

CIVILIAN BOARD OF CONTRACT APPEALS

ST. CROIX CHIPPEWA INDIANS OF
WISCONSIN,
24663 Angeline Avenue
Webster, Wisconsin 54893

Appellant,

vs.

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

Appellees.

IBCAs Nos. 4810-2006 through
IBCA 4818-2006

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CIVILIAN BOARD OF
CONTRACT APPEALS

MOTION TO EXTEND STAY OF PROCEEDINGS

The St. Croix Chippewa Indians of Wisconsin (“the Tribe”), by and through its attorneys Sonosky, Chambers, Sachse, Miller & Munson, LLP, hereby moves to extend the stay in all proceedings in this appeal until October 31, 2007. In support of this motion, the Tribe asserts as follows:

1. This appeal was filed on September 1, 2006. On September 5, 2006, the Board, per Judge Parrette, granted a stay of proceedings until a decision on a motion for class certification was made by the United States District Court for the District of New Mexico in a putative class action on related issues entitled *Pueblo of Zuni v. United States of America*, Case No. CV 01-1046 WJ/WPL. On May 22, 2007, the district court denied the motion for class certification.

2. By order dated June 21, 2007, the Board extended the stay of proceedings in this case pending disposition by the Tenth Circuit Court of Appeals of a petition for interlocutory

review of the class certification determination in the *Zuni* litigation. That petition was denied on June 25, 2007.

3. In its order of June 21, 2007 granting the motion for a continued stay based on the *Zuni* proceedings, the Board noted that this case “would most likely be stayed in any event pending decisions in other cases before this Board,” Order at 1, citing *Arctic Slope Native Association, Ltd. v. Leavitt, et al.*, CBCA Nos.190-ISDA and 289 through 297-ISDA (“ASNA”), *Metlakatla Indian Community v. IHS*, CBCA Nos. 181-ISDA and 279-ISDA through 282-ISDA (“Metlakatla”), and *Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians v. IHS*, CBCA Nos. 179-ISDA and 235 through 237-ISDA (“Coos”).

4. Those three cases, as lead appeals, each present numerous issues, both procedural and substantive, that are directly relevant to the appeal in this case and in other pending related cases. These common issues include the Government’s claim that the Board lacks jurisdiction to hear these appeals because they have not been timely filed, the Government’s claim that the Board lacks jurisdiction over the claims asserted for some years because of a statutory cap on contract support cost payments imposed by Congress in those years, and the Appellants’ claim that judgment should be entered for Appellants under the law set forth by the Supreme Court in *Cherokee Nation v. Leavitt*, 543 U.S. 631 (2005). The ASNA, Coos and Metlakatla cases have each been fully briefed and argued on these important common issues, and are awaiting decision by the Board. The rulings to be made by the Board in these three lead appeals will almost certainly be directly relevant to the other CSC appeals currently pending before the Board, including this appeal.

5. By Orders dated July 24, 2007, the Board *sua sponte* granted stays of proceedings until October 31, 2007 in several related pending appeals, all of which have issues identical to

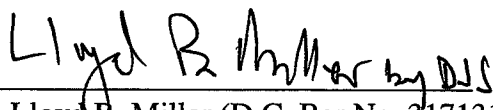
the issues in this appeal. *See, e.g., Choctaw Nation v. Leavitt*, CBCA Nos. 198-ISDA and 329 through 336-ISDA, *Chickasaw v. Leavitt*, CBCA Nos. 196-ISDA and 311 through 320-ISDA; *Citizen Potawatomi Nation v. Leavitt*, CBCA Nos. 197-ISDA and 321 through 328-ISDA; *Kodiak Area Native Association v. Leavitt*, CBCA Nos. 618 through 625-ISDA; *Assiniboine and Sioux Tribes of the Fort Peck Reservation v. Leavitt*, CBCA Nos. 192-ISDA, 195-ISDA and 306 through 310-ISDA. In each case, and with reference to the *ASNA*, *Metlakatla* and *Coos* appeals, the Board noted that, “Those cases have similar legal issues and motions for summary judgment are pending in those cases.” Order at 1. On that basis, and for each appeal, “the stay in the instant cases is extended until October 31, 2007.” *Id.*

6. For the same reasons, the same stay of proceedings until October 31, 2007 should be entered in this appeal. The imminent resolution of crucial common issues in the lead appeals will manifestly assist the parties in this appeal in determining how to proceed, and will avoid duplication of discovery and briefing.

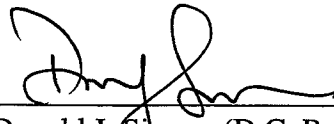
For the foregoing reasons, the Tribe respectfully requests that this Motion to Extend Stay of Proceedings be granted, and that a stay of proceedings until October 31, 2007 be entered.

Respectfully submitted,

Date: July 31, 2007

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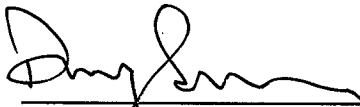
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ATTORNEYS FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that I emailed and mailed by first-class mail, postage prepaid, a true and correct copy of the Motion to Extend Stay of Proceedings, and Proposed Order, to the following attorney of record this 31st day of July, 2007:

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