

CIVILIAN BOARD OF CONTRACT APPEALS

ASSINIBOINE AND SIOUX TRIBES OF)
THE FORT PECK RESERVATION)
P.O. Box 1027)
Poplar, Montana 59255)

IBCA Nos. 4809-2006, and 4821-
2006 through 4826-2006

Appellants,)

vs.)

MICHAEL O. LEAVITT, SECRETARY,)
U.S. DEPARTMENT OF HEALTH AND)
HUMAN SERVICES, CHARLES GRIM,)
DIRECTOR, INDIAN HEALTH SERVICE;)
UNITED STATES OF AMERICA)

Appellees.)

CIVILIAN BOARD OF
CONTRACT APPEALS

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MOTION TO EXTEND STAY OF PROCEEDINGS

The Assiniboine and Sioux Tribes of the Fort Peck Reservation (“the Tribes”), by and through its attorneys Sonosky, Chambers, Sachse, Miller & Munson, LLP, hereby moves to extend the stay in all proceedings in this appeal until the resolution of ongoing proceedings related to certification of a class in *Pueblo of Zuni v. United States of America*, Case No. CV 01-1046 WJ/WPL. In support of this motion, the Tribes assert as follows:

1. This protective appeal was filed on August 30, 2006 and amended on September 15, 2006. The same issues involved in this appeal are pending before the United States District Court for the District of New Mexico in a putative class action entitled *Pueblo of Zuni v. United States of America*, Case No. CV 01-1046 WJ/WPL. On September 5, 2006 and September 19, 2006, the Board granted a stay of all proceedings in this action pending a decision on certification of a class in *Zuni*. On May 22, 2007, the United States District Court for the District of New Mexico denied the motion for class certification. The plaintiffs in *Zuni* intend to file a

petition in the Tenth Circuit Court of Appeals under Federal Rule of Civil Procedure 23(f) for interlocutory review of that denial, and if granted, to appeal the denial of class certification.


2. The Appellant Tribes here are a putative class member in the *Zuni* case. The disposition of the petition for review in *Zuni* and, if granted, the appeal of the denial of class certification directly affects whether the Tribes will proceed in this forum with this appeal. Requiring the Tribes to litigate outside the class may be prohibitively expensive for the Tribes, an unnecessary use of the Board's resources, and contrary to class action principles that favor one lawsuit for a single wrongdoing against numerous victims. In the interests of judicial economy and efficiency, the Tribes request that the Board extend the stay in this appeal pending resolution of the aforementioned class certification issues so that the Tribes can participate in the *Zuni* class if and when that case is certified as a class action, but also preserve the right of the Tribes to proceed in this forum if a class action is not certified in *Zuni*.

For the foregoing reasons, the Tribes respectfully request that this Motion to Extend Stay of Proceedings be granted.

Respectfully submitted,

Date: June 5, 2007


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CERTIFICATE OF SERVICE

I hereby certify that I emailed and mailed by first-class mail, postage prepaid, a true and correct copy of the foregoing document to the following attorney of record this 5th day of June, 2007:

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