

COPY

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

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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PUEBLO OF ZUNI, on behalf of itself )  
 and all others similarly situated, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA; )  
 MICHAEL O. LEAVITT, Secretary of the )  
 United States Department of Health and )  
 Human Services; and )  
 CHARLES W. GRIM, Interim Director of the )  
 Indian Health Service, United States )  
 Department of Health and Human Services, )  
 )  
 Defendants. )  
 )  
 )

Case No. CIV 01-1046LH/LFG

**PLAINTIFF'S MOTION TO LIFT  
STAY OF CASE ENTERED  
DECEMBER 28, 2001**

Plaintiff Pueblo of Zuni, by and through undersigned counsel, respectfully moves this Court to lift the stay in this case this Court entered by its Order of December 28, 2001.

As grounds therefore, Movant states:

1. The Court entered a stay in this case upon the Parties' joint motion in order to await the outcome of *Cherokee Nation of Oklahoma and Shoshone-Paiute Tribes v. Thompson*, 311 F.3d 1054 (10<sup>th</sup> Cir. 2002). The Parties so moved because most of the issues presented in the instant proceeding are also present in that case. The Court subsequently extended the stay to include litigation before the United States Supreme Court.

2. On March 1, 2005, the United States Supreme Court issued its decision in the Supreme Court proceeding in *Cherokee Nation of Oklahoma v. Leavitt*, 543 U.S. \_\_\_, 2005 WL 464860 (March 1, 2005) reversing the Tenth Circuit and ruling in favor of the plaintiff Tribes therein.

3. There is no further reason for a stay of proceedings in this case, and the Supreme Court's decision in *Cherokee Nation* constitutes good cause for now lifting the stay.

4. Undersigned is authorized to state that the defendants do not oppose the granting of this motion.

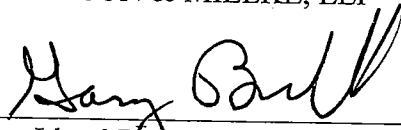
A proposed Order has been attached to this Motion.

Respectfully submitted this 9<sup>th</sup> day of March 2005.

Attorneys for Plaintiff

SONOSKY, CHAMBERS, SACHSE,  
ENDRESON & MIELKE, LLP

By



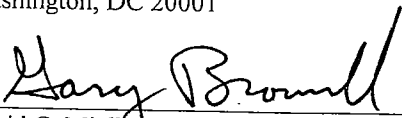
Lloyd B. Miller

For: David C. Mielke

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Albuquerque, NM 87102  
505-247-0147

I hereby certify that I mailed, or caused to be mailed, a true and correct copy of the foregoing document to the following attorneys or parties of record this 9th day of March 2005:

Rachel J. Hines  
Federal Programs Branch, Room 7314  
Civil Division  
20 Massachusetts Avenue, NW  
Washington, DC 20001



For David C. Mielke