

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**RAMAH NAVAJO CHAPTER,
OGLALA SIOUX TRIBE, and PUEBLO
OF ZUNI**, for themselves, and on behalf of
a Class of others similarly situated,

Plaintiffs,

v.

RYAN ZINKE, Secretary of the Interior, *et
al.*,

Defendants.

No. 90-cv-957-JAP/KBM

**ORDER AMENDING VARIOUS ORDERS REGARDING SUBMISSION OF
CLAIM FORMS BY CLASS MEMBERS ASSOCIATED WITH NO-LONGER
EXISTING CLASS MEMBERS**

On October 3, 2017, Plaintiffs filed the UNOPPOSD [sic] MOTION TO AMEND ORDER OF AUGUST 17, 2016 (DOC. 1362) AND CERTAIN RELATED ORDERS REGARDING DISTRIBUTION OF SHARES OF NO LONGER EXISTING CLASS MEMBERS (Doc. No. 1564) (Motion).¹ A hearing on the Motion was held November 7, 2017 at which Michael P. Gross, Lloyd B. Miller, Paul E. Frye (in person), and Dan MacMeekin (by phone) (together, Class Counsel) represented Plaintiffs; and James D. Todd (by phone) represented Defendants. Class Counsel clarified certain points and specified prior Orders that Class Counsel propose be amended. Class Counsel explained how language in the FINAL SETTLEMENT AGREEMENT (Doc. No. 1306-1) (FSA)

¹ At the hearing, Class Counsel clarified that the Motion was being presented under Fed. R. Civ. P. 23(d)(1) and (2).

and the law support the relief requested in the Motion. The Defendants concur in the Motion.

The Court finds Section II.A.1 of the FSA does not require that a Class Member, who is entitled to be paid a portion of a non-existent Class Member's share of the Net Settlement Amount, submit an additional Claim Form for the additional proportionate share if the Class Member had already filed a Claim Form for its original share of the Net Settlement Amount.

The Court further finds that a Class Member's original Claim Form submitted to claim its original share of the Net Settlement Amount also constitutes a claim for its share "of any residual balance in the Reserve Account" under FSA Section II.T; therefore, no additional Claim Form is required as a precondition to disbursement of any Class Member's share of the Reserve Account.

IT IS ORDERED that

1. The UNOPPOSD [sic] MOTION TO AMEND ORDER OF AUGUST 17, 2016 (DOC. 1362) AND CERTAIN RELATED ORDERS REGARDING DISTRIBUTION OF SHARES OF NO LONGER EXISTING CLASS MEMBERS (Doc. 1564) is granted;

2. The Court's prior Orders entered at Doc. Nos. 1433, 1496, 1499, 1500, 1515, 1516, 1517, 1536, 1555, 1556, 1566 and 1574 are amended to provide that no additional Claim Form is required as a precondition to disbursement of a supplemental payment to a Class Member (a) who previously filed an approved Claim Form for its original share of the Net Settlement Amount and (b) who, as shown in one or more of the

Orders, has become eligible to receive an additional payment as an authorizing Tribe of a Class Member that no longer exists.

3. In the event the Court enters an order under FSA Section VIII.C. 5 approving a distribution of Reserve Account funds to the Class, no additional Claim Form will be required under Section VIII.D.3 as a precondition to disbursement of an authorized share of the Reserve Account funds to any Class Member.


SENIOR UNITED STATES DISTRICT JUDGE