IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Forest County Potawatomi Community, Plaintiff, v. **The United States of America**, et al., Defendants.	Case No. 1:15-cv-00105-CKK Judge Colleen Kollar-Kotelly

DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR MOTION TO TRANSFER VENUE

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I. INTRODUCTION

This action should be transferred to the United States District Court for the Eastern District of Wisconsin. The case involves significant issues of local controversy that far outweigh any connection the case may have with the District of Columbia. Further, the Eastern District of Wisconsin has experience with the issues at the center of this action, especially tribal efforts to obtain off-reservation gaming in both Milwaukee and Kenosha, Wisconsin. Defendants' motion to transfer should therefore be granted.

II. FACTUAL BACKGROUND

Plaintiff Forest County Potawatomi Community ("FCPC") is a federally-recognized Indian Tribe. *See* Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, 80 Fed. Reg. 1942 (Jan. 14, 2015); Compl. ¶ 11 (ECF No. 1). FCPC's headquarters are in Crandon, Wisconsin. *See* Compl. Caption. In this action, FCPC challenges the Department of the Interior's ("interior") disapproval of a gaming compact amendment.

A. FCPC's Off-Reservation Casino

In 1987, FCPC submitted an application to Interior in which it requested that Interior acquire two parcels of land located in Milwaukee, Wisconsin, in trust for its benefit. Compl. ¶ 23. In its application, FCPC stated its intent to operate a bingo hall on the parcel known as the "Menomonee Valley Land." *Id.* ¶ 25. On July 10, 1990, the Assistant Secretary-Indian Affairs ("AS-IA") issued a two-part determination under section 20 of the Indian Gaming and Regulatory Act ("IGRA") finding that acquisition of the Menominee Valley Land in trust for the FCPC would be in the best interest of the FCPC and not detrimental to the surrounding community. *Id.* ¶ 26, Ex. B at 2 (ECF No. 1-2). The Governor of Wisconsin concurred in this

determination and on August 4, 1992, Interior approved FCPC's Class III gaming compact with the State. *Id.* ¶¶ 28-29, Ex. B at 3.[1] Thus, FCPC became the first tribe to use IGRA's provisions to develop an off-reservation casino. *Id.* Ex. B at 1. FCPC and the State of Wisconsin subsequently amended the gaming compact four times. The most recent amendment went into effect by operations of law (the "2005 Compact Amendment"). *Id.* Ex. B at 3.

B. FCPC's 2005 Compact Amendment

In a 2003 compact amendment, FCPC and Wisconsin included a section seeking to relieve FCPC of its revenue-sharing payments to Wisconsin and required refund of certain payments if Wisconsin entered into, or authorized, an agreement permitting Class III gaming within 50 miles of FCPC's Milwaukee casino. Compl., Ex. B at 3, n.11. Interior objected to this provision because its anti-competitive nature violated IGRA and warned FCPC and Wisconsin that Interior was prepared to disapprove the amendment. *Id.* at 3. FCPC and Wisconsin then submitted an addendum to the 2003 compact amendment that removed the provision. Interior took no action on the 2003 Amendment, thereby allowing it to go into effect by operation of law, also known as "deemed approved." *See* 25 U.S.C. § 2710(d)(8)(C).

In 2005, FCPC and Wisconsin further negotiated the gaming compact's provisions. Compl. ¶¶ 42-43, Ex. B at 3. The parties reached an agreement and Interior took no action on the 2005 Compact Amendment, which allowed it to go into effect as "deemed approved." *Id.* ¶ 45. Under the 2005 Compact Amendment, Wisconsin's Governor was prohibited from

[1] IGRA governs all gaming on Indian lands. 18 U.S.C. §§ 1166-68; 25 U.S.C. §§ 2701, et seq. IGRA *inter alia* authorizes states and local Indian tribes to enter into compacts for gaming and divides gaming into three classes. Class I gaming is regulated exclusively by the tribes and includes social and traditional games. Class II gaming includes bingo and related games, which may be played in a state that permits any such games by any person or organization. Class III gaming, which is regulated by the compacts entered into by states and tribes, includes all other games such as those played in casinos, slot machines, and pari-mutuel betting.

concurring in a future positive two-part Secretarial Determination under IGRA for a gaming facility within 30 miles of FCPC's Milwaukee casino without FCPC's consent, or unless FCPC and Wisconsin negotiated an amendment to FCPC's compact. *Id.* Ex. B at 3. In the event the parties reached an impasse, the 2005 Compact Amendment also established a dispute resolution process that included binding arbitration in the event Interior issued a two-part determination for lands within 50 miles of FCPC's Milwaukee casino. *Id.* The amendment went into effect by operation of law, but only to the extent it was consistent with IGRA. *Id.* Ex. B at 3-4.

C. The Menominee Indian Tribe of Wisconsin's Two-Part Application

In 2004, the Menominee Indian Tribe of Wisconsin ("Menominee") applied for a two-part determination requesting that Interior acquire land located in Kenosha, Wisconsin in trust for gaming purposes under IGRA. Compl. ¶ 44. The Kenosha site is approximately 33 miles from FCPC's Milwaukee casino. *Id.* Menominee did not own the Kenosha parcel in fee, but made monthly payments preserving its option to purchase the property. On January 7, 2009, Interior denied Menominee's application, and the tribe subsequently filed a lawsuit in the United States District Court for the Eastern District of Wisconsin challenging this determination. *See Menominee Indian Tribe of Wis. v. U.S. Dep't of Interior*, No. 1:09-cv-496-WCG (E.D. Wis.). Menominee previously had filed a lawsuit in 2008 concerning its application, which it later dismissed. *See Menominee Indian Tribe of Wis. v. U.S. Dep't of the Interior*, No. 1:08-cv-00950-WCG (E.D. Wis.). On August 19, 2011, Menominee and Interior entered into a settlement agreement and filed a stipulation to dismiss the case on August 24, 2011. *Menominee Indian Tribe of Wis.*, No. 1:09-cv-496-WCG (ECF No. 84). Pursuant to the settlement agreement, Interior withdrew its disapproval and Menominee resumed the two-part determination process.

On August 23, 2013, Interior approved Menominee's two-part determination request for gaming on the Kenosha site, finding that it was in the tribe's best interest and would not be detrimental to the surrounding community. Compl. ¶ 48, Ex. B at 4. As required by IGRA, Interior requested the concurrence of Wisconsin's Governor. *Id.* At the time FCPC filed its Complaint on January 21, 2015, the Governor had not reached a decision. Just two days later, on January 23, 2015, the Governor advised AS-IA that he did not concur with Interior's two-part determination. As a result, the Kenosha parcel is not eligible for gaming.

D. FCPC's Proposed 2014 Compact Amendment

Interior's two-part determination regarding Menominee's application triggered the negotiation and dispute resolution process under FCPC's 2005 Compact Amendment. Compl. Ex. B at 4. On November 26, 2014, after over a year of negotiation, FCPC and the State submitted the 2014 Compact Amendment to Interior for approval. The 2014 Compact Amendment provides that the Governor may not concur in a two-part determination for a gaming facility ("Applicant Facility") within 50 miles of FCPC's casino except as provided by the amendment. Compl. Ex. A at XXXVII.2.A. The 2014 Compact Amendment states that Menominee's proposed Kenosha facility is an Applicant Facility. *Id.* The 2014 Compact Amendment then provides that should the Governor concur in the Secretary's determination for an Applicant Facility, Wisconsin, or the Applicant – here, the Menominee – it is required to make an annual mitigation payment to FCPC to compensate it for any revenue losses at its Milwaukee facility. *Id.* at XXXVII.2.C. These payments include any revenue losses associated with Class III gaming, Class II gaming, food and beverage, and hotel and entertainment activity at the facility. *Id.* at XXXVII.D.2. The obligation to make mitigation payments begins with the start of gaming at an Applicant Facility and continues for the duration of FCPC's gaming

compact with Wisconsin, a lifespan that could extend upwards of forty years. *Id.* at XXXVII.E.3. Menominee was not a party to FCPC and Wisconsin's arbitration, nor was Menominee involved in the underlying negotiations.

E. Interior's Denial of the 2014 Compact Amendment

The current lawsuit stems from Interior's January 9, 2015, disapproval of the 2014 Compact Amendment on the basis that it violated IGRA. Compl. ¶¶ 1-4. Pursuant to IGRA, the Secretary may approve or disapprove of a compact amendment within 45-days of its submission. The Secretary's central inquiry turns on whether the agreement violates one of three areas: (1) IGRA; (2) any other provision of federal law that does not relate to jurisdiction over gaming on Indian lands; or (3) the trust obligation of the United States to Indians. *See* 25 U.S.C. § 2710(d)(8).

Here, relying on the premise that the purpose of state-tribal compacts was to ensure that states' interests were considered in the regulation and conduct of Class III gaming activities, the AS-IA looked to whether the regulated activity "has a direct connection to the Tribe's conduct of Class III gaming activities." Compl. Ex. B at 6. The AS-IA found several areas of the agreement problematic, the most glaring of which was the intent of the 2014 Compact Amendment to "protect [] the Potawatomi Hotel & Casino's revenue stream[.]" *Id.* (footnote omitted). The AS-IA stated that this type of provision violated IGRA because it contemplates payments to the State from the Menominee for purposes other than defraying the State's cost of regulating Class III gaming activities. Nothing in IGRA or its legislative history, the AS-IA explained, "suggests that Congress intended compacts to be used for the purpose of insuring the profitability of a tribe's casino at the expense of another tribe's right sunder IGRA or fairness in inter-tribal gaming competition, at least without the consent of the other tribe." *Id.*

The AS-IA found other areas problematic, as well. The AS-IA was concerned that the 2014 Compact Amendment was ultimately designed to shift the burden of compensating for potential decreased revenues to the Menominee, an obligation that would continue for the life of FCPC's gaming compact. *Id.* That the Menominee did not participate in this amendment made the obligation all the more troublesome. Coupled with the unpresented extent to which the mitigation payments were designed to guarantee continued levels of profit, the AS-IA concluded that the 2014 Compact Amendment violated the provisions of IGRA. FCPC challenges the determination in this lawsuit.

III. STANDARD FOR VENUE TRANSFER

Transfer of venue is governed by 28 U.S.C. § 1404(a): "For the convenience of 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[.]" The statute facilitates transfer to a more appropriate federal forum, *see Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964), affording district courts wide discretion "according to an 'individualized, case-by-case consideration of convenience and fairness.'" *Hawksbill Sea Turtle v. FEMA*, 939 F. Supp. 1, 3 (D.D.C. 1996) (quoting *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988) (internal citation omitted)).

In exercising its discretion, a court must first determine 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 is answered in the affirmative, courts then consider "convenience of parties and witnesses" and "the interests of justice" through a balancing of private and public interests. *See Valley Cmty. Pres. Comm'n v. Mineta*, 231 F. Supp. 2d 23, 44 (D.D.C. 2002) (citation omitted). 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. *Trout Unlimited v. U. S. Dep't of Agric.*, 944 F. Supp. 13, 16 (D.D.C. 1996). The public considerations include: (1) the local interest in deciding local controversies at home; (2) the transferee district's familiarity with the governing law; and (3) congestion of the transferor and transferee districts. *Id.*

A plaintiff's choice of forum is normally entitled to deference and the party seeking transfer bears the burden of showing that transfer is appropriate. *Id.* at 16. That deference and burden, however, are substantially diminished where the plaintiff's chosen forum, when compared to the defendant's choice, has only an attenuated connection to the controversy. *DeLoach v. Phillip Morris* Cos., 132 F. Supp. 2d 22, 24-25 (D.D.C. 2000). The showing a defendant must make "is lessened when the 'plaintiff['s] choice [of forum] has no factual nexus to the case'" and defendant's chosen forum has substantial ties to the plaintiff and subject matter of the suit. *Trout Unlimited*, 944 F. Supp. at 17 (alterations in original) (quoting *Citizens Advocates for Responsible Expansion, Inc. v. Dole*, 561 F. Supp. 1238, 1240 (D.D.C. 1983)).

IV. ARGUMENT

A. This Action Could Have Been Brought in the Eastern District of Wisconsin, Where FCPC is Located and Where the Greatest Impact Occurs.

There is no question that the FCPC could have filed suit in the Eastern District of Wisconsin. The complaint raises questions of federal law, see Compl. ¶¶ 2, 6-9, 13, over which all federal district courts have subject matter jurisdiction. *See* 28 U.S.C. § 1331. As to venue, a civil action against a federal government agency or official may be heard in any district where a defendant resides, where the plaintiff resides, or where "a substantial part of the events or omissions giving rise to the claim occurred[.]" 28 U.S.C. § 1391(b)(2). Here, the FCPC is

located in, and resides in Crandon, Wisconsin, which falls within the jurisdictional boundaries of the Eastern District of Wisconsin's Green Bay Division. *See* Compl. ¶ 11 and Caption. Further, the basis of FCPC's claim is Interior's disapproval of the 2014 Compact Amendment to its gaming compact with the State of Wisconsin. Compl. ¶ 1. This decision directly impacts FCPC's gaming operations, all of which are located in the Eastern District of Wisconsin. Courts routinely find that where a case involves governmental action that impacts a tribe's local gaming, venue is proper in that district. *Pueblo v. Nat'l Indian Gaming Comm'n*, 731 F. Supp. 2d 36, 39-40 (D.D.C. 2010) (citing *Apache Tribe of the Mescalero Reservation v. Reno*, No. 96-cv-115 slip op. at 5 (D.D.C. Feb. 5, 1996) (finding venue proper in New Mexico "because the case involves governmental action that will impact the Tribe's gambling operation which is located there.")).

B. The Interests of Justice Weigh in Favor of Transfer to the Eastern District of Wisconsin.

The private and public factors courts consider in deciding a motion to transfer demonstrate that the Eastern District of Wisconsin is the far better forum for FCPC's suit. Again, the private considerations include each party's choice of forum, where the claims arose, and the convenience of the parties. *Trout Unlimited*, 944 F. Supp. at 16. The public factors include "the local interest in deciding local controversies at home[,]" the transferee district's familiarity with the governing law, and the relative congestion of the transferor and transferee districts. *Id.* (footnote omitted). The public interest considerations in this case weigh heavily in favor of transfer. The Eastern District of Wisconsin's familiarity with the issues, parties, and the local interest in deciding the controversy at home argue strongly in favor of transfer.

1. This Case Involves Claims that Are Local in Nature and Specific to the State of Wisconsin, and therefore, should be Transferred There.

Central to this Court's determination should be the fact that this dispute is a matter of significant interest to the State of Wisconsin and, in particular, communities within the Eastern District. FCPC's claims are directed at an agency action whose effects will be felt almost entirely within Wisconsin, and, therefore, should appropriately be decided in Wisconsin. "[J]ustice requires that . . . localized controversies should be decided at home." *Citizen Advocates for Responsible Expansion*, 561 F. Supp. at 1240; *see also Shawnee Tribe v. United States*, 298 F. Supp. 2d 21, 26 (D.D.C. 2002) (local interest in deciding a local controversy considered to be "most persuasive factor" for granting transfer); *Armco Steel Co., L.P. v. CXS Corp.*, 790 F. Supp. 311, 324 (D.D.C. 1991) (the interest in having local controversies decided locally is compelling). The Supreme Court has emphasized the importance of ensuring local issues are decided in their home venue. *See Nat'l Wildlife Fed'n v. Harvey*, 437 F. Supp. 2d 42, 49 (D.D.C. 2006) (citing *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 509 (1947)). Transfer is also appropriate where a case "concerns a matter of great controversy in" another district, as evidenced by activity from local interest groups and governments. *Citizen Advocates for Responsible Expansion*, 561 F. Supp. at 1240.

The AS-IA's decision to disapprove the 2014 Compact Amendment directly impacts the economy of Wisconsin, the local communities surrounding any potential land sites, such as Kenosha, Wisconsin, other Wisconsin tribes' interests, and the FCPC's own interests in the State. The relief sought by FCPC, the approval of the 2014 Compact Amendment, which requires the State, or in this instance the Menominee, to pay the FCPC's annual revenue loss for any Class III gaming facility within 50 miles of the FCPC's gaming facility in Milwaukee, Wisconsin, implicates considerable economic, political, and legal interests for the FCPC.

Local interests specifically weigh in favor of transfer where a case implicates significant economic and political interests – including Indian land issues – in the transferee forum. *See Shawnee Tribe v. United States*, 298 F. Supp. 2d 21, 26 (D.D.C. 2002). At issue in *Shawnee Tribe* was whether portions of a military base, designated as surplus property by the General Services Administration, constituted Shawnee Tribe reservation lands and subject to transfer to Interior to be held in trust for the tribe. *Id.* at 26-27. 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 local economic, political, and environmental interests. *Id.* The *Shawnee Tribe* Court expressed particular concern with exercising jurisdiction over a case that impacted a significant area in Kansas in a venue with which Kansas' citizens had little to no connection. *Id.*

As this Court has recognized, transferring cases involving Indian land and gaming controversies back to the state in which the controversy is located promotes the interests of justice. *Towns of Ledyard, N. Stonington & Preston, Conn. v. United States*, No. 95-0880, 1995 WL 908244 at *2 (D.D.C. May 31, 1995); *Apache Tribe of the Mescalero Reservation v. Reno & Babbitt*, No. 96-115, slip. op. at 5-6 (D.D.C. Feb. 5, 1996) (Defs.' Ex. A); *Cheyenne-Arapaho Tribe of Okla. v. Reno*, No. 98-65, slip. op. (D.D.C. Sept. 9, 2003) (Defs.' Ex B). This Court articulated the considerations in favor of transfer in a case involving the Santee Sioux Tribe of Nebraska:

> The federal courts do not allow cameras or tape recorders in courtrooms, there is intense local interest in this controversy, and there is 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 gaming were located.

Santee Sioux Tribe of Neb. v. Nat'l Indian Gaming Comm'n, No. 99-528, at 8 (D.D.C. Apr. 19, 1999) (collecting cases) (Defs.' Ex. C); *see also Lac Courtes Oreilles Band of Lake Superior Chippewa Indians of Wis. v. United States*, No. 01-1042, slip. op. at 1, 6-7 (D.D.C. Aug. 16, 2002); *Puebo v. Nat'l Indian Gaming Comm'n*, 731 F. Supp. 2d 36, 40-42 (D.D.C. 2010). FCPC's Complaint alleges in detail that Indian gaming is at the heart of this local controversy and this matter should, like other Indian gaming controversies, be decided locally.

2. The Eastern District of Wisconsin is Familiar with this Type of Dispute.

The second public interest factor also favors transfer of the present controversy to the Eastern District of Wisconsin. Although "all federal courts are presumed to be equally familiar with the law governing federal statutory claims," *Miller v. Insulation Contractors, Inc.*, 608 F. Supp. 2d 97, 103 (D.D.C. 2009) (citations omitted), the Eastern District of Wisconsin has familiarity with the parties and the statute at issue in the present litigation. *See F.T.C. v. Cephalon, Inc.*, 551 F. Supp. 2d 21, 31 (D.D.C. 2008) (The transferee "court's familiarity with these facts – and the law as applied to these facts – supports transfer . . . for judicial efficiency purposes."). The Eastern District of Wisconsin has familiarity with IGRA disputes and Wisconsin tribal gaming compacts. One of the parties potentially impacted by the 2014 Compact Amendment, the Menominee, as discussed above, filed suit in the Eastern District of Wisconsin challenging the Secretary's decision regarding its application for a two-part determination, *Menominee Indian Tribe of Wisconsin*, No. 1:09-cv-496-WCG. The Eastern

District of Wisconsin is familiar with gaming compacts entered into between Wisconsin and a Tribe and is familiar with the provisions of IGRA.

3. The Relative Congestion of the Transferor and Transferee Courts is Not a Significant Concern.

Transfer of FCPC's action to the Eastern District of Wisconsin will not meaningfully impact the time necessary to adjudicate the case. Statistics on federal caseloads show that the time necessary to resolve a case in the Eastern District of Wisconsin (6.1 months) is less than that required in the District of Columbia (7.9). *See* Federal Judicial Caseload Statistics 2014, Table C-5: Median Time Intervals From Filing to Disposition of Civil Cases Terminated *available at* http://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2014-tables (last visited May 20, 2015).

B. FCPC's Choice of Forum is entitled to Minimal Deference

The private factors also favor transfer because the District of Columbia has little connection because FCPC is a non-resident, and the lawsuit concerns a gaming compact between it and the State of Wisconsin whose effects are local in nature. Thus, under unambiguous precedent, the FCPC's chosen forum is not entitled to the usual deference.[2]

"A plaintiff's choice of forum is generally afforded 'substantial deference,'" *Gulf Restoration Network v. Jewell*, No. 14-cv-01773, 2015 WL 1800177 at *6 (D.D.C. Apr. 9, 2015) (quoting *Greater Yellowstone Coal. v. Bosworth*, 180 F. Supp. 2d 124, 128 (D.D.C. 2001)), but

