UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STAND UP FOR CALIFORNIA!, et al.	)	
Plaintiffs	)	
	)	
v.	)	
	)	Case No. 1:12-cv-02039-BAH
	)	Judge Beryl A. Howell
	)	
UNITED STATES DEPARTMENT OF THE INTERIOR, et al.	)	
	)	
Defendants	)	

FEDERAL DEFENDANTS' OPPOSED MOTION TO TRANSFER VENUE AND MEMORANDUM IN SUPPORT

MOTION

Defendants Kenneth Lee Salazar, Kevin K. Washburn, the Bureau of Indian Affairs and the Department of the Interior (collectively, the "United States"), respectfully request that this Court transfer venue to the United States District Court for the Eastern District of California, pursuant to 28 U.S.C. §1404(a). Transfer will serve the interests of justice by having the case decided where any impacts of the Secretary's decision will be felt; local controversies should be decided in the forum where the controversy exists. See Citizen Advocates for Responsible Expansion, Inc. v. Dole, 561 F. Supp. 1238, 1240 (D.D.C. 1983).

Plaintiffs are individuals and entities that reside or exist in Madera County, California. Plaintiffs' Complaint for Declaratory and Injunctive Relief ("Compl.") at ¶¶ 5-10 (ECF No. 1). This lawsuit challenges a fee-to-trust decision concerning land in Madera County, California. Neither the Plaintiffs nor the subject matter of their lawsuit have an articulated connection to Washington, D.C. The fee-to-trust transfer would benefit the North Fork Rancheria of Mono

Indians (the "North Fork Rancheria"), also of Madera County, California. Local interest in significant controversies compels a change of venue in the overall interest of justice. For these reasons, the United States respectfully requests that this Court transfer venue to the Eastern District of California, pursuant to 28 U.S.C. § 1404(a).

Certificate of Local Rule 7(m) Compliance. On December 24 and 26, 2012, and January 3, 2013, the undersigned communicated by telephone and e-mail with counsel of record for the Plaintiffs and Defendant-Intervenors. Plaintiffs and Defendant-Intervenors oppose the motion to transfer venue to the Eastern District of California.

MEMORANDUM IN SUPPORT

I. BACKGROUND

A. Change of Venue, 28 U.S.C. § 1404(a)

Transfer of venue is governed by 28 U.S.C. § 1404(a). The statute affords the Court wide discretion to determine the appropriate venue of a case based upon a plaintiff's claims and the issues to be litigated. Section 1404(a) states:

> (a) For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought . . .

28 U.S.C. § 1404(a).

Section 1404(a) facilitates the transfer of actions to a more appropriate federal forum. See Piper Aircraft Co. v. Reyno, 454 U.S. 235, 254 (1981); Van Dusen v. Barrack, 376 U.S. 612, 616 (1964). The party seeking to transfer venue bears the burden of showing that the transfer is proper. Trout Unlimited v. U.S. Dep't of Agric., 944 F. Supp. 13, 16 (D.D.C. 1996). That burden, however, is substantially diminished where, as here, Defendants seek to transfer the action to the forum where Plaintiff resides. Citizen Advocates, 561 F. Supp. at 1239. The

burden is also lessened when the Plaintiff's chosen forum has no factual connection to the case, and both the Plaintiff and the subject matter of the action have substantial connections with the proposed transferee forum. DeLoach v. Philip Morris Cos., 132 F. Supp. 2d 22, 24 (D.D.C. 2000); Trout Unlimited, 944 F. Supp. at 17.

