

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARGRETTY RABANG, OLIVE OSHIRO,
DOMINADOR AURE, CHRISTINA
PEATO, and ELIZABETH OSHIRO,

Plaintiffs,

v.

ROBERT KELLY, JR., RICK D. GEORGE,
AGRIPINA SMITH, BOB SOLOMON,
LONA JOHNSON, KATHERINE CANETE,
RAYMOND DODGE, ELIZABETH KING
GEORGE, KATRICE ROMERO, DONIA
EDWARDS, and RICKIE ARMSTRONG,

Defendants.

Case No. 2:17-cv-00088-JCC

KELLY DEFENDANTS' INTERIM
STATUS REPORT

In its October 25, 2017 Order, (Dkt. 130),¹ the Court noted that “[t]he Tribal Council election is scheduled for December 2, 2017 (Dkt. No. 117-12 at 2.) **Under the MOA, the DOI must issue its recognition decision by December 23, 2017.** (Dkt. No. 117-1 at 8.). . .” [emphasis added].

¹ The Order requires the parties to provide a Joint Status Report no later than January 12, 2017 “detail[ing] the results of the Nooksack Tribal Council special election and any subsequent action taken by the DOI in accordance with the MOA.” Order, at 8. This Interim Status Report is not intended by the Kelly Defendants to replace the Joint Status Report. Rather, the Kelly Defendants submit this Interim Status Report solely to address the issue of the December 23, 2017 date.

KELLY DEFENDANTS' INTERIM STATUS REPORT:
CASE NO. 2:17-CV-00088-JCC - 1

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1 This is apparently in reference to the provision of the MOA regarding the DOI's
2 recognition of the Nooksack Tribal Council:

3 Upon certification of the special election results as set forth in Nooksack
4 Tribal Laws and Ordinances, the final resolution of any challenges to those
5 results, and the submission of the Election Board's report to the Regional
6 Director, the Regional Director shall forward to the Assistant Secretary the
7 Tribe's report along with the Regional Director's endorsement thereof, or
8 an explanation for withholding such endorsement. Upon receipt of the
9 Regional Director's endorsement, the Assistant Secretary shall issue a letter
10 granting full recognition of the Nooksack Indian Tribal Council as the valid
11 governing body of the Nooksack Indian Tribe in a form substantially similar
12 to Exhibit A to this Memorandum.

13 MOA, ¶ D.

14 The Nooksack Tribe held its Special Election on December 2, 2017. As required under
15 the MOA, on December 11, 2017 the Tribe "certif[ied] and submit[ted] all results of the special
16 election to the BIA Regional Director of the Pacific Northwest Region, including a report
17 demonstrating the above mentioned conditions were satisfied." MOA, ¶ B.

18 As of the time of filing this Interim Status Report, the Tribe has not yet received "a
19 letter granting full recognition of the Nooksack Indian Tribal Council as the valid governing
20 body of the Nooksack Indian Tribe in a form substantially similar to Exhibit A to" the MOA.
21 MOA, ¶ D. The Tribe expects that it will receive its recognition letter, because it has complied
22 with its obligations under ¶ B of the MOA and at no time during the course of the election
23 process did the BIA observers report any irregularities in the handling, processing or counting
24 of ballots, which was required immediately to be done, in writing. MOA, ¶ B.

25 Because DOI has never notified the Tribe in writing or otherwise of any observed
26 "irregularities" and the Assistant Secretary – Indian Affairs has never notified the Tribe that it
is in non-compliance with the MOA, DOI is obliged to recognize the Tribal Council as the

1 governing body of the Tribe. However, because it is past the close of business at the Assistant
2 Secretary's office in Washington, D.C., and December 23, 2017 is the Saturday before
3 Christmas, the Tribe does not expect to receive a recognition letter until after the holidays.

4
5 Dated this 22nd day of December, 2017.

6 SCHWABE, WILLIAMSON & WYATT, P.C.

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KELLY DEFENDANTS' INTERIM STATUS REPORT:
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CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on the 22nd day of December, 2017, I electronically filed the foregoing INTERIM STATUS REPORT with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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CERTIFICATE OF SERVICE - 1

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