

In the United States Court of Federal Claims

**No. 07-693L and No. 07-675L
CONSOLIDATED
(Filed: February 19, 2009)**

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DOROTHY L. BIERY, et al.,

and

**JERRAMY and ERIN
PANKRATZ, et al.,**

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

* * * * *

ORDER REGARDING CERTIFICATION

As discussed at the status conference on February 18, 2009, in order to finalize the certification order to the Kansas Supreme Court, the court has made the following determinations:

- (1) All of the Pankratz plaintiffs remain in the litigation.
- (2) Of the Biery plaintiffs, only Gordon Holloway, the Stacy Judy Trust, and (to the extent it can be shown that any portion of the subject property was acquired by other than the Phillips Investment Company warranty deed of August 4, 1899) Dorothy Biery have demonstrated that the subject conveyances transferred only an easement to the railroad. With regard to the remaining Biery plaintiffs, the railroad acquired a fee interest in the subject properties, such that no reversion to those plaintiffs or their

predecessors-in-interest could occur.¹

- (3) Simultaneous with this Order, the court is providing a copy of a Draft Certification Order to the parties via e-mail. The parties shall jointly submit their comments in response to the Draft Certification Order **via e-mail to “firestone_chambers@ao.uscourts.gov” by Thursday, February 26, 2009.**
- (4) The parties shall provide the court with their Revised Joint Statement of Facts **via e-mail to “firestone_chambers@ao.uscourts.gov” by Thursday, February 26, 2009.** In addition, so that the Revised Joint Statement of Facts will be available to the Kansas Supreme Court via this court’s docket, the parties shall also file it via CM-ECF **by Thursday, February 26, 2009.**

IT IS SO ORDERED.

s/Nancy B. Firestone
NANCY B. FIRESTONE
Judge

¹An Opinion explaining the basis for these findings will follow at a later date.