

**IN THE 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 persons similarly situated,**

Plaintiffs,

vs.

No. CIV 90-0957 LH/WWD ACE

**GALE NORTON, Secretary of the
Interior, in her official capacity,
UNITED STATES DEPARTMENT OF
INTERIOR, NEIL McCALEB, Assistant
Secretary of Interior for Indian Affairs,
in his official capacity, EARL DEVANEY,
Inspector General, in his official capacity,
and UNITED STATES OF AMERICA,**

Defendants.

**CLASS DISTRIBUTION NOTICE NUMBER 1
SECOND PARTIAL SETTLEMENT (PSA-2)**

INTRODUCTION

With this notice, Class Counsel are commencing distribution of the Second Partial Settlement (PSA-2) paid by Defendants on March 21, 2003. The Net Common Fund to be distributed pursuant to this notice is \$22,230,594.49. A second distribution of the remaining balance in the Reserve Account (to which all interest accruals of the Net Common Fund and Reserve Account are deposited) will occur later. PSA-2 settles remaining claims for three years only: FY 1992, FY 1993, and FY 1994.

The proceeds of PSA-2 were deposited pursuant to Court Order in the Court Registry Investment System (CRIS) administered by the Clerk of the United States District Court for the Southern District of Texas (Houston). The Class has engaged the Albuquerque firm of REDW, LLC, as the Independent CPA (Settlement Administrator) to assist in the distribution of the Net Common Fund of these settlement proceeds. Class Counsel have also engaged Kenton Keckler, CPA to serve as

Class Monitor. As such, Mr. Keckler has responsibility for confirming that the Independent CPA's implementation of the PSA-2 is in conformity with the provisions of the PSA-2 agreement as approved by the court.

The purpose of this Notice is:

- To publish a provisional list of Class Members who may be eligible for an allocation from the Net Common Fund and to provide procedures to challenge the stated amount of BIA expenditures contained in the attachment.
- To give notice to any tribe or tribal entity not on the provisional list of procedures it must follow in order to challenge omission from the list.
- To give notice to all Class Members of the requirement to submit a timely Claim Form with requested documents and the deadline for submitting Claim Forms to the Settlement Administrator.
- To outline procedures for Class Members who may wish to relinquish their shares in this settlement.

Any conflict between this Notice and the Second Partial Settlement Agreement (PSA-2) will be resolved in favor of the Settlement Agreement. The entire Second Partial Settlement Agreement including Appendix F may be found on the class website at

www.rncsettlement.com.

I. HOW ARE SHARES CALCULATED?

The allocations will be made on the basis of each Class Member's actual credited BIA expenditures (not including construction expenses exceeding \$100,000) as shown in the Claim Form compared with those of the entire Class. To be eligible for a full allocation covering all three

settlement years, each claimant must certify under penalty of perjury that it meets the criteria for eligibility for all three years. If the claimant meets the criteria for only two years, it will receive a two-thirds allocation. If it meets the criteria for only one year, it will receive a one-third allocation. See Appendix F.

II. WHO IS ELIGIBLE FOR A SHARE IN THIS SETTLEMENT?

A. Only Class Members which had a P.L. 93-638 contract or compact with the Bureau of Indian Affairs during any of the settlement years, FY 1992, FY 1993, or FY 1994 are eligible to share in the proceeds of this settlement. Class Members who also had a school grant under the Tribally Controlled School Grants Act, 25 U.S.C. §2001 *et seq.* may include their school grant amount in the share calculation only if they had an indirect cost rate and the grant was included in the direct cost base for that rate. School grantees who did not have a P.L. 93-638 contract are not Class Members.

B. To qualify for a share in PSA-2, each Class Member must submit a Claim Form, duly executed and notarized, to the Settlement Administrator within sixty (60) days of publication of this Notice in the Federal Register.

III. PROVISIONAL LIST OF CLASS MEMBERS AND PROCEDURE FOR CORRECTING YOUR ENTRY.

Attached to this Notice is a list of tribes and tribal entities compiled by Class Counsel who may be members of the Class eligible for an allocation from the Net Common Fund. This list is also published on the Class website www.rncsettlement.com and is or will be published in the Federal Register. The website contains important pleadings, other documents, and notices previously sent to the Class as well as the complete Second Partial Settlement Agreement including Appendix F.

A. IF YOU ARE ON THE LIST BUT WISH TO DISCLAIM A SHARE OF THIS SETTLEMENT.

There are no opt outs and the period for opting out of the class action has passed. If your tribe or tribal organization does not wish to receive a share of this settlement, this may be achieved by so indicating on the attached claim form or by sending a letter to the Settlement Administrator disclaiming any share of this settlement. Tribes which so indicate will remain class members but will be removed from the list used in future mailings regarding this settlement.

B. IF YOU ARE NOT ON THE LIST BUT ARE A CLASS MEMBER WHO WISHES TO BE INCLUDED OR WHO WISHES TO CHALLENGE THE PROVISIONAL LIST DATA FOR YOUR ENTITY.

Any tribal entity which does not appear on the provisional list or wishes to challenge the accuracy of its data on the provisional list and which believes it is a Class Member eligible to receive a share of the Net Common Fund must file a statement certifying under oath that: (1) it had a Public Law 93-638 contract or self-governance compact with the BIA during any one or more of the settlement years FY 1992 through FY 1994. The response must state that the information provided is true and correct to the best of the signatory's knowledge, information, and belief. The statement must also be accompanied by documentary proof (e.g., "Schedule of Federal Financial Assistance" from your annual single agency audit or alternative documentation such as contract award documents and IDC agreements, etc.) showing existence of the elements and amounts for eligibility under Part I of this Notice for each year the entity claims to have had such contracts or compacts. The completed claim form and supporting documentation must be received by REDW, LLC no later than sixty (60) days after the date of publication of this Notice in the Federal Register and must also be served on Plaintiffs' and Defendants' Counsel within the same period. Addresses for Class counsel are set out at the end of this notice. Defendant's counsel's address is:

Karen K. Richardson, Esq.
United States Department of Justice, Civil Division
Post Office Box 883, Benjamin Franklin Station
Washington, DC 20044

Challenges to inclusion or exclusions from the provisional list by other Class Members are not permitted.

IV. YOU MUST TIMELY FILE A CLAIM FORM TO SHARE IN THIS SETTLEMENT.

EACH CLASS MEMBER MUST SUBMIT TO THE SETTLEMENT ADMINISTRATOR THE ATTACHED CLAIM FORM DULY EXECUTED AND NOTARIZED BY THE RESPONSIBLE OFFICIAL PLUS SUCH FINANCIAL INFORMATION ABOUT ITS FEDERAL FUNDING EXPENDITURES FOR EACH OF THE SETTLEMENT YEARS AS MAY BE REQUIRED ON THE FORM.

THE PREFERRED INFORMATION TO BE ATTACHED TO THE CLAIM FORM IS YOUR “SCHEDULE OF FEDERAL FINANCIAL ASSISTANCE” IN YOUR ANNUAL SINGLE AGENCY AUDIT FOR THE RELEVANT YEAR OR YEARS.

IF THE SFFA IS NOT ON FILE AND CANNOT BE LOCATED, ALTERNATIVE DOCUMENTATION MAY BE SUBSTITUTED IF ACCEPTABLE TO THE SETTLEMENT ADMINISTRATOR.

AUDIT DATA RECEIVED FROM CLASS MEMBERS WILL BE KEPT CONFIDENTIAL PURSUANT TO PARAGRAPH 9(C) OF APPENDIX D OF THE FIRST PARTIAL SETTLEMENT AGREEMENT (PSA-1), EXCEPT FOR PUBLICATION OF BIA FUNDING EXPENDITURES DATA IN CONNECTION WITH THIS DISTRIBUTION AS AUTHORIZED BY APPENDIX F, PSA-2. ENTITIES FOR WHOM THE REQUIRED DOCUMENTS ARE NOT RECEIVED WILL NOT RECEIVE AN ALLOCATION.

IF THE COURT, ON PETITION, LATER FINDS THAT THE METHODOLOGY FOR DISTRIBUTION OF PSA-2 IS UNWORKABLE, TOO COSTLY, OR NOT BENEFICIAL TO THE INTERESTS OF THE CLASS, SOME OTHER METHOD MAY BE SUBSTITUTED AFTER NOTICE AND AN OPPORTUNITY FOR HEARING OBJECTIONS.

After expiration of the response period set forth in this Notice, the Settlement Administrator will determine the Final List of Class Members who have been determined to be eligible for an allocation under PSA-2. The Notice accompanying this “Final Share Percentage Schedule” (FSPS) will provide a final means for challenging the share percentage stated in the FSPS.

UNLESS CLASS MEMBERS TIMELY SUBMIT A CLAIM FORM AND PROVIDE NECESSARY DOCUMENTATION TO THE SETTLEMENT ADMINISTRATOR, THEY WILL NOT RECEIVE A SHARE OF THE NET COMMON FUND.
THE CLAIM FORM MUST BE MAILED TO:

REDW, LLC
Ramah Navajo Chapter Class Action Settlement Administrator
6401 Jefferson NE
Post Office Box 93659
Albuquerque, New Mexico 87199-3659
1-888-726-9418
website: www.rncsettlement.com
email: rncsettlement@redw.com

**QUESTIONS REGARDING THIS NOTICE SHOULD BE
DIRECTED TO THE SETTLEMENT ADMINISTRATOR
AT THE ABOVE ADDRESS
OR TO CLASS COUNSEL BELOW.**

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