

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

**RAMAH NAVAJO CHAPTER,
and OGLALA SIOUX TRIBE,**
for themselves and on behalf of a
Class of persons similarly situated,

Plaintiffs,

vs.

CIV No. 90-0957 LH/WWD ACE

GALE NORTON, Secretary of the
Interior, et al.,

Defendants.

**PLAINTIFFS' AMENDED MOTION FOR
PARTIAL SUMMARY JUDGMENT OR IN THE ALTERNATIVE
TO STRIKE DEFENSE**

Plaintiffs Ramah Navajo Chapter and Oglala Sioux Tribe, for themselves and on behalf of the Class, by and through their undersigned counsel, respectfully move under Rule 56, Federal Rules of Civil Procedure, for judgment in their favor declaring that annual appropriations limitations for FY 1994 forward¹ inserted by Congress as to the amount which the Secretary may use to reimburse contract support costs ("CSC") under contracts with Class members entered pursuant to The Indian Self-Determination And Education Assistance Act of 1975, as amended, 25 U.S.C. Section 450 through 450n ("ISDA"), do not diminish or eliminate (either alone or coupled with ISDA) the obligation of the United States to reimburse CSC at the full level mandated by ISDA otherwise owed to Plaintiffs.

¹ The appropriations Acts at issue are: Public Law 103-138, Public Law 103-272, Public Law 104-134, Public Law 104-208, Public Law 105-83, Public Law 105-277, Public Law 106-113, and Public Law 106-291. These are the appropriation Acts for the years in which Congress inserted the words "not to exceed" before stated amounts which were appropriated to the Secretary for use in paying contract support.

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The motion applies to the reserved claims not yet settled for the years FY 1994 and forward, which include the original cause of action upheld in *Ramah Navajo Chapter v. Lujan*, 112 F.3d 1455 (10th Cir. 1997), and the Class's second cause of action added by amendment and by complaint in intervention [Docket Nos. 352 and 353].

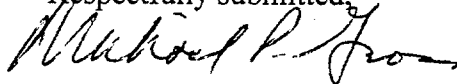
The motion relies upon the materials accompanying the original motion filed February 23, 2000 [Docket No. 397], Attachments A-H, and additional materials accompanying this amended motion, Attachments I-S. The motion also incorporates by reference the Plaintiffs' Attachments to their Motion for Partial Summary Judgment filed December 18, 1991 [Docket No. 58].

This amended motion replaces the motion filed February 23, 2000 [Docket No. 397] which has not been answered. The amended motion is being filed as of right under Rule 15(a), Federal Rules of Civil Procedure and is accompanied by a Memorandum of Law.

There are no genuine issues as to material facts and Movants are entitled to judgment as a matter of law. Defendants' counsel has refused to concur in this motion.

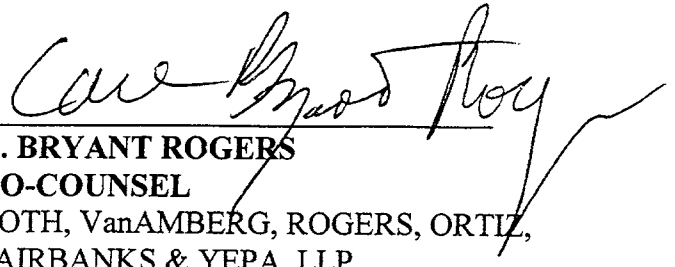
For these reasons, Plaintiffs pray that they be granted partial summary judgment declaring that the obligation of the United States to reimburse full CSC to the Class is not diminished or eliminated by the limitations in or insufficiencies of appropriations for FY 1994 and forward and for such other and further relief as to which the Court may deem the Plaintiffs entitled.

Respectfully submitted,



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