

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE ST. CROIX CHIPPEWA INDIANS OF)
WISCONSIN,)
))
Plaintiff,)
))
v.)
))
DIRK KEMPTHORNE, et al.,)
))
Defendants.)

Civ. No. 1:07-cv-02210-RJL

FEDERAL DEFENDANTS’ MOTION TO DISMISS

Defendants Dirk Kempthorne, in his official capacity as Secretary of the Interior, and Carl J. Artman, in his official capacity as Assistant Secretary – Indian Affairs, respectfully move pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), to dismiss the Complaint for Declaratory and Injunctive Relief (Doc. No. 1) filed December 7, 2007, by the St. Croix Chippewa Indians of Wisconsin (Plaintiff) for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. At this time, Plaintiff does not suffer any requisite injury under the U.S. Constitution’s Article III case and controversy requirement, and has failed to identify a final agency action as required to waive sovereign immunity under the Administrative Procedures Act, 5 U.S.C. § 500, et seq. Plaintiff’s claims are, thus, not ripe for judicial review and Plaintiff has no standing to assert its claims before this Court. Dismissal pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) is, therefore, appropriate.

Respectfully submitted this 21st day of December, 2007.

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/s/ Sara E. Culley

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2007, the **Federal Defendants' Motion to Dismiss** was filed with the United States District Court for the District of Columbia's electronic filing system, to which the following attorneys are registered to be noticed:

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/s/ Kristofor R. Swanson
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