

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PUEBLO OF ZUNI,)
)
 Petitioner,)
)
 v.) No. 07-503
)
 UNITED STATES OF AMERICA,)
 et al.,)
)
 Respondents.)
 _____)

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
PETITION FOR PERMISSION TO APPEAL PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 23(f)**

Petitioner Pueblo of Zuni respectfully notifies the Court of an Order issued June 21, 2007, by the Civilian Board of Contract Appeals in *St. Croix Chippewa Indians of Wisconsin v. Dep't of Health and Human Services*, No. CBCA 193-ISDA, and 298-ISDA through 305-ISDA (copy attached). The Order confirms Petitioner's argument, *see* Petition at 20; Reply at 1, that other Tribal contractors filing protective appeals prefer to be in the class. Recognizing this fact, other tribunals will stay further proceedings in cases challenging the Government's failure to pay contract support costs, pending the outcome of this Petition and plenary review in this Court of the district court's denial of class certification. The Board's action, repeated in

other cases, also indicates that, in the event the Petition is denied, such other proceedings will instead go forward, undermining Rule 23's goal of efficiency.

Respectfully submitted this 21st day of June 2007.

SONOSKY, CHAMBERS, SACHSE,
ENDRESON & MIELKE, LLP

/s/ Lloyd B. Miller

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Certificate of Compliance With Fed. R. App. P. 5(c) and 10th Cir. Rule 32(a)

This brief complies with the type-volume limitation of Fed. R. App. P. 5(c) and the typeface requirements of Fed. R. App. P. 32(a)(5) and 10th Cir. Rule 32(a) because this notice has been prepared in a proportionally spaced typeface using WordPerfect Office 12 in Times New Roman 14.

Dated this 21st day of June 2007.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF PETITION FOR PERMISSION TO APPEAL PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 23(f)** was served on the following attorneys or parties of record this 21st day of June 2007 via electronic mail, and via express delivery on June 22, 2007.

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Dated this 21st day of June 2007.

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CERTIFICATION OF DIGITAL SUBMISSION

The undersigned hereby certifies as follows:

1. All required privacy redactions have been made, and with the exception of those redactions, every document submitted in Digital Form or scanned PDF format is an exact copy of the written document filed with the Clerk, and

2. The digital submissions have been scanned for viruses with the most recent version of a commercial virus-scanning program, E-trust Antivirus, version 7.1.192, a program which is automatically updated when new releases are made, and according to the program, the digital submissions are free from viruses.

Dated this 21st day of June 2007.

**SONOSKY, CHAMBERS, SACHSE,
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**UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS**

ORDER: June 21, 2007

CBCA 193-ISDA, 298-ISDA, 299-ISDA, 300-ISDA, 301-ISDA, 302-ISDA
303-ISDA, 304-ISDA, 305-ISDA

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN,

Appellant,

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Respondent.

Donald J. Simon, Lloyd Benton Miller, Melanie Baca Osborne, of Sonosky, Chambers, Sacshé, Endreson & Perry, LLP, Washington, DC, counsel for Appellant.

Fred R. Garzino, Office of the General Counsel, Department of Health and Human Services, Chicago, IL, counsel for Respondent.

Order Granting Motion to Extend Stay of Proceedings

Appellant seeks an extension of the stay granted in the fall of 2006 by Judge Bernard Parrette until a decision on the Motion for Class Certification issued from the United States District Court of New Mexico in *Pueblo of Zuni v. United States of America*, Civil No. 01-1046 WJ/WPL. That decision, filed May 22, 2007, denied class certification, but an interlocutory petition for permission to appeal that decision has been taken.

In the instant case, the Government has pending a motion to lift the stay in order that its Motion to Dismiss might be heard. However, since the case would most likely be stayed in any event pending decisions in other cases before this Board¹, Appellant's motion to

¹ In the appeals of *Arctic Slope Native Association, Ltd.*, CBCA 289-297-ISDA, *Confederated Tribes of Coos Lower Umpqua*, CBCA171-ISDA, CBCA 235-237-ISDA, and *Metlakatla Indian Community*, CBCA 279-282-ISDA.

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Extend Stay of Proceedings is hereby GRANTED. The appeal is retroactively stayed from May 22, 2007 until the Tenth Circuit Court of Appeals acts on the petition, and, if granted, until the Tenth Circuit acts on the appeal of the District Court's class certification determination.

Candida Steel

Candida S. Steel
Board Judge