

In the United States Court of Federal Claims

No. 93-648X

Filed: January 26, 2007

LAND GRANTORS IN HENDERSON,
UNION, and WEBSTER COUNTIES,
KENTUCKY and THEIR HEIRS,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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Mediation;
RCFC, Appendix H.

Nancie G. Marzulla, and Roger J. Marzulla, Marzulla & Marzulla, Washington, D.C., Mark Stephen Pitt, Wyatt Tarrant & Combs, LLP, Louisville, Kentucky, for plaintiffs.

William James Shapiro, Sacramento, California, for defendant, United States Dept. of Justice.

ORDER

On December 14, 2006, the court issued a Second Interim Report, Memorandum Opinion, and Order requesting that the parties concur in the appointment of Mr. Fred F. Fielding who had agreed to serve as a mediator in this case. See Land Grantors in Henderson, Union, and Webster Counties, Kentucky v. United States, __ Fed. Cl. __, 2006 WL 3716485 (Dec. 14, 2006). On January 9, 2007, Mr. Fielding was appointed to serve as Counsel to the President of the United States.

Subsequently, the court provided Justice Sandra Day O'Connor with the court's April 1, 2005 Interim Report re: S. 794 and Memorandum Opinion, Land Grantors in Henderson, Union, and Webster Counties, Kentucky v. United States, 64 Fed. Cl. 661 (2005) and December 14, 2006 Second Interim Report, Memorandum Opinion and Order, Land Grantors, 2006 WL 3716485 (Dec. 14, 2006), and has ascertained her willingness to serve as a mediator in this case. The court is honored that Justice O'Connor has agreed to undertake this assignment continuing the tradition of retired Justices of the United States Supreme Court who have assisted the court by designation.

The parties should inform the court, no later than February 15, 2007, of their consent to the appointment of Justice O'Connor to serve as a mediator in this case for a term of 120 days to ascertain whether a settlement may be achieved. See RCFC Appendix H.

In light of the genesis of this proceeding as a congressional reference, the court is also forwarding a copy of this Order to the attention of: United States Attorney General, Alberto R. Gonzales; United States Senator for Kentucky Mitch McConnell; United States Senator for Kentucky Jim Bunning; United States

Representative for Kentucky's First District; Edward Whitfield; and ranking members of the United States Senate Judiciary Committee, Senator Patrick J. Leahy and Senator Arlen Specter.

IT IS SO ORDERED.

SUSAN G. BRADEN
Judge