

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

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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UNITED STATES OF AMERICA,

Plaintiffs,

and

ESTHER HERRERA, MARCELLA
MARTINEZ, and LORRAINE
SANCHEZ,

Plaintiffs In Intervention,

vs.

THE VILLAGE OF CUBA, NEW
MEXICO,

Defendant.

Robert M. Marshall
CLERK - SANTA FE

No. 01cv54 PK/RLP

ORDER

THIS MATTER comes on for consideration of the Motion of the United States For an Order Requiring Defendant to Show Cause Why it Should Not be Held in Contempt for Failing to Comply With All of the Provisions of the Settlement Agreement, filed August 27, 2002 (Doc. 31). That motion was granted and the Defendant, the Village of Cuba, New Mexico ("Village"), was ordered to show cause why it should not be held in contempt for failing to comply with all of

the provisions of the Settlement Agreement entered November 27, 2001 (Doc. 28). Doc. 35. The court held an evidentiary hearing on September 30, 2002. In the absence of cause, the United States has requested that the court order the Village to comply with Paragraphs 8 and 13 of the Settlement Agreement within seven days, and to extend the Settlement Agreement for an additional six months so that the Village's compliance may be monitored. Doc. 31 at 2-3.

At the hearing, the Village Mayor (Ethel Maharg) testified that the Village of Cuba had been attempting to ascertain its budget situation through contact with the New Mexico Department of Finance and Administration ("DFA"). The court finds that the Village, without cause, failed to initiate any action with the DFA until approximately a month before the hearing that would allow the Village to implement Paragraph 8 of the Settlement Agreement. The court further finds that there is no reason why Paragraph 8 of the Settlement Agreement cannot be implemented in full immediately.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED:

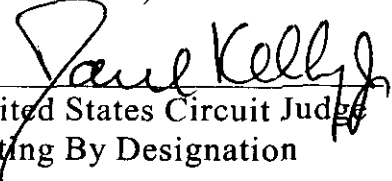
(1) That the Defendant Village of Cuba shall implement and fund Paragraph 8 of the Settlement Agreement immediately.

(2) That the Defendant Village of Cuba shall comply with Paragraph 13 of the Settlement Agreement by making compliance documentation available to the United States immediately.

(3) That the Defendant Village of Cuba shall be subject to the oversight provisions of the Settlement Agreement (Doc. 28 at 5-6, ¶¶ 12-14 “Implementation”) at least until (1) Paragraph 8 of the Settlement Agreement is implemented, thereby correcting any discrepancy in salary including approximately \$1,700 in back pay per affected employee, and (2) the United States and the Village of Cuba agree to the termination of the oversight provisions.

(4) That upon joint certification to the court within 21 days from the entry of this Order, the Order to Show Cause shall be discharged. The joint certification by the United States and the Village of Cuba shall recite that the Village of Cuba has fully complied with the Settlement Agreement as of the date of the joint certification.

DATED this 15th day of October 2002, at Santa Fe, New Mexico.


United States Circuit Judge
Sitting By Designation