

FILED

UNITED STATES COURT OF APPEALS

DEC 14 2010

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

ROCKY BIXBY; et al.,

Plaintiffs - Respondents,

v.

KBR, INC.; et al.,

Defendants - Petitioners.

No. 10-80205

D.C. No. 3:09-cv-00632-PK

District of Oregon,

Portland

ORDER

Before: GOODWIN, RYMER, and GRABER, Circuit Judges.

The petition for permission to appeal pursuant to 28 U.S.C. § 1292(b) is denied because (1) the petition presents unresolved questions of material fact that require further development in the district court; and (2) resolution of the issues raised by the petition will not materially advance ultimate termination of the litigation. *See* 28 U.S.C. § 1292(b).

**PETITION DENIED.**