

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 26, 2013

**Elisabeth A. Shumaker
Clerk of Court**

THE CHEROKEE NATION;
CHEROKEE NATION
ENTERTAINMENT, LLC,

Plaintiffs-Appellees,

v.

S.M.R. JEWELL, in her official
capacity as Secretary of the Interior,
U.S. Department of the Interior; KEVIN
WASHBURN*, in his official capacity as
Acting Assistant Secretary for Indian
Affairs, U.S. Department of the Interior,

Defendants-
Appellants,

and

UNITED KEETOOWAH BAND OF
CHEROKEE INDIANS OF
OKLAHOMA,

Defendant-Intervenor-
Appellant.

Nos. 13-5106 & 13-5109
(D.C. No. 4:12-CV-00493-GKF-TLW)
(N.D. Okla.)


ORDER

Before **KELLY** and **GORSUCH**, Circuit Judges.

* Pursuant to Fed. R. App. 43(c)(2), Kevin Washburn has been substituted for Michael S. Black as the Assistant Secretary for Indian Affairs, U.S. Department of the Interior.

Before the court are motions to stay the preliminary injunction entered by the district court, which is now challenged by the United Keetoowah Band of Cherokee Indians of Oklahoma in Appeal No. 13-5106, and the Secretary and Assistant Secretary of the Interior in Appeal No. 13-5109. To obtain a stay pending appeal under our case law and local rules, the movant must show the basis for jurisdiction and then address (1) “the likelihood of success on appeal”; (2) “the threat of irreparable harm if the stay or injunction is not granted”; (3) “the absence of harm to opposing parties if the stay or injunction is granted”; and (4) “any risk of harm to the public interest.” 10th Cir. R. 8.1; *see, e.g., O Centro Espirita Beneficiente Uniao De Vegetal v. Ashcroft*, 314 F.3d 463, 465-66 (10th Cir. 2002) (applying factors to motion for stay on appeal from entry of preliminary injunction). Upon consideration of the materials submitted by the parties, we conclude the movants have failed to justify the grant of a stay under these factors. The motions are accordingly denied.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk