

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ARLYN J. EASTMAN, Personal )  
 Representative of the Estate of the )  
 Deceased, and LINO LOWELL )  
 SPOTTED ELK, JR., Deceased, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 COUNTY OF SHERIDAN, a Nebraska )  
 Political Subdivision, LEVI MCKILLET, )  
 in His Individual and Official Capacity, )  
 and DOES 1-5, in Their Individual and )  
 Official Capacities, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

7:07CV5004

ORDER

This matter is before the court on defendants’ motion for summary judgment, Filing No. [82](#). Subsequent to filing this motion, plaintiff filed a fifth amended complaint. Filing No. [92](#). Accordingly, the motion for summary judgment is denied as moot, subject to reassertion as to the new fifth amended complaint.

THEREFORE, IT IS ORDERED that defendants’ motion for summary judgment, Filing No. [82](#), is denied as moot.

DATED this 30<sup>th</sup> day of March, 2009.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge