IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RHONDA LEONA BROWN FLEMING and THE)
HARVEST INSTITUTE FREEDMEN	
FEDERATION, LLC,)
Plaintiffs,	
)
v.)
) Case No. 18-cv-02041 (TFH)
THE CHEROKEE NATION, CHEROKEE	
NATION ELECTION COMMISSION, BILL	
JOHN BAKER, RYAN ZINKE, Secretary of the Interior,	
and TARA MACLEAN SWEENEY, Assistant	
Secretary-Indian Affairs, U.S. DEPARTMENT OF THE	
INTERIOR,)
)
Defendants.)

FEDERAL DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(1), Ryan Zinke, Tara Maclean Sweeney, and the U.S. Department of the Interior ("Federal Defendants") hereby move to dismiss all claims against Federal Defendants for lack of jurisdiction. As further detailed in the attached memorandum, the Court lacks jurisdiction over these claims because Plaintiffs have alleged no injury-in-fact to support standing under Article III of the United States Constitution, nor are any speculative future injuries caused by Federal Defendants or redressable by a court order against them.

In the alternative, Federal Defendants move to dismiss all claims pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiffs' First Cause of Action fails to identify a valid constitutional cause of action, and also is not supported by plausible allegations that could sustain a claim for relief. Plaintiffs' Administrative Procedure Act claim does not identify a

discrete, legally required action that Interior has failed to take, as is required to state a claim under 5 U.S.C. § 706(1). For these reasons, the claims against Interior should be dismissed.

Respectfully submitted,

JEAN WILLIAMS Deputy Assistant Attorney General

Of Counsel:

Rebekah Krispinsky Charles R. Babst, Jr. Department of the Interior /s/ Amber Blaha
AMBER BLAHA, D.C. Bar No. 471008
SARA E. COSTELLO
Environment and Natural Res. Div.
U.S. Department of Justice
P.O. Box 7415, Ben Franklin Station
Washington, D.C. 20044
(202) 616-5515
Amber.blaha@usdoj.gov

DECEMBER 4, 2018