This Court has broad discretion when considering a motion under Section 1404(a) and should adjudicate such motion "according to individualized, case-by-case consideration of convenience and fairness." Hawksbill Sea Turtle (Eretmochelys Imbricata) v. Fed. Emergency Mgmt. Agency, 939 F. Supp. 1, 3 (D.D.C. 1996) (quoting Stewart Org., Inc. v. Ricoh Corp., 487 U.S. 22, 29 (1988)). In exercising that discretion, the Court must first answer the threshold question of whether the action could have been brought in the transferee district. See S. Utah Wilderness Alliance v. Norton, 315 F. Supp. 2d 82, 86 (D.D.C. 2004). If this threshold issue is answered in the affirmative, courts then consider the other principal factors—convenience of the parties, convenience of witnesses, and the interest of justice—through a balancing of public and private interests. See Valley Cmty. Pres. Comm'n v. Mineta, 231 F. Supp. 2d 23, 44-5 (D.D.C. 2002). The public considerations include: 1) the transferee district's familiarity with the governing law; 2) congestion of the transferor and transferee districts; and 3) "the local interest in deciding local controversies at home." Trout Unlimited, 944 F. Supp. at 16. The private considerations include: 1) the plaintiff's choice of forum; 2) the defendant's choice of forum; 3) where the claims arose; 4) convenience of the parties; 5) convenience of the witnesses; and 6) ease of access to sources of proof. Id.

B. The Madera County Land and Facility at Issue

This case involves a planned gaming facility, to be located just north of the City of Madera in Madera County, California. On March 5, 2005, the North Fork Rancheria of Mono

Indians submitted a request to the Bureau of Indian Affairs to acquire approximately 305.49 acres of land in trust on its behalf in Madera County, California, for purposes of establishing a Class III gaming facility. By a final Record of Decision[1] issued on November 26, 2012 ("ROD"), pursuant to 25 C.F.R. Part 151, the Assistant Secretary-Indian Affairs approved the transfer of the underlying land (the "Madera Site") into trust for the benefit of the North Fork Rancheria of Mono Indians. North Fork plans, with the approval of BIA and the State of California, and subject to a compact with the State of California, to develop the gaming facility and related customer amenities. ROD (Exhibit A) at 2.[2]

On November 30, 2012, the Assistant Secretary filed a Notice of Intent to take the Madera Site into trust, which was published in the Federal Register on December 3, 2012. 77 Fed. Reg. 71,612 (Dec. 3, 2012). Pursuant to 25 C.F.R. § 151.12(b), title to the Madera Site may transfer, and the land may be taken into trust, on January 2, 2013. The Department of the Interior has, however, agreed to delay taking the land into trust until February 1, 2013.[3]

C. The Plaintiffs and Their Ties to Madera County, California

Each of the Plaintiffs is a California resident or entity. Plaintiffs alleged injuries will occur in California. None of the Plaintiffs alleges any ties to Washington, D.C.

[1] The ROD is attached as Exhibit A to this motion. Page references to Exhibit A refer to the consecutive pagination that has been added to the ROD in the format "Exhibit A page _".

[2] Pursuant to Section 20 of the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. § 2719(b)(1)(A), BIA determined that gaming on the proposed site in Madera County would be in the best interest of the North Fork Rancheria of Mono Indians and its citizens and would not be detrimental to the surrounding community. IGRA requires that the Governor concur in the determination which he did by letter dated August 30, 2012. The land can, therefore, be acquired in trust for the Tribe for the purpose of gaming pursuant to Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. § 465, as amended by the Indian Land Consolidation Act of 1983, 25 U.S.C. § 2202. Id.

[3] See Status Report of Dec. 24, 2012, at 3 (ECF No. 14) (discussing December 20, 2012, email sent to plaintiffs in which the Department of the Interior agreed to delay the transfer of the land until February 1, 2013).

Stand Up For California! is organized under the laws of California and "focuses on gambling issues affecting California citizens." Compl. ¶ 5. The group alleges "supporters throughout the State of California and in the City of Madera community." Id. Stand Up For California! does not allege that it has any connection to the District of Columbia but instead alleges that its members will "personally suffer injury" because of actions taking place in Madera County, California. Id.

Plaintiffs Reverend Randall Brannon, Reverend Dennis Sylvester, and Susan Stjerne allege that they work or reside in Madera County, California. Compl. ¶¶ 6, 8. 10. Reverends Brannon and Sylvester are pastors of churches located in Madera County. Compl. ¶¶ 6, 10. Reverend Brannon alleges that he raised his family in Madera and that he has written "opinion pieces for local newspapers." Compl. ¶ 6. He is not a resident of Washington, D.C., and does not allege that the residents of Washington, D.C., will be harmed by the action he challenges. Id. Rev. Sylvester alleges that he is a resident of Madera and "is familiar with his community's opposition to the proposed mega-casino and the harm presented to the community if it goes forward." Compl. ¶ 10. Rev. Sylvester does not allege that Washington, D.C., opposes the casino nor does he suggest that Washington, D.C. will suffer any impacts from the fee-to-trust decision. Compl. ¶ 10. Likewise, Plaintiff Susan Stjerne alleges that she raised her family in Madera and that she will suffer environmental, aesthetic, and economic harm as a result of air pollution, traffic congestion, diminished property value, and increased risk of criminal violence stemming from the fee-to-trust decision. Compl. ¶ 8. Like the other Plaintiffs, she does not allege that this will have any impact on Washington, D.C.

Plaintiffs First Assembly of God–Madera and Madera Ministerial Association are organizations tied to—by name and location—Madera County, not Washington, D.C. Compl. ¶¶

7, 9. Neither alleges any harms that will occur in Washington, D.C. First Assembly of God–Madera emphasizes the challenged action's connection to Madera County when it alleges that the fee-to-trust parcel is "visible from the church and school and both locations share the same roads." Compl. ¶ 9.

Plaintiffs seek declaratory and injunctive relief against the United States' decision to accept the Madera Site into trust and against the United States' decision to allow gaming on the site. They allege violations of NEPA, IGRA, and the APA. Compl. ¶¶ 58-74.

D. Procedural History

On December 21, 2012, Plaintiffs filed an Emergency Motion for Scheduling Order and Status Conference. ECF No. 11. Pursuant to the Court's December 21, 2012, Minute Order, on December 24, 2012, the parties submitted a Joint Status Report addressing the issues requested in the Minute Order. Upon consideration of the parties' Joint Status Report, the Court issued another Minute Order, dated December 24, 2012, directing that "[t]he defendants shall show cause, on or before January 4, 2013, why this action should be transferred to the Eastern District of California and whether such transfer should be considered and resolved prior to consideration of any motion by the plaintiffs for interim injunctive relief. The plaintiffs shall file, by January 11, 2013, any motion for interim injunctive relief and any response to the order to show cause regarding transfer of this action. The defendants shall file, by 12 Noon on January 18, 2013, an opposition to any motion for interim injunctive relief, and the plaintiffs shall file, by 5 P.M. on January 22, 2013, a reply in further support of any motion for interim injunctive relief." Order (Dec. 24, 2012).[4]

[4] Additional plaintiffs have also challenged the same decision that is at issue in this case. Picayune Rancheria of Chukchansi Indians v. Salazar, No. 12-2071 (D.D.C. filed Dec. 31, 2012).

II. ARGUMENT

The purpose of § 1404(a) is "to prevent the waste 'of time, energy and money' and 'to protect litigants, witnesses and the public against unnecessary inconvenience and expense.'" Van Dusen v. Barrack, 376 U.S. 612, 616 (1964) (quoting Continental Grain v. Barge, FBL-585, 364 U.S. 19, 26 & 27 (1960)). The movants carry the burden of demonstrating that transfer serves those purposes and furthers the interest of justice. Citizen Advocates for Responsible Expansion v. Dole, 561 F. Supp. 1238, 1239 (D. D.C. 1983) (citing, e.g., Oudes v. Block, 516 F. Supp. 13, 15 (D. D.C. 1981)). However, that burden is substantially diminished, where, as here, the United States seeks to transfer the action to the forum where Plaintiffs reside. Id. See also Martin-Trigona v. Meister, 668 F. Supp. 1, 2 (D.D.C. 1987) (Plaintiff's choice of forum is a much less significant factor where the plaintiff is a foreigner to that forum.). In a similar challenge to a fee-to-trust decision, Judge Walton granted a motion to transfer venue to the Eastern District of California because "there is a strong local interest in having the controversy decided . . . where the land is located." United Auburn Indian Cmty. of the Auburn Rancheria v. Salazar, No. 12-988, slip op. at 3 (D.D.C. Jan. 4, 2013) (order granting motion to transfer) (Attached as Exhibit B). The presence of issues of "national concern" did not "negate the local community's stake in the outcome of [the] case." Id.

