

UNITED STATES OF AMERICA  
CIVILIAN BOARD OF CONTRACT APPEALS

|                               |              |   |               |
|-------------------------------|--------------|---|---------------|
| _____                         |              | ) |               |
|                               |              | ) |               |
| CHUGACHMIUT,                  |              | ) |               |
|                               | Appellant,   | ) |               |
|                               |              | ) | CBCA 741-ISDA |
|                               |              | ) | and           |
|                               | v.           | ) | CBCA 742-ISDA |
|                               |              | ) |               |
| INDIAN HEALTH SERVICE,        |              | ) |               |
| DEPARTMENT OF HEALTH AND      |              | ) | May 29, 2007  |
| HUMAN SERVICES, UNITED STATES |              | ) |               |
| OF AMERICA,                   |              | ) |               |
|                               | Respondents. | ) |               |
| _____                         |              | ) |               |

**RESPONSE TO APPELLANT'S STAY REQUEST**

The Respondents do not object to the Appellant's request for a stay, but we disagree that the cases cited in the request are applicable to the Chugachmiut appeals at issue. In particular, the Appellant cited *Arctic Slope Native Association, Ltd. v. Leavitt, et al*, CBCA 189-ISDA and 289-ISDA through 297-ISDA, and *Pueblo of Zuni v. Untied States of America*, Case No. CV01-1046 WJ/WPL (D.N.M. May 22, 2007),<sup>1</sup> to support its request for a stay. Neither case, however, addresses an issue germane to the case at hand.

The Chugachmiut appeals at issue pertain to claims for fiscal years 1993 and 1994. As such, the Respondents will assert an affirmative defense under the doctrine of laches. The defense of laches is fact specific, but the parties might benefit from decisions in the following

<sup>1</sup>We note that *Pueblo of Zuni* was not decided at the time the Appellant submitted its request for a stay. Since the request was filed, however, the district court denied the motion for class certification.

two cases: *Metlakatla Indian Community v. IHS*, CBCA 181-ISDA and 279-ISDA through 282-ISDA (argued March 15, 2007); and, *Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians v. IHS*, CBCA 171-ISDA and 235-ISDA through 237-ISDA (argued March 22, 2007). Each of these cases address, among other things, the applicability of the doctrine of laches to claims brought under the Contract Disputes Act by a self-determination contractor seeking additional contract support costs from IHS. Therefore, the Respondents do not object to a stay pending the decisions regarding the application of the laches doctrine in the foregoing cases..

Finally, by not objecting to the request for a stay, the Respondents do not agree to be bound by the decisions in the foregoing cases to the extent the decisions are driven by facts that vary from those in the case at hand. In addition, the Respondents interpreted the order dated May 15, 2007, to not require submission of the appeal file until the requested stay has ended or otherwise been denied. If we have misinterpreted the order, please inform us promptly.

Respectfully submitted,



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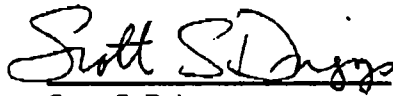
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**CERTIFICATE OF SERVICE**

I certify that on May 29, 2007, a copy of the foregoing Answer was served via first class mail  
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REMARKS

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