

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation v. Norton, <i>et al.</i>,	)	Civil Action No. 02-0035 (JR)
)	
Standing Rock Sioux Tribe v. Norton, <i>et al.</i>,	)	Civil Action No. 02-0040 (JR)
)	
Three Affiliated Tribes of the Fort Berthold Reservation v. Norton, <i>et al.</i>,	)	Civil Action No. 02-0253 (JR)
)	
Shoshone-Bannock Tribes of the Fort Hall Reservation v. Norton, <i>et al.</i>,	)	Civil Action No. 02-0254 (JR)
)	
Chippewa Cree Tribe of the Rocky Boy's Reservation v. Norton, <i>et al.</i>,	)	Civil Action No. 02-0276 (JR)
)	
Yankton Sioux Tribe v. Norton, <i>et al.</i>,	)	Civil Action No. 03-1603 (JR)
)	
Osage Tribe of Indians of Oklahoma v. United States of America, <i>et al.</i>,	)	Civil Action No. 04-0283 (JR)
)	
Crow Creek Sioux Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 04-0900 (JR)
)	
Omaha Tribe of Nebraska v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 04-0901 (JR)
)	
Oglala Sioux Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 04-1126 (JR)
)	
The Confederated Tribes of the Colville Reservation v. Norton, <i>et al.</i>,	)	Civil Action No. 05-2471 (JR)
)	
Wyandot Nation of Kansas v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 05-2491 (JR)
)	
Rosebud Sioux Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 05-2492 (JR)
)	
Winnebago Tribe of Nebraska v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 05-2493 (JR)
)	
Lower Brule Sioux Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 05-2495 (JR)
)	

Prairie Band of Potawatomi Nation v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 05-2496 (JR)
)	
)	
Te-Moak Tribe of Western Shoshone Indians v. Norton, <i>et al.</i>,	)	Civil Action No. 05-2500 (JR)
)	
)	
Cheyenne River Sioux Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-1897 (JR)
)	
)	
Stillaguamish Tribe of Indians v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-1898 (JR)
)	
)	
Iowa Tribe of Kansas and Nebraska v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-1899 (JR)
)	
)	
Confederated Tribes of the Goshute Reservation v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-1902 (JR)
)	
)	
Muskogee (Creek) Nation of Oklahoma v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2161 (JR)
)	
)	
Eastern Shawnee Tribe of Oklahoma v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2162 (JR)
)	
)	
Northwestern Band of Shoshone v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2163 (JR)
)	
)	
Red Cliff Band of Lake Superior Indians Indians v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2164 (JR)
)	
)	
Pechanga Band of Luiseno Mission Indians v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2206 (JR)
)	
)	
Colorado River Indian Tribes v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2212 (JR)
)	
)	
Tohono O’Odham Nation v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2236 (JR)
)	
)	
Nez Perce Tribe, <i>et al.</i> , v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2239 (JR)
)	
)	
Passamaquoddy Tribe of Maine v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2240 (JR)
)	

Salt River Pima-Maricopa Indian Community v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2241 (JR)
)	
Coeur D’Alene Tribe v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2242 (JR)
)	
Ak-Chin Indian Community v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2245 (JR)
)	
Sokaogon Chippewa Community v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2247 (JR)
)	
Gila River Indian Community v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2249 (JR)
)	
Northern Cheyenne Tribe of Indians v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2250 (JR)
)	
Haudenosaunee: The Onondaga Nation v. Kempthorne, <i>et al.</i>,	)	Civil Action No. 06-2254 (JR)
)	
<hr/>		