This Court has been accorded broad discretion in considering a motion to transfer under § 1404(a). In re Scott, 709 F.2d 717, 720 (D.C. Cir. 1983); Norwood v. Kirkpatrick, 349 U.S. 29 (1955). In exercising that discretion, the Court must first determine whether this action could have been brought in the Eastern District of California. If it could have, the Court must consider: 1) convenience of the parties; 2) "the local interest in deciding local controversies at home."

This Court has ordered the parties to explain why that case should not be consolidated with this case. Id. (Minute Order of Jan. 2, 2013).

Trout Unlimited, 944 F. Supp. at 16; 3) the transferee district's familiarity with the governing law; 4) congestion of the transferor and transferee districts; 5) the plaintiff's choice of forum; 6) the defendant's choice of forum. Id.

A. Venue is Proper in the Eastern District of California

The "threshold consideration" in determining the appropriateness of transfer under §1404(a) is whether the action "might have been brought" in the transferee district. Van Dusen v. Barrack, 376 U.S. at 616 (transfer power is expressly limited by the clause restricting transfer to those districts in which the action "might have been brought."). Here, because Plaintiffs base their claims on federal question jurisdiction, this Court need only consider whether venue is proper in the Eastern District of California. See Martin-Trigona, 668 F. Supp. at 4. These cases involve judicial review of an agency action impacting land located in the Eastern District of California. Also, the Plaintiffs reside in or are located in the Eastern District of California. Under 28 U.S.C. § 1391(e), venue is proper in the "judicial district in which . . . a substantial part of property that is the subject of the action is situated, or [] the plaintiff resides if no real property is involved in the action." Id. at 1391(e)(2) & (3) (1993). Thus, whether this Court considers the subject of this litigation to be the agency action or the Madera Site, venue is clearly proper in the Eastern District of California. And even if that were not true, Plaintiffs' residences would satisfy 28 U.S.C. § 1391(e).

Plaintiffs seek judicial action with respect to land use (contemplated gaming development) to be conducted on the North Fork Rancheria of Mono Indians' lands in California. Moreover, the issues Plaintiffs raise in this case uniquely concerns the citizens located in the Eastern District of California, as Plaintiffs themselves emphasize. Compl. at ¶¶ 5-10. See, e.g., Shawnee Tribe v. United States, 298 F. Supp. 2d 21, 27 (D.D.C. 2002) ("transfer

of related cases that involve central questions regarding the future of the [ ] property" serves the interests of judicial economy and efficiency.")

B. Transfer Serves The Convenience of the Parties and Will Not Burden the Courts

Plaintiffs are all California residents or entities in the Eastern District of California. Thus, Plaintiffs will not be inconvenienced by a transfer to the Eastern District of California.[5]

Nor will the transfer of this matter alter the relative congestion of the federal Courts. Courts in this Circuit rely on the "relative congestion" factor by "comparing the median filing times to disposition in the courts at issue." Fed. Hous. Fin. Agency v. First Tenn. Bank Nat'l Ass'n, 856 F. Supp. 2d 186, 194 (D.D.C. 2012). The median filing-to-disposition period in 2011 for this District was 7.6 months, compared to 8.2 months in the Eastern District of California. See Federal Court Management Statistics September 2011, http://www.uscourts.gov/uscourts/Statistics/FederalCourtManagementStatistics/2011/District_FCMS_Profiles_December_2011.pdf#page=1 (last visited Jan. 4, 2013). This is "hardly a significant disparity." United Auburn, No. 12-988, slip op. at 3 (D.D.C. Jan. 4, 2013).

C. The Interests of Justice Will Be Best Served By Transferring This Lawsuit to the Eastern District of California Because It Is the Local Forum

The compelling reason to transfer this action to the Eastern District of California is that the interests of justice will best be advanced by transferring this case to the local forum. The interests of justice are promoted when a localized controversy is resolved locally where concerned citizens may closely follow the proceedings. Citizen Advocates, 561 F. Supp. at 1240; Gulf Oil v. Gilbert, 330 U.S. 501, 509 (1947). This compelling interest can only be furthered by transfer of this case to the Eastern District of California. Armco Steel Co., L.P v.

[5] Convenience to witnesses is not a factor in this case. Plaintiffs challenge agency action pursuant to the APA, under which judicial review is limited to the administrative record compiled by the agency. Florida Power & Light Co. v. Lorion, 470 U.S. 729 (1985). Thus, no witnesses will be required.

CSX Corp., 790 F. Supp. 311, 324 (D.D.C. 1991). This case concerns land in Madera County, California and the Department of the Interior's decision to accept that land into trust for the North Fork Rancheria of Mono Indians, also located in Madera County, and is brought by residents and organizations located in Madera County, California. None of the Plaintiffs reside or allege that they do business in Washington, D.C. None of the Plaintiffs allege that the fee-into-trust decision will affect lands, traffic, weather, water, crime, activities, businesses, morality, or pollution in Washington, D.C.

Local interests specifically weigh in favor of transfer where a case implicates significant economic and political interests—including Indian lands issues—in the transferee forum and local interests are the most persuasive factor on a motion to transfer venue. Shawnee Tribe v. United States, 298 F. Supp.2d 21, 26 -27 (D.D.C. 2002) ("What the Court finds to be the most persuasive factor favoring transfer of this litigation to Kansas is the local interest in deciding a sizeable local controversy at home. How the SFAAP property is allocated directly impacts the counties and neighborhoods surrounding the SFAAP . . . Its division and allocation necessarily implicates considerable local economic, political, and environmental interests."). At issue in Shawnee Tribe was whether portions of a military reservation, designated as surplus property by the General Services Administration, were reservation lands and subject to transfer to the Department to be held in trust for the Tribe. Id. at 24. The Court decided that the lawsuit's transfer from the District of Columbia to Kansas was appropriate, stating that "the most persuasive factor favoring transfer . . . is the local interest in deciding a sizable local controversy at home." Id. at 26. Central to the Court's opinion was that judicial allocation of the subject property would directly impact counties and neighborhoods in Kansas and implicate considerable local economic, political, and environmental interests. Id. The Shawnee Tribe

Court expressed particular concern "about exercising jurisdiction over a case that will affect the development of a massive area in Kansas in a venue with which Kansas citizens have little to no connection." Id.

More specifically, transferring cases related concerning Indian gaming to the federal district where the controversy is located promotes the interests of justice. Towns of Ledyard, N. Stonington and Preston, Conn. v. United States, 1995 WL 908244, No. 95-0880, at *2 (D.D.C. May 31, 1995); Apache Tribe of the Mescalero Reservation v. Reno and Babbitt, No. 96-115; slip op. at 5-6 (D.D.C. Feb. 5, 1996) (Exhibit C); Cheyenne-Arapaho Tribe of Oklahoma v. Reno, No. 98-065RMU, slip op. (D.D.C. Sept. 9, 1998) (Exhibit D). This Court articulated the considerations in favor of transfer in a case involving the Santee Sioux Tribe of Nebraska:

> [t]he federal courts do not allow cameras or tape recorders in courtrooms, there is intense local interest in this controversy, and there is a significant benefit to allowing those whose lives will be most immediately affected by the outcome of litigation, as well as the local media, to physically attend the proceedings which will determine that outcome. There is no substitute for personally observing, watching and evaluating the judge who presides, hearing the quality of the arguments, and getting a first-hand impression of whether the proceeding is being handled with the appropriate fairness and seriousness. Furthermore, the members of this District Court have repeatedly honored this principle by transferring cases involving Indian gaming controversies back to the state in which the controversy and the gaming were located.

Santee Sioux Tribe of Nebraska v. National Indian Gaming Commission, No. 99-528, slip op. at 8-9 (D.D.C. April 19, 1999) (collecting cases) (Exhibit E); see also Lac Courtes Oreilles Band of Lake Superior Chippewa Indians of Wisconsin v. United States, No. 01-1042, slip op. at 1, 6-7 (D.D.C. Aug. 16, 2002) (Exhibit F).

The principle of deciding local controversies at home extends beyond issues involving Indian lands. In another case originally filed in the District of Columbia, Southern Utah Wilderness Alliance v. Norton, 315 F. Supp. 2d 82 (D.D.C. 2004), the plaintiff sought to resolve

a dispute involving 21 parcels of land in Utah. This Court concluded that National Environmental Policy Act considerations were localized interests which "directly touch[ed] local citizens." Id. at 88. The Court granted the Government's transfer motion stating that "[i]t makes sense that these alleged consequences would be most particularly felt in Utah, and thus that the courts of Utah would have a clear interest in resolving the dispute." Id. at 89 (citing Trout Unlimited, 944 F. Supp. at 20).