[2] The remaining private factors – parties' convenience, witnesses' convenience, and ease of access to sources of proof, have little applicability. Defendants are fully prepared to litigate in Wisconsin. FCPC is based within the Eastern District of Wisconsin and likely would be able to litigate there as well. Further, in cases brought under the Administrative Procedure Act, as FCPC's case is here, convenience to witnesses and ease of access to proof are generally not at issue because judicial review is based on the administrative record rather than de novo fact-finding. *See Otay Mesa Prop. L.P. v. U.S. Dep't of the Interior*, 584 F. Supp. 2d 122, 125 (D.D.C. 2008).

that deference is not without limits. Any deference is substantially diminished in cases where the plaintiff's chosen forum only has an attenuated connection to the controversy while the plaintiff and the subject matter of the action have a substantial connection with the proposed transferee forum. *Trout Unlimited*, 944 F. Supp. at 17; *DeLoach*, 132 F. Supp. 2d at 24-25; *Intrepid Potash-N.M., LLC v. U.S. Dep't of Interior*, 669 F. Supp. 2d 88, 95 (D.D.C. 2009) (deference to plaintiff's forum choice is weakened where plaintiff does not reside in the forum and most of the relevant events occurred elsewhere).

Here, FCPC's forum choice is entitled to little deference. FCPC is a federally-recognized Indian tribe whose lands, seat of tribal government, and gaming facilities are located within the Eastern District of Wisconsin and lacks substantial connection with the District of Columbia. *See Villa v. Salazar*, 933 F. Supp. 2d 50, 57 (D.D.C. 2013) (citing *Elemary v. Philipp Holzman A.G.*, 533 F. Supp. 2d 144, 150 (D.D.C. 2008)). FCPC's choice, therefore, holds no greater weight than Defendants'. *See Valley Cmty.*, 231 F. Supp. 2d at 44; *see also Trout Unlimited*, 944 F. Supp. at 17 (quoting *Chung v. Chrysler Corp.*, 903 F. Supp. 160, 165 (D.D.C. 1995)) ("[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.'"). While the District of Columbia has no meaningful ties to the controversy and no particular interest in the parties or subject matter, the Eastern District of Wisconsin, as discussed above, has an interest in the parties and with the subject matter, and is perfectly capable of deciding this case carefully and fully.

FCPC asserts that venue in the District of Columbia is appropriate because "this is an action in which the Defendants are officers and employees of the United States acting in their official capacities and a substantial part of the events or omissions giving rise to this claim has

occurred within this judicial district." Compl. ¶ 10. But the fact that federal government officials in Washington, D.C. played a role in the decision-making process under review is not determinative. *See Shawnee Tribe*, 298 F. Supp. 2d at 25-26 (quoting *DeLoach*, 132 F. Supp. 2d at 25) (finding that venue is not appropriate in the District of Columbia where "the only real connection [the] lawsuit has to the District of Columbia is that a federal agency headquartered here is charged with generally regulating and overseeing the [administrative] process.") (alterations in original); *see also Wyandotte Nation v. Nat'l Indian Gaming Comm'n*, No. 04-1727, 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). The Indian gaming cases transferred back to the local district where the controversy exists have often involved decisions made by officials located in Washington, D.C., but those decisions primarily affected the localities where the cases where transferred. *See*, *e.g.*, *Towns of Ledyard*, 1995 WL 908244; *Santee Sioux*, Defs.' Ex. D; *Lac Courtes Oreilles Band of Lake Superior Chippewas Indians of Wisconsin*, Defs.' Ex. E. Although the final decision to disapprove the 2014 Compact Amendment was signed by a federal official in Washington, DC, this decision was based on facts and events arising within, and of concern primarily to, Wisconsin. Given the direct impact of the issues in this case – the disapproval of a compact amendment imposing severe revenue mitigation payments on a state and other Indian tribes and the alleged impact the disapproval has and will have on the FCPC's gaming operations – on the citizens and communities of the State of Wisconsin, the Eastern District of Wisconsin is the more appropriate forum for this action.

V. CONCLUSION

FCPC's chosen forum has no substantial connection to the subject matter of this suit. The Eastern District of Wisconsin, by contrast, is FCPC's home, where the claims arose, and

where the local interest is greatest. This case should be transferred to the Eastern District of Wisconsin.

Respectfully submitted this 21st day of May, 2015.

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