

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

THE NEZ PERCE TRIBE, <i>et al.</i> ,	)	
	)	
	)	
Plaintiffs,	)	
	)	No. 06cv02239-JR
	)	
v.	)	
	)	
DIRK KEMPTHORNE,	)	
Secretary of the Interior, <i>et al.</i> ,	)	
	)	
	)	
Defendants.	)	
_____	)	

**PLAINTIFFS’ MOTION FOR AN ORDER DEEMING MOTIONS  
FOR TRUST RECORDS PRESERVATION ORDERS FILED IN *AK-CHIN  
INDIAN COMMUNITY v. KEMPTHORNE; PASSAMAQUODDY TRIBE v.  
KEMPTHORNE; SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY v.  
KEMPTHORNE; AND, TOHONO O’ODHAM NATION v. KEMPTHORNE*  
TO BE FILED IN THIS CASE AND JOINING PLAINTIFFS IN THOSE MOTIONS**

Pursuant to Fed. R. Civ. P. 7(b), Plaintiffs the Nez Perce Tribe, *et al.*, hereby move this Court for an Order deeming the Motions for Entry of Trust Records Preservation Orders filed April 29, 2008 by Plaintiffs in *Ak-Chin Indian Community v. Kempthorne*, No. 06-2245 (Doc. # 37); *Passamaquoddy Tribe v. Kempthorne, et al.*, No. 06-2240 (Doc. # 31); *Salt River Pima-Maricopa Indian Community v. Kempthorne, et al.*, No. 06-2441 (Doc. # 31); and, *Tohono O’Odham Nation v. Kempthorne, et al.*, No. 06-2236 (Doc. # 31), to be filed in this action, and joining Plaintiffs herein in those Motions. Pursuant to Fed. R. Civ. P. 7(b)(1)(B) and LCvR 7(a), Plaintiffs state in support of this Motion the following specific points of law and authority.

- 1. On April 29, 2008, Plaintiffs in *Ak-Chin Indian Community v. Kempthorne, et al.*, No. 06-

2245 (Doc. #37); *Passamaquoddy Tribe v. Kempthorne, et al.*, No. 06-2240 (Doc. # 31); *Salt River Pima-Maricopa Indian Community v. Kempthorne, et al.*, No. 06-2441 (Doc. # 31); and, *Tohono O’Odham Nation v. Kempthorne, et al.*, No. 06-2236 (Doc. # 31), filed Motions for Entry of Trust Records Preservation Orders. As noted in the Memoranda of Points and Authorities in Support of those Motions, at 3, the named Plaintiffs in this action join in those Motions. *See, e.g., Ak-Chin Indian Community v. Kempthorne, et al.*, No. 06-2245, (Doc. # 38).

2. The Trust Records Preservation Order Motions in these other four actions raise issues identical to issues in this action, and the two principal named Defendants are the same in all of the actions. Accordingly, in the interests of conserving the parties’ and the Court’s resources, rather than filing a separate Trust Records Preservation Order Motion in this action, Plaintiffs here seek an Order deeming the Motions in *Ak-Chin Indian Community v. Kempthorne; Passamaquoddy Tribe v. Kempthorne; Salt River Pima-Maricopa Indian Community v. Kempthorne*; and, *Tohono O’Odham Nation v. Kempthorne*, to be filed in this action, and joining the Plaintiffs in this action in those Motions.

3. Similar procedural resource conservation steps already have occurred involving those actions and this action with respect to previous motions filed in those actions. *See, e.g., Ak-Chin Indian Community v. Kempthorne*, No. 06-2245, Order of July 2, 2007, at 4 (“those cases in which the government files such a [remand] motion will be consolidated for the limited purpose of the remand motion . . . .” (Doc. # 16); *id.* Order of August 23, 2007, at 4 (“A principal brief need be filed only in one of the pending 37 cases and will be deemed filed in all of them.”) (Doc. # 21); *id.* Memorandum Order of December 19, 2007, at 5 (“Pursuant to Fed. R. Civ. P. 42(a), I consolidated the cases for the limited purpose of resolving the remand motion.”) (Doc. # 26).

Pursuant to LCvR 7(m), Melody McCoy, counsel for Plaintiffs states that on May 1, 2008, she discussed this Motion with Maureen Rudolph, counsel for Defendants, and is authorized to state that Defendants oppose the relief sought herein. Pursuant to LCvR 7(c), a Proposed Order is submitted with this Motion.

DATED this 1st day of May, 2008

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of May, 2008, a true and correct copy of the foregoing PLAINTIFFS' MOTION FOR AN ORDER DEEMING MOTIONS FOR RECORDS PRESERVATION ORDERS FILED IN *AK-CHIN INDIAN COMMUNITY v. KEMPTHORNE*; *PASSAMAQUODDY TRIBE v. KEMPTHORNE*; *SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY v. KEMPTHORNE*; AND, *TOHONO O'ODHAM NATION v. KEMPTHORNE* TO BE FILED IN THIS CASE AND JOINING PLAINTIFFS IN THOSE MOTIONS was served by Electronic Case Filing or by regular first class U.S. mail, postage pre-paid, on the following counsel:

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