USA v. Milner, et al Filed 06/06/2005 Page 1 of 3 1 HONORABLE RONALD B. LEIGHTON 2 3 4 5 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 6 AT TACOMA 7 UNITED STATES OF AMERICA, on its own behalf and as trustee on behalf of the Case No. C01-0809 RBL 8 Lummi Nation, 9 Plaintiffs, ORDER VACATING JUDGMENT AND ORDERING ENTRY OF JUDGMENT 10 UNDER FED. R. CIV. P. 54(b) v. 11 KEITH E. MILNER and SHIRLEY A. MILNER, 12 Defendants. 13 UNITED STATES OF AMERICA, on its 14 own behalf and as trustee on behalf of the Lummi Nation, 15 Plaintiff, 16 v. 17 MARY D. SHARP, 18 Defendant. 19 UNITED STATES OF AMERICA, on its 20 own behalf and as trustee on behalf of the Lummi Nation, 21 Plaintiff, 22 v. 23 BRENT C. NICHOLSON and MARY K. 24 NICHOLSON, 25 Defendants. 26 27 28

Doc. 339

UNITED STATES OF AMERICA, on its own behalf and as trustee on behalf of the Lummi Nation,

Plaintiffs,

v.

HARRY F. CASE,

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Defendant.

UNITED STATES OF AMERICA, on its own behalf and as trustee on behalf of the Lummi Nation,

Plaintiff,

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IAN C. BENNETT and MARCIA A. BOYD,

Defendants.

UNITED STATES OF AMERICA, on its own behalf and as trustee on behalf of the Lummi Nation,

Plaintiff,

v.

DONALD C. WALKER and GLORIA WALKER,

Defendants.

THE LUMMI NATION,

Intervenor-Plaintiff.

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This matter is before the Court on the Government's Motion to Set Aside the Judgment [Dkt. # 337] entered by the Clerk of the Court on April 25, 2005 [Dkt. # 327]. As the Government correctly points out, the Court's Order of April 20 [Dkt. #326] (upon which the Judgment is based) did not purport

to, and did not, resolve all issues among all parties before the court in this action. The Defendants do not

dispute this. The Court's Order was not a Final Order and the Judgement [Dkt. #327] was entered

erroneously. It is therefore **WITHDRAWN**.

ORDER

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However, it is apparent (and neither party disputes) that the issues adjudicated by the April 20 Order (relating to the Nicholsons' violation of the Clean Water Act) are readily severable from the remaining claims against the remaining defendants. The Government has indicated that it is moving toward resolution of its claims against the other defendants, but to date no resolution has been announced to the court. There is no reason for the Nicholsons to await some future resolution of those claims while the various Orders affecting their use of their property are in place, and while they are in fact paying some rental as a condition of keeping their defense structure in place. The court therefore EXPRESSLY FINDS that there is no just reason for delaying entry of a Final Judgment as to the Government's claims against the Nicholsons, and EXPRESSLY ORDERS that such a judgment be entered by the Clerk.

Dated this 6th day of June, 2005.