

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PUEBLO of ZUNI,)	
)	
Plaintiff,)	
)	
v.)	No. CIV 01-1046 LH/WPL
)	
UNITED STATES of AMERICA;)	
MICHAEL O. LEAVITT, Secretary of the)	
United States Department of Health and)	
Human Services; and CHARLES W. GRIM,)	
Director of the Indian Health Service,)	
United States Department of Health and)	
Human Services,)	
)	
Defendants.)	

**DEFENDANTS’ MOTION TO DISMISS IN PART
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendants, by and through undersigned counsel, hereby move to dismiss certain claims from the First Amended Complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). The law and facts supporting this Motion are set forth in the accompanying Memorandum and Exhibits. A proposed order is also attached for the Court’s consideration and convenience. Upon conferring, counsel for Plaintiff has indicated that he reserves the right to oppose this Motion. In addition, pursuant to Local Rule 10.5, counsel for Plaintiff has indicated that he has no opposition to the length of exhibits filed in support of this Motion.

Respectfully submitted,

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Counsel for Defendants

Dated: May 23, 2005

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2005, I sent, via electronic mail, a copy of Defendants' Motion to Dismiss in Part for Lack of Subject Matter Jurisdiction, with Memorandum in Support, Exhibits in Support, and a proposed order, addressed to:

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