DEFENDANTS’ MOTION FOR A REMAND AND STAY OF LITIGATION

Pursuant to Rule 7(b) of the Federal Rules of Civil Procedure, Defendants hereby move for a remand in, and a stay of the litigation of the above-captioned thirty-seven (37) cases so that the United States Department of the Interior (Interior) can prepare and issue a plan to address the Tribes’ requests for accounting of their trust funds and non-monetary trust assets. As explained in the accompanying memorandum of points and authorities and the supporting declaration of Ross Swimmer, Interior commits to preparing and issuing a historical accounting plan for all tribes within six (6) months of the date of this Court’s grant of the remand and entry of the stay. At the conclusion of this initial stay, Interior will provide its historical accounting plan to Plaintiffs and the Court. The Court should defer any decision on further proceedings until Interior provides its historical accounting plan, at which time the parties can advise the Court of

their proposals for further proceedings based on the plan. The conduct and completion of tribal accountings under Interior's accounting plan would not begin until after the Court has considered the parties' proposals and determined whether the stay and remand should continue or whether other proceedings should occur first.

As a necessary consequence of a remand, the Court should suspend proceedings in this case, especially formal discovery, to permit Interior to focus its human and financial resources on the preparation and issuance of the tribal historical accounting plan. To the extent any of the Plaintiffs in the above-listed thirty-seven (37) cases claim any breach of legal duty beyond those related to the handling of tribal trust funds and assets, those claims, as well as any others, also should be stayed pending completion of the historical tribal accounting plan.

Pursuant to LCvR 7, counsel for Defendants contacted or attempted to contact all of Plaintiffs' counsel about this motion by telephone and/or e-mail. In all but three cases, Plaintiffs' counsel stated that Plaintiffs would oppose this motion. Of the remaining three Plaintiffs, counsel for the Three Affiliated Tribes of the Fort Berthold Reservation stated that Plaintiff was unable to provide a position on Defendants' motion until after reviewing Defendants' motion and brief in support thereof; and counsel for the Sokaogon Chippewa Community and the Shoshone-Bannock Tribes of the Fort Hall Reservation had not responded to Defendants' messages and e-mails seeking their position by the time of the filing of this motion.

Respectfully submitted this 10th day of August 2007,

RONALD J. TENPAS
Acting Assistant Attorney General

s/ E. Kenneth Stegeby
E. KENNETH STEGEBY
ANTHONY P. HOANG
MARTIN LALONDE
KEVIN J. LARSEN
MAUREEN RUDOLPH
United States Department of Justice
Environment and Natural Resources
Division
Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
Tel: (202) 616-4119
Tel: (202) 305-0241
Tel: (202) 305-0258
Tel: (202) 305-0479
Fax: (202) 353-2021

JOHN H. MARTIN
United States Department of Justice
Natural Resources Section
1961 Stout Street, Eighth Floor
Denver, CO 80294
john.h.martin@usdoj.gov
TEL: (303) 844-1383
FAX: (303) 844-1350

Attorneys for Defendant

OF COUNSEL:

PAUL SMYTH
ELIZABETH BRANDON
THOMAS BARTMAN
GLADYS I. COJOCARI
SHANI N. WALKER
Office of the Solicitor
United States Department of the Interior
Washington, D.C. 20240

TERESA DAWSON
Office of the Chief Counsel
Financial Management Service
United States Department of the Treasury
Washington, D.C. 20227

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the forgoing DEFENDANTS' MOTION FOR A REMAND AND STAY OF LITIGATION, THE MEMORANDUM IN SUPPORT THEREOF, THE ATTACHMENTS AND EXHIBITS THERETO, AND THE PROPOSED ORDER were served on August 10, 2007, by Electronic Case Filing and/or by overnight mail, postage prepaid, on the following counsel:

Counsel for Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation

William R. Perry
Anne D. Noto
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY
1425 K Street, N.W., Suite 600
Washington, D.C. 20005
(202) 682-0249 FAX

Counsel for Standing Rock Sioux Tribe

William R. Perry
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY
1425 K Street, N.W., Suite 600
Washington, D.C. 20005
(202) 682-0249 FAX

Counsel for Three Affiliated Tribes of the Fort Berthold Reservation

Alexander J. Pires, Jr.
4401 Q Street, N.W.
Washington, D.C. 20007
(202) 338-3635 FAX

