



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED WITHOUT PREJUDICE: April 2, 2013

CBCA 3163-ISDA

SOUTHERN UTE INDIAN TRIBE,

Appellant,

v.

DEPARTMENT OF THE INTERIOR,

Respondent.

Steven Boos of Maynes, Bradford, Shipp & Sheftel, LLP, Durango, CO, counsel for Appellant.

Kara Pfister, Office of the Field Solicitor, Department of the Interior, Bloomington, MN; and Sabrina McCarthy, Office of the Solicitor, Department of the Interior, Washington, DC, counsel for Respondent.

GOODMAN, Board Judge.

ORDER

On February 28, 2013, the parties filed a stipulated motion to dismiss without prejudice which read in relevant part:

The parties herein have discussed the claims on appeal in the context of the class action litigation styled *Ramah Navajo Chapter, Oglala Sioux Tribe and Pueblo of Zuni, for themselves and on behalf of others similarly situated, v. Ken Salazar, Secretary of the Interior, et al.*, No. 1:90-CV-00957-LH/KBM (D.N.M.). The subject matter of the *Ramah* case concerns the underpayment of contract support costs deriving from contracts with the Bureau of Indian

Affairs (BIA) authorized by the Indian Self-Determination and Education Assistance Act (“ISDA”), 25 U.S.C. §§ 450 *et seq.* Appellant is a member of the plaintiff class in *Ramah*. Appellant’s contract claims on appeal to the Board concern the same subject matter as that at issue in *Ramah*. Therefore, based on the parties’ discussions regarding the instant appeal in the context of the *Ramah* pending litigation, the parties have agreed to stipulate to a dismissal of this appeal without prejudice.

The Board held a conference call with counsel on March 28, 2013, during which the Board advised counsel as to a possible jurisdictional bar from reinstating an appeal dismissed without prejudice, citing *Bonneville Associates v. General Services Administration*, GSBCA 13134 (11595)-REIN, 96-1 BCA ¶ 28,122 (1995). While the possible jurisdictional bar remains to be resolved if the parties attempt to reinstate the appeal, counsel reiterated their request to dismiss the appeal without prejudice.

Accordingly, the appeal is **DISMISSED WITHOUT PREJUDICE**.

ALLAN H. GOODMAN
Board Judge