

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 27, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PAUL GRONDAL, a Washington resident;
and THE MILL BAY
MEMBERS ASSOCIATION, INC., a
Washington Non-Profit Corporation,

Plaintiffs/Counter-Defendants,

v.

UNITED STATES OF AMERICA; US
DEPARTMENT OF INTERIOR; BUREAU
OF INDIAN AFFAIRS, WAPATO
HERITAGE, LLC, CONFEDERATED
TRIBES OF THE COLVILLE
RESERVATION, FRANCIS ABRAHAM,
CATHERINE GARRISON, et al., allotees of
Moses Allotment 8,

Defendants/Cross-Defendants/Cross-
Claimants/Counter-Defendants.

NO. 2:09-CV-00018-JLQ

ORDER DIRECTING ADDITIONAL
FILINGS

Amid the voluminous pleadings in this matter, the court has identified an apparent lack of clarity concerning the 2004 Settlement Agreement that resolved various pending matters in Chelan County Superior Court (“2004 Settlement Agreement”) entered pursuant to the Order Approving Class Action Settlement. This court’s present impressions, but not findings, of the 2004 Settlement Agreement and Order Approving Class Action Settlement are set forth below.

The 2004 Settlement Agreement (ECF No. 346-1) and Order Approving Class Action Settlement signed by Chelan County Superior Court Judge Bridges on November 23, 2004, resolved three separate cases: (1) a 2002 lawsuit brought by Paul Grondal and the Mill Bay Members against William Evans and others seeking injunctive relief to

1 prevent the closure of the RV park (No. 02-2-01100-9); (2) the creditor's claim brought
2 by Grondal and the Mill Bay Members against Evans' estate (No. 03-4-00185-8); and (3)
3 the 2004 lawsuit brought by Grondal and the Mill Bay Members against Evans' estate
4 seeking the injunctive relief or monetary damages on claims presented in the other cases
5 (No. 04-2-00441-6).

6 According to the September 1, 2009, declaration of Paul Grondal, the mediation
7 resulting in the 2004 Settlement Agreement was attended by: (1) the Superintendent of
8 the Colville Agency; (2) Ricky Joseph of the BIA; (3) counsel for the Colville Tribe
9 Enterprise Corp.; (4) counsel for the Colville Tribe; (5) Jeffrey Webb, personal
10 representative of Evans' estate; (6) two attorneys representing Webb; (7) two attorneys
11 representing Grondal and the Mill Bay Members Association; (8) Grondal, Franklin
12 Smith, and approximately a dozen members of the Mill Bay Members Association; (9)
13 counsel for Sandra Evans; and (10) the mediator, Douglas Lawrence. (ECF No. 89 at
14 ¶17). It is unclear from the present record what role and/or statements, if any,
15 representatives from the Government and Colville Tribe had or made in the mediation,
16 settlement, and court proceedings. The undersigned notes the Order Approving Class
17 Action Settlement provides in part: "[t]he terms of the Settlement Agreement are binding
18 upon all interested parties and beneficiaries to the Estate of William Evans, Jr pursuant to
19 RCW 11.96A.230-240." (ECF No. 346-1 at 11).

20 The 2004 Settlement Agreement, incorporated in the Order Approving Class
21 Action Settlement, granted the Mill Bay Members a sublease of the Mill Bay Park from
22 Wapato Heritage, LLC and provided for rent in the amount of \$25,000 per year, with
23 \$5,000 increases every five years starting in 2009 and continuing through 2034. *See* (ECF
24 No. 346-1 at § 5.7). The rent provision in the 2004 Settlement Agreement recited the Mill
25 Bay Members' right to use the park until December 31, 2034. (*Id.*); *see also*, (*id.* at §
26 5.14). By the terms of the Master Lease (ECF No. 73-3) signed by the Government on
27 behalf of the individual landowners, including the Colville Tribe, in 1984, the
28 Government was to receive the rent due from the Lessee and distribute it to the

1 individual landowners according to their interests in MA-8. *See* (ECF No. 73-3 at § 4).
2 The record is unclear as to whether some or all of the rental payments made by Mill Bay
3 and its members pursuant to the 2004 Settlement Agreement were passed on to the
4 landowners by the Government. *See* (ECF No. 347 at 8). The court understands there are
5 no allegations that Mill Bay Members paid money other than the rent required under the
6 2004 Settlement Agreement from the time it was entered.

7 To frame and clarify the factual and legal issues, the court directs the parties to
8 respond and provide more details, *inter alia*, on these matters.

9 **IT IS HEREBY ORDERED:**

- 10 1. Within **21 days** of the entry of this Order, the parties shall each file a
11 response addressing, *inter alia*, the matters referred to herein: (1) the role
12 and/or statements and/or participation of the Government, the Colville Tribe,
13 and/or the Colville Tribe Enterprise Corporation in the 2004 mediation
14 and/or court proceedings; (2) the amount of rent money paid by the Mill Bay
15 Members pursuant to the 2004 Settlement Agreement that was passed on to
16 the individual landowners, if any; and (3) whether there exists any transcript
17 or other record of the Chelan County mediation proceedings and/or hearings
18 or proceedings before the Chelan County Superior Court.
- 19 2. If there are disputed facts, the parties shall identify those facts with
20 specificity and present any additional evidence in support of their position.
- 21 3. Upon receipt of the responses, the court will schedule a status conference
22 with counsel representing all interested parties.

23 **IT IS SO ORDERED.** The Clerk shall enter this Order and furnish copies to
24 counsel.

25 Dated June 27, 2018.

26 s/ Justin L. Quackenbush
27 JUSTIN L. QUACKENBUSH
28 SENIOR UNITED STATES DISTRICT JUDGE