Transfer is likewise proper where a case "concerns a matter of great controversy in" another district, as evidenced by activity from local interest groups and governments. Citizen Advocates, 561 F. Supp. at 1240. Here, the very statute at issue in Plaintiffs' complaint is linked to local issues—traffic, pollution, local budgets, crime, and water consumption. None of those things are related to Washington, D.C. The "'[m]ere involvement . . . on the part of federal agencies, or some federal officials who are located in Washington, D.C. is not determinative' of whether plaintiffs' choice of forum [in Washington, D.C.] receives deference." Fed. Hous. Fin. Agency, 856 F. Supp. 2d at 192 (citation omitted). As this Court has repeatedly recognized, the interests of justice are promoted by transferring cases involving Indian land and gaming controversies back to the state in which the controversy, the land, and the proposed land use is located. Towns of Ledyard, 1995 WL 908244 at *2; Apache Tribe of the Mescalero Reservation v. Reno and Babbitt, Civil Action No. 96-115 (RMU) (D.D.C. Feb. 5, 1996) (Exhibit C); Cheyenne-Arapaho Tribe of Oklahoma v. Reno, Civil Action No. 98-CV-065 (RMU) (D.D.C. Sept. 9, 1988), (Exhibit D). The United States urges this Court to transfer venue in this case, as it has in similar circumstances.

D. The Eastern District of California is the Best Forum to Resolve Issues That May Potentially Arise Under the Laws of California

Transfer is appropriate where the reviewing court may be required to consider laws and regulations that are unique in relation to others concerning Indian tribes and are specific in their application to the transferee forum. See Shawnee Tribe 298 F. Supp. 2d at 27, S. Utah Wilderness Alliance, 315 F.Supp. 2d at 82. This case concerns land in California. Each federal district court holds equal familiarity with the issues of federal law raised in Plaintiffs' complaint, and therefore, this factor favors transfer to the District of California. S. Utah Wilderness Alliance v. Norton, No. 01-2518, 2002 WL 32617198 at *4-5 (D.D.C. June 28, 2002); Nat'l Wildlife Fed'n v. Norton, 437 F. Supp. 2d 42, 49 (D.D.C. 2006).

E. Plaintiffs' Choice of Forum Is Entitled to Little, If Any, Deference

Where a plaintiff files suit in a distant court that has only tenuous ties to the underlying dispute, plaintiff's forum choice "is entitled to little deference." Fed. Housing Fin. Agency, 856 F. Supp. 2d at 192-93 ("'where the chosen forum is not [the] plaintiff's home forum' or 'where there is an insubstantial factual nexus between the case and the plaintiff's chosen forum, deference to the plaintiff's choice of forum is . . . weakened.'" (citation omitted)); see New Hope Power Co. v. U.S. Army Corps of Eng'rs, 724 F. Supp. 2d 90, 95 (D.D.C. 2010). And the fact that federal government officials in Washington may have played a role in the decisionmaking process under review does not change this result. Fed. Housing Fin. Agency, 856 F. Supp. 2d at 192; New Hope Power, 724 F. Supp. 2d at 95–96 (citing Stockbridge–Munsee Cmty. v. United States, 593 F. Supp. 2d 44, 47 (D.D.C.2009) (collecting cases)). "As courts in this district have routinely recognized, the involvement of a federal agency located in Washington, D.C. and its officials in a particular dispute does not necessarily militate against transfer to another district." Wyandotte Nation v. Salazar, 825 F. Supp. 2d 261, 269 (D.D.C. 2011), citing Shawnee Tribe,

298 F. Supp.2d at 25–26 ("[M]ere involvement on the part of federal agencies, or some federal officials who are located in Washington, D.C. is not determinative."); see also Wyandotte Nation v. National Indian Gaming Comm'n, No. 04–cv–1727, slip op. at 8 (D.D.C. May 2, 2005) ("Under § 1404(a), the court generally accords little weight to the location of federal agencies and counsel.") (Exhibit G).

While the movant bears the burden of demonstrating that transfer is warranted, when a plaintiff chooses a forum that is not its home — as is the case here — the plaintiff's choice of forum is entitled to far less deference than the choice of a home forum. See Piper Aircraft Co., 454 U.S. 235, 255-56; Shawnee Tribe, 298 F. Supp. 2d at 24-25 (the deference that may ordinarily be due a plaintiff's choice of forum is substantially lessened where suit was brought in the plaintiff's non-home forum and transfer is sought to the forum where the plaintiff resides). To wit:

> A plaintiff's choice of forum is afforded great deference, and is a paramount consideration in any determination of a motion to transfer." Shawnee Tribe, 298 F. Supp. 2d at 24 (citing Sheraton Operating Corp. v. Just Corporate Travel, 984 F. Supp. 22, 25 (D.D.C. 1997)) (internal quotations and citations omitted); see also Pueblo v. Nat'l Indian Gaming Comm'n, 731 F. Supp. 2d 36, 42 (D.D.C. 2010). However, the plaintiff's choice of forum is given less deference "when that choice is not plaintiff's home forum." Pueblo, 731 F. Supp. 2d at 42; Thayer/Patricof Educ. Funding, LLC v. Pryor Res., Inc., 196 F.Supp.2d 21, 31 (D.D.C. 2002) ("The choice of forum is ordinarily afforded great deference, except when the plaintiff is a foreigner in that forum."). Deference to the plaintiff's choice of forum is further minimized "if the choice of forum has no meaningful ties to the controversy and no particular interest in the parties or subject matter." Id. (quoting Trout Unlimited, 944 F. Supp. at 16) (internal quotations omitted); see also United States v. H & R Block, Inc., 789 F. Supp. 2d 74, 79 (D.D.C. 2011).

Wyandotte Nation, 825 F.Supp. 2d at 268.

Plaintiffs' decision to file the action in the District of Columbia is entitled to little, if any, deference. Plaintiffs are located in California and the subject matter of this litigation is significantly connected to California. The District of Columbia has no meaningful ties to, or

interest in, the factual and policy issues underlying this litigation. Valley Cmty. Pres. Comm'n v. Mineta, 231 F. Supp. 2d 23, 44 (D.D.C. 2002); see also Hawksbill Sea Turtle, 939 F. Supp. at 3-4 (transferring venue where the case had no connection with the District of Columbia); Trout Unlimited, 944 F. Supp. at 17 ("[T]his deference is mitigated where the plaintiff's choice of forum has 'no meaningful ties to the controversy and no particular interest in the parties or subject matter.'") (quoting Chung v. Chrsler Corp., 903 F. Supp. 160, 165 (D.D.C. 1995)). Federal agencies, like the Department, make policy decisions in the District of Columbia every workday. Here, however, the decision at issue relates only to California, its citizens, and its State and local governments.

III. EFFECT OF MOTION TO TRANSFER ON PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

This transfer motion should be resolved prior to the consideration of any motion by the Plaintiffs for injunctive relief because no irreparable harm is imminent. Moreover, if the Court grants the United States' motion to transfer venue the transfer will occur electronically and the parties could still resolve any motions for injunctive relief in the forum that has a local connection to the Plaintiffs' claims.

The Department of the Interior will transfer the land out of trust if it is ordered to do so by the Court after injunctive relief is ordered, if the land has already been transferred and the transfer is vacated as part of that relief. See generally Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak ("Patchak"), 132 S.Ct. 2199 (2012). There is no need for immediate injunctive relief. Therefore, the United States respectfully requests that this Court transfer venue before resolving any of Plaintiffs' requests for injunctive relief. In the alternative, the United States respectfully requests that this Court transfer venue after resolving any motions for injunctive relief.

IV. CONCLUSION

And all of the factors relevant to consideration of transfer under 28 U.S.C. § 1404(a) argue for transfer of the consolidated action to the Eastern District of California, where there is a demonstrated local interest in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of January, 2013, I electronically filed the foregoing document with the clerk of court by using the CM/ECF system which will send notice of electronic filings to all counsel of record.

By: /s/ Joseph Nathanael Watson

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