

In the United States Court of Federal Claims

No. 07-273L
No. 07-426L
(consolidated)

(Filed January 15, 2009)

STEPHEN J. and LINDA L. ROGERS, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

*
*
*
*
*
*
*
*
*
*
*
*

ORDER

Plaintiffs’ Motion for Partial Summary Judgment and Defendant’s Cross-Motion for Partial Summary Judgment are currently pending before the Court. In light of these motions, the Court issues the following orders:

1. Plaintiffs shall file documents indicating who owned the parcels at issue in the pending motions on April 2, 2004, -- the date the Surface Transportation Board (“STB”) issued a Decision and Notice of Interim Trail Use or Abandonment by **February 2, 2009**. If Plaintiffs have already filed these documents with the Court, Plaintiffs shall file a notice to the Court and Parties indicating the cite or location of these documents in the Court’s record by **February 2, 2009**.

2. Plaintiffs allege that one of the parcels at issue is owned by Mission Estate Homeowners’ Association. Pls.’ Am. Compl. ¶¶ 60-62. Plaintiffs shall clarify whether this entity is the same as Mission Estates Homeowners Association, Inc. identified in the indenture referenced in their proposed findings by **February 2, 2009**. Pls.’ Proposed Findings of Uncontroverted Facts in Resp. to Government’s Cross-Motion for Summ. J. at Tab 2, Tab 3. (emphasis added).

3. Plaintiffs and Defendant shall file supplemental briefing concerning the chain of title of the portion of the subject railway corridor abutting the parcel owned by Plaintiff Bird Bay Executive Golf Course, Inc. ("Bird Bay"). The parties' briefs shall include:

i) any title reports, tax assessments, deeds or other recorded conveyances or encumbrances, mortgages, deeds of trust, ICC records, escrow instructions, escrow closing documents, county and/or state property records, and/or any documents and writings concerning the ownership of this section of the railway corridor.

ii) a table listing, in chronological order, all property transfers -- including any easement grants -- concerning the section of the railway abutting Bird Bay's parcel from the time the railway corridor was established to the present date. The table shall include a column identifying the document and/or deed corresponding to the transfer listed.

The parties shall file their briefs by **February 16, 2009**.

s/Mary Ellen Coster Williams
MARY ELLEN COSTER WILLIAMS
Judge