Counsel for Shoshone-Bannock Tribes of the Fort Hall Reservation

Anne D. Noto
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY
1425 K Street, N.W., Suite 600
Washington, D.C. 20005
(202) 682-0249 FAX

Jeanette Wolfley
202 North Arthur
Pocatello, ID 83204
(208) 232-7472 FAX

Counsel for Chippewa Cree Tribe of the Rocky Boy's Reservation

Daniel D. Belcourt
Kim J. Gottschalk
Mark Christopher Tilden
Melody L. McCoy
NATIVE AMERICAN RIGHTS FUND
1506 Broadway
Boulder, CO 80302
Fax: 303-443-7776 FAX

Counsel for Yankton Sioux Tribe

Albert A. Foster, Jr.
John J. Lynch
DILLINGHAM & MURPHY LLP
1155 Connecticut Avenue, NW
Suite 1120
Washington, DC 20036
(202) 835-9885 FAX

Jeffrey M. Herman
Stuart S. Mermelstein
HERMAN & MERMELSTEIN, P.A.
18205 Biscayne Boulevard
Suite 2218
Miami, FL 33160
(305) 931-0877 FAX

Counsel for Osage Tribe of Indians of Oklahoma

Deborah Y. Ho
PIPESTEM LAW FIRM, P.C.
1333 New Hampshire Avenue, NW
Washington, DC 20036
(202) 659-4931 FAX

Counsel for Crow Creek Sioux Tribe

Gregory A. Yates
16830 Ventura Boulevard
Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Thomas V. Girardi
Keith D. Griffin
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Omaha Tribe of Nebraska

Gregory A. Yates
16830 Ventura Boulevard
Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Walter J. Lack
Brian J. Leinbach
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067-4107
(310) 552-9434 FAX

Thomas V. Girardi
Keith D. Griffin
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Oglala Sioux Tribe

Gregory A. Yates
16830 Ventura Boulevard

Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Thomas V. Girardi
Keith D. Griffin
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for The Confederated Tribes of Coville

Allen Vern Farber
DRINKER BIDDLE & REATH LLP
1500 K Street, NW
Washington, DC 20005-1209
(202) 230-5354 FAX

Thomas W. Christie
OFFICE OF THE RESERVATION ATTORNEY CONFEDERATED TRIBES
OF THE COLVILLE RESERVATION
One Colville Street
Nespelem, WA 99155
(509) 634-2387 FAX

Counsel for Wyandot Nation of Kansas

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach

Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Rosebud Sioux Tribe

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Gregory A. Yates
16830 Ventura Blvd, Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Counsel for Winnebago Tribe of Nebraska

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Lower Brule Sioux Tribe

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Prairie Band of Potawatomi Nation

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard

Los Angeles, CA 90017
(213) 481-1554 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Gregory A. Yates
16830 Ventura Blvd, Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Counsel for Te-Moak Tribe of Western Shoshone

Albert A. Foster, Jr.
DILLINGHAM & MURPHY LLP
1155 Connecticut Avenue, NW
Suite 1120
Washington, DC 20036
(202) 835-9885 FAX

Counsel for Cheyenne River Sioux Tribe

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Stillaguamish Tribe of Indians

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Gregory A. Yates
16830 Ventura Blvd, Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Counsel for Iowa Tribe of Kansas and Nebraska

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Confederated Tribes of the Goshute Reservation

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Brian J. Leinbach
Walter J. Lack
ENGSTROM, LIPCOMB & LACK
10100 Santa Monica Boulevard
16th Floor
Los Angeles, CA 90067
(310) 552-9434 FAX

Keith D. Griffin
Thomas V. Girardi
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017
(213) 481-1554 FAX

Counsel for Muskogee (Creek) Nation of Oklahoma

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Walter J. Lack
Brian J. Leinbach
ENGSTROM, LIPSCOMB & LACK
10100 Santa Monica Blvd., 16th Floor
Los Angeles, CA 90067-4107
(310) 552-9434 FAX

Thomas V. Girardi
Keith Griffin
GIRARDI & KEESE
1126 Wilshire Boulevard
Los Angeles, CA 90017-1904
(213) 481-1554 FAX

Gregory A. Yates
16830 Ventura Blvd, Suite 250
Encino, CA 91436
(818) 905-7038 FAX

Counsel for Eastern Shawnee Tribe of Oklahoma

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Counsel for Northwestern Band of Shoshone

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Counsel for Red Cliff Band of Lake Superior Indians

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Counsel for Pechanga Band of Luiseno Mission Indians

Steven D. Gordon
Lynn E. Calkins
Stephen J. McHugh
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006-6801
(202) 955-5564 FAX

Counsel for Colorado River Indian Tribes

Steven D. Gordon
Lynn E. Calkins
Stephen J. McHugh
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006-6801
(202) 955-5564 FAX

Counsel for Tohono O'Odham Nation

Keith M. Harper
George William Austin, III
KILPATRICK STOCKTON, LLP
607 14th Street, NW
Suite 900
Washington, DC 20005
(202) 585-0919 FAX

Counsel for Nez Perce Tribe, et al.

David L. Gover
Donald R. Wharton
John E. Echohawk
Melody L. McCoy
Walter R. Echo-Hawk, Jr.
NATIVE AMERICAN RIGHTS FUND
1506 Broadway
Boulder, CO 80302
(303) 443-7776 FAX

Dawn Sturdevant Baum
NATIVE AMERICAN RIGHTS FUND
1712 N Street, NW
Washington, DC 20036
(202) 822-0068 FAX

Counsel for Passamaquoddy Tribe of Maine

Keith M. Harper
George William Austin, III
KILPATRICK STOCKTON, LLP
607 14th Street, NW
Suite 900
Washington, DC 20005
(202) 585-0919 FAX

Counsel for Salt River Pima-Maricopa Indian

Keith M. Harper
George William Austin, III
KILPATRICK STOCKTON, LLP
607 14th Street, NW
Suite 900
Washington, DC 20005
(202) 585-0919 FAX

Counsel for Coeur D'Alene Tribe

Allen Vern Farber
DRINKER BIDDLE & REATH LLP
1301 K Street, NW
Suite 900, East Tower
Washington, DC 20005-3317
(202) 230-5354 FAX

Eric R. Van Orden
THE COEUR d'ALENE TRIBE

Office of Legal Counsel
850 A Street
Plummer, ID 83851
(208) 686-0400

Counsel for Ak-Chin Indian Community

Keith M. Harper
George William Austin, III
KILPATRICK STOCKTON, LLP
607 14th Street, NW
Suite 900
Washington, DC 20005
(202) 585-0919 FAX

Edward R. Roybal, II
STRICKLAND AND STRICKLAND, P.C.
6124 E. Brown Road
Suite 101
Mesa, AZ 85205
(480) 854-8687 FAX

Counsel for Sokaogon Chippewa Community

Patricia Ann Marks
15992 A.E. Mullnix Road
Woodbine, MD 21797-8440
(301) 854-5117 FAX

Counsel for Gila River Indian Community

Nicole H. Sprinzen
AKIN, GUMP, STRAUSS, HAUER & FELD LLP
1333 New Hampshire Avenue, NW
Suite 400
Washington, DC 20036
(202) 887-4288 FAX

Counsel for Northern Cheyenne Tribe of Indians

Steven D. Gordon
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, NW
Suite 100
Washington, DC 20006-6801
(202) 955-5564 FAX

Counsel for Haudenosaunee: The Onondaga Nation

Curtis Gene Berkey

ALEXANDER, BERKEY, WILLIAMS & WEATHERS, LLP
2030 Addison Street
Suite 410
Berkeley, CA 94704
510-548-7080 FAX

/s/ Alaina L. Van Horn _____
ALAINA L. VAN HORN