DAVID M. EVANS, an individual; RON PICKENS, an individual, d/b/a P & D CONSTRUCTION, an Idaho sole proprietorship; SAGE CONSTRUCTION, LP, an Idaho limited partnership;

Plaintiffs,

v. SHOSHONE-BANNOCK LAND USE POLICY COMMISSION; NATHAN SMALL, as Chairman of the Fort Hall Business Council; GLENN FISHER, as a member of the Fort Hall Business Council; LEE JUAN TYLER, as a member of the Fort Hall Business Council; DEVON BOYER, as a member of the Fort Hall Business Council: TINO BAIT, as a member of the Fort Hall Business Council; BLAINE EDMO, as a member of the Fort Hall Business Council; DARRELL DIXEY, as a member of the Fort Hall Business Council; TONY GALLOWAY, SR., as Chairman of The Shoshone-Bannock Land Use Policy Commission; CASPER APPENAY, as a member of the Shoshone-Bannock Land Use Policy Commission; JOHN FRED, as a member of the Shoshone-Bannock Land Use Policy Commission; ARNOLD APPENA Y, as a member of the Shoshone-Bannock Land Use Policy Commission; and GEORGE GUARDIPEE, as a enforcement official of the Shoshone-Bannock Land Use Policy Commission; TRIBAL JUDGES JOHN DOES, as a Tribal Judicial officer(s),

Defendants.

Case No. 4:12-CV-417-BLW

**ORDER** 

The defendants seek attorney fees, arguing that the plaintiffs brought this action in bad faith. The Court disagrees. As the Court's decision made clear, the law governing this case is far from clear. *See Memorandum Decision (Dkt. No. 62)*. The plaintiffs' legal arguments raised difficult issues that were not definitively addressed by the existing case law. Consequently, the Court cannot find that the plaintiffs proceeded in bad faith. Accordingly,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion for attorney fees (docket no. 69) is DENIED.

STATES

DATED: **April 19, 2013** 

Honorable B. Lynn Winmill Chief U. S. District Judge