

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GENE GERDES and ALICE GERDES, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 MILDRED KITTELMANN, RANDY )  
 KITTELMANN, MONTE KITTELMANN, )  
 and BRUCE KITTELMANN, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

7:06CV5002

ORDER

This matter is before the court following a hearing concerning the disagreement among the parties as to whether defendants are complying with the settlement agreement in this case. Filing No. [37](#). At that hearing the court determined that a special master is best suited to conduct this inquiry. The parties, pursuant to court order, submitted nominees to the court. The court also required that the parties submit a total of \$5,000.00 to the Clerk of Court. The parties have made their submissions and have paid the total sum into the Clerk of Court. Accordingly,

IT IS ORDERED:

1. The court has now chosen and confirms a special master, Howard Olsen, Jr. Mr. Olsen is instructed as follows:

- (a) Mr. Olsen should examine the pleadings, briefs, and evidence submitted by the parties.
- (b) Mr. Olsen should visit the property in question and determine whether any of the improvements already undertaken by the defendants have been implemented or are in conformance with the settlement agreement.
- (c) Mr. Olsen should determine whether the defendant has complied with the recommendations of local officials concerning eradication of prairie dogs.

- (d) Mr. Olsen is also authorized to meet and discuss these issues and to verify claims with all relevant governmental officials.
- (e) Mr. Olsen should determine whether defendants have breached the terms of the settlement agreement and, if the agreement was breached, state the appropriate remedy to insure conformance.
- (f) Mr. Olsen should submit his statement for legal charges at the completion of his work or when his billing is equal to \$4,000.00 (80% of the retainer) whichever occurs first.
- (g) Mr. Olsen shall give this court status reports every thirty days and should endeavor to complete the process withing three months.

2. The Clerk of Court shall cause this Order to be served on:

Howard Olsen, Jr.  
Simmons, Olsen Law Firm, P.C.  
1502 2<sup>nd</sup> Ave.  
Scottsbluff, NE 69361-3174

DATED this 31<sup>st</sup> day of March, 2011.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge