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**CIVILIAN BOARD OF CONTRACT APPEALS**

SOUTHEAST ALASKA REGIONAL	)	
HEALTH CONSORTIUM	)	
3245 Hospital Drive	)	
Juneau, AK 99801	)	
	)	CBCA Nos. _____ through _____
Appellant,	)	
vs.	)	Compact No. 58G950017
	)	Contract Nos. 243-88-0003, 243-93-0010,
MICHAEL O. LEAVITT, SECRETARY,	)	and 243-96-6006
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES; ROBERT G.	)	
McSWAIN, ACTING DIRECTOR, INDIAN	)	
HEALTH SERVICE; UNITED STATES OF	)	
AMERICA,	)	
	)	
Respondents.	)	
_____	)	

**PROTECTIVE NOTICE OF APPEAL  
 AND REQUEST FOR A STAY**

Southeast Alaska Regional Health Consortium (“SEARHC”), by and through its attorneys, Sonosky, Chambers, Sachse, Miller & Munson, LLP, hereby appeals from the June 12, 2007, October 17, 2007, October 26, 2007, and November 9, 2007 denials by Robert G. McSwain, Acting Director, DHHS, Indian Health Service, and Burt Humphrey, Senior Contracting Officer, Alaska Area Native Health Services, attached hereto as Exhibits 1 through 7, of multiple “contract support

cost” (CSC) damages claims submitted under Compact No. 58G950017 and Contract Nos. 243-88-0003, 243-93-0010, and 243-96-6006, which SEARHC properly and timely submitted under the Contract Disputes Act (41 U.S.C. §§ 601-612) (“CDA”) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. §§ 450–458aaa-18) (“ISDA”) as follows:

- (a) a September 28, 2005 damages claim under Contract Nos. 243-88-0003 and 243-93-0010 and Compact No. 58G950017, in the amount of \$518,681 plus interest, for FY 1995;
- (b) a September 28, 2005 damages claim under Contract Nos. 243-96-6006 and 243-93-0010 and Compact No. 58G950017, in the amount of \$1,616,482, plus interest for FY 1996;<sup>1</sup>
- (c) a September 28, 2005 damages claim under Compact No. 58G950017, in the amount of \$879,816, plus interest for FY 1997;
- (d) a September 28, 2005 damages claim under Compact No. 58G950017, in the amount of \$734,725, plus interest for FY 1998;
- (e) a September 27, 2005 damages claim under Compact No. 58G950017, in the amount of \$1,175,099, plus interest for FY 1999; and
- (f) a September 21, 2006 damages claim under Compact No. 58G950017, in the amount of \$1,713,740, plus interest for FY 2000.

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<sup>1</sup> On September 27, 2007, this Board docketed CBCA Appeal No. 921-ISDA, involving IHS’s June 15, 2007 denial of a portion of this claim. The IHS’s June 15, 2007 denial letter refers to “Contract No. 243-93-0010,” although the content of the denial letter instead refers in Part I to “contract 243-96-6006.” Although SEARHC’s Notice of Appeal references only Contract No. 243-93-0010, the same “Subject” reference as IHS’s denial letter, it encompasses claims also arising under Contract No. 243-96-6006. It does not, however, encompass Compact No. 58G950017.

The total face amount of the claims so submitted was \$6,638,543.

This appeal involves the failure of the Secretary of DHHS, through authority delegated to Robert G. McSwain, Acting Director of the Indian Health Service, to pay annually the full contract support costs to which SEARHC claims it is entitled by operation of law and by its contracts and compacts entered into pursuant to the ISDA.

The Board's jurisdiction is invoked pursuant to 25 U.S.C. §§ 450m-1(a) & (d) of the ISDA and 41 U.S.C. §§ 606 & 607(d) of the CDA.

SEARHC simultaneously with this Notice requests that the Board enter an Order staying all proceedings in this appeal pending this Board's decisions in *Arctic Slope Native Association, Ltd. v. Leavitt, et al.*, CBCA 190-ISDA, 289-ISDA through 297-ISDA; *Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians v. Indian Health Service, et al.*, CBCA 171-ISDA, 235-ISDA through 237-ISDA; and *Metlakatla Indian Community v. Indian Health Service, Dep't of Health and Human Services*, CBCA 181-ISDA, 279-ISDA through 282-ISDA.

No later than 30 days from receipt of the Board's notice of docketing or the expiration of any stay entered in this appeal, whichever is later, SEARHC intends to file a Complaint.

Respectfully submitted this 4<sup>th</sup> day of January 2008.

SONOSKY, CHAMBERS, SACHSE,  
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By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that I mailed, or caused to be mailed, a true and correct copy of the foregoing **PROTECTIVE NOTICE OF APPEAL AND REQUEST FOR A STAY** by certified mail, return receipt requested, to the following parties of record this 4 day of January 2008:

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Acting Director  
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Indian Health Service  
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