

In the United States Court of Federal Claims

NOT FOR PUBLICATION

No. 01-201L

(Filed January 23, 2008)

CAROL & ROBERT TESTWUIDE, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER

The Court has reviewed the January 4, 2008 joint status report. The parties report that several plaintiffs -- Gary and Mary Hubbard, Alexei and Natalija Savostyanov, Shirley Hall, Doris Jane Edney, and William III and Tracy Himchak -- have rejected the settlement. The parties also have been unable to finalize approximately 115 easements.

The parties also report that plaintiffs' counsel has been unable to locate Anne Werner, a plaintiff in the case *Whitley v. United States*, 04-1331. The parties have requested that the Court order them to publish a notice in a newspaper with nationwide circulation for a period prescribed by the Court requesting Ms. Werner contact plaintiffs' counsel. Should Ms. Werner not respond to the notice within the prescribed period, the parties request that the Court dismiss her from the lawsuit with prejudice.

The Court **GRANTS** the parties' request for an additional sixty days to attempt to reach an agreement with the five parties who rejected the settlement and to finalize the remaining easements. The parties shall file their next joint status report on or by March 24, 2008.

The Court also **GRANTS** the parties' request for one last attempt to locate the missing plaintiff. The parties shall publish a notice in a newspaper of nationwide circulation at least once in each of three successive weeks. *See Wolfchild v. U.S.*, 68 Fed. Cl. 779, 805 (2005). The notice shall identify Ms. Werner, provide her last known address, describe this litigation, and request that she contact plaintiffs' counsel to prevent her claim from being dismissed with prejudice. The parties shall include in their next joint status report a copy of the notice as published, the name of the publication in which the notice was published, and the dates on which the notice appeared in the selected publication. *See Id.* Should Ms. Werner not contact

plaintiffs' counsel by March 24, 2008 -- the date the next joint status report is due -- the Court will grant the parties' request to dismiss her claim with prejudice.

IT IS SO ORDERED.

/s Victor J. Wolski

VICTOR J. WOLSKI

Judge