

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

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUL 18 2000

R. W. ...
CLERK

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

Plaintiffs,

vs.

BRUCE BABBITT, Secretary of the
Interior; KEVIN GOVER, Assistant
Secretary of the Indian Affairs; ROBERT J.
WILLIAMS, Acting Inspector General;
U.S. DEPARTMENT OF THE INTERIOR;
and THE UNITED STATES OF AMERICA,

Defendants.

CIV No. 90-0957 LH/WWD

**ORDER FINALLY APPROVING
AGREEMENT WITH
DCA-COGNIZANT TRIBES
AND APPROVING CLASS
DISTRIBUTION ORDER NO. 3**

THIS MATTER came before the Court on the stipulated motion of the parties and of certain contractors referred to as "DCA-cognizant agency tribes," meaning those former members of the class certified in 1993 (except the Red Lake Band of Chippewa Indians which entered into a separate settlement with the class) who were excluded from the class for distribution purposes under the Partial Settlement Agreement approved May 14, 1999. Pursuant to this Court's Order entered September 28, 1999, on February 2, 2000, a Notice was published in the Federal Register describing the terms of an agreement dated February 9, 1999, entered into by and between counsel for the class and Lloyd B. Miller of the law firm of Sonosky, Chambers, Sachse, Miller & Munson, on behalf of certain DCA-cognizant agency tribes. The Notice

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advised the Class that, upon final approval, DCA-cognizant tribes will be eligible to receive allocations from the Reserve Account established by ¶ 7.d of the Partial Settlement Agreement on the same basis as existing Class Members, provided the total amount to be paid the DCA-cognizant agency tribes not exceed \$900,000. No objections were received by the Court in response to the publication of the Notice, and the previously scheduled March 15, 2000 hearing on any objections was accordingly vacated.

The Court being fully apprised in the premises, hereby:

ORDERS, ADJUDGES AND DECREES THAT the Motion for Entry of Stipulated Order Regarding Eligibility of "DCA" Tribes for Allocations from the Reserve Account established by ¶ 7.d of the Partial Settlement Agreement is hereby granted, and the settlement agreement reached between the parties and counsel for certain DCA-cognizant tribes dated February 9, 1999, is hereby APPROVED. Pursuant to the terms of the settlement,

1. The allocations to individual DCA-cognizant agency tribal contractors will be calculated as though each were a class member following the procedures (insofar as relevant) set out in Appendix D of the Partial Settlement Agreement and any amendment thereto.
2. The amount of the individual allocations determined under subparagraph 1 will be paid to each DCA tribal contractor from the Reserve Account established under par. ¶7.d of the Partial Settlement Agreement and par. ¶7.a.iii and section 17 of Appendix D of the Partial Settlement Agreement, after the Red Lake claim which is the subject of the Court's order of

January 27, 1999, and all costs and expenses of distribution, have been paid.

3. The total combined payment to the DCA tribal contractors shall not exceed \$900,000, and in the event the total combined allocations to such tribal contractors exceeds that amount, each shall receive a proportionate share based on its individual allocation.
4. After the DCA tribal contractor's allocations are calculated and paid under the foregoing provisions and procedures, should there be any "remaining Reserve Funds" under ¶ 17 of Appendix D of the Partial Settlement Agreement which are eligible for distribution to the class under subsection (a) of said ¶ 17, DCA tribal contractors shall be treated for purposes of ¶¶ 17, 18 and 19 of said Appendix D as if they were members of the Class and as if their cognizant agency for the rate negotiations were the U.S. Department of the Interior for FY 1989 through 1993, inclusive.
5. Nothing in this order shall be construed to recognize or constitute any of the DCA tribes or entities as Class members for any other purposes and this order shall pertain solely to the allocations for DCA tribes under the separate settlement approved herein. This order shall not be construed to entitle DCA tribes or entities to shares or allocations from the proceeds of any future judgment or settlement in this case which may be entered into

by the class with the Defendants concerning remaining claims in this case or claims which may be raised in the future.

6. By entry of this order DCA tribes and entities receiving shares from the Reserve Account shall be deemed to have released and discharged the Defendants to the same extent as Plaintiffs have released them pursuant to Paragraph 3.b of the Partial Settlement Agreement and shall be deemed to have released and discharged Plaintiffs and Class Counsel for any and all claims arising from the matters which are the subject of the Stipulated Motion.

FURTHER ORDERS, ADJUDGES AND DECREES THAT:

Plaintiffs' counsel are authorized and directed to send Class Distribution Notice No. 3 regarding the participation of "DCA" tribal contractors in the Partial Final Settlement substantially in the form attached to the parties' Motion for Entry of Stipulated Order Regarding Eligibility of "DCA" Tribes for Allocations from the Net Common Fund. The notice shall be sent to all those persons and entities Plaintiffs reasonably believe may qualify for an allocation, as specified in this Order, as "DCA" tribal contractors. Publication of this notice in the Federal Register is not required.

SO ORDERED this 5th day of July, 2000.



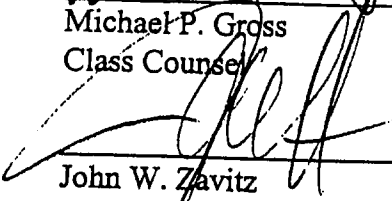
UNITED STATES DISTRICT JUDGE

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SUBMITTED AND APPROVED BY:



Michael P. Gross
Class Counsel



John W. Zavitz
Counsel for Defendants



Lloyd Benton Miller
Counsel for Certain DCA-Cognizant Tribes

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