

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FILED
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DISTRICT OF NEW MEXICO

SEP - 9 2002

R. J. [Signature]
CLERK

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.

**JOINT MOTION FOR PRELIMINARY AND FINAL APPROVAL
OF SECOND PARTIAL SETTLEMENT AGREEMENT
AND FOR ORDER AUTHORIZING CLASS NOTICE**

All parties, by and through their respective counsel, jointly move under Rule 23, Federal Rules of Civil Procedure, for an order granting preliminary and final approval of the Second Partial Settlement Agreement dated September 9, 2002, and for an order authorizing and directing the mailing and publication of notice to class members.

In support of this motion the parties represent as follows:

1. The proposed Second Partial Settlement Agreement settles all Indirect Contract Support Costs Claims arising prior to FY 1994 and all Direct Contract Support Costs Claims arising prior to FY 1995. These are the so-called "lump sum years."

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1. The proposed Second Partial Settlement Agreement settles all Indirect Contract Support Costs Claims arising prior to FY 1994 and all Direct Contract Support Costs Claims arising prior to FY 1995. These are the so-called "lump sum years."

2. The proposed settlement is the product of years of arms-length negotiations, including face-to-face sessions and telephonic, email, and letter communications.

3. In the course of settlement negotiations, the parties retained former Senator George L. Mitchell in the fall of 2000. The parties conducted three mediation sessions in Washington, D.C. with Senator Mitchell and his assistant Neil Proto in November 2000, December 2000, and January 2001, and a final two-day session in June 2001, in Los Angeles. Following these mediation sessions, the parties negotiated final language on the proposed Second Partial Settlement Agreement through multiple telephone conferences, and several face-to-face sessions in Washington, D.C. and Santa Fe, New Mexico.

4. During the negotiation process, the parties exchanged drafts, position papers, and detailed information in the nature of informal discovery. Much of this activity concerned the development and distribution of a survey of a sample of Tribes relating to the Direct Contract Support Costs Claim.

5. Plaintiffs and Defendants retained experts to assist in the analysis of the Direct Contract Support Costs Claim and the so-called "Shortfall Claim." The expert opinions were exchanged in the aid of settlement.

6. This Second Partial Settlement Agreement resolves only claims for the "lump sum years." The central legal issue for the non-settled claims for the "cap" years, those years after FY 1994 for indirect contract support costs and after FY 1995 for direct contract support costs, is presently before the Court in the form of Plaintiffs' Motion for Partial Summary Judgment and Defendants' Cross-Motion for Partial Summary Judgment.

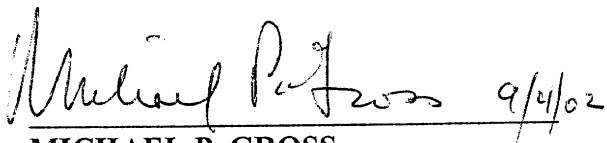
7. Also reserved and not made part of this Second Partial Settlement Agreement are Plaintiffs' claims for equitable, injunctive and declaratory relief. The parties have entered into a series of stipulated motions and accompanying stipulated orders concerning the equitable issues. Discussions of the remaining equitable claims are on-going.

8. Class Counsel seek leave to file an application for fees and expenses no later than the date on which they send notice of this Second Partial Settlement Agreement to the Class.

9. The proposed Second Partial Settlement Agreement is attached and made a part of this motion, together with a stipulated form of Order Granting the Preliminary Approval of the Second Partial Settlement Agreement and Directing Notice to the Class.

FOR THESE REASONS, the parties respectfully pray that the attached Order for preliminary approval be granted and entered by the Court at this time and that final approval be entered after the fairness hearing.

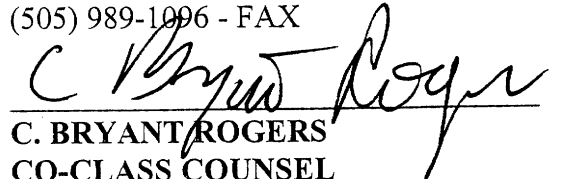
Respectfully Submitted:



9/24/02

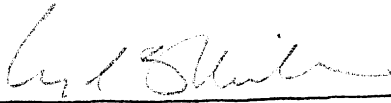
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