

It's All Over Now

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In 2012, the Surface Transportation Board issued a notice of interim trail use under Section 208 of the National Trails System Act Amendments of 1983, authorizing the creation of a permanent recreational trail on land previously subject to a rail easement held by the Mississippi and Skuna Valley Railroad, LLC. The landowners filed a taking suit in the U.S. Court of Federal Claims, alleging that issuance of the notice of interim trail use destroyed their exclusive right to the use of their property, free of any easement. The Court certified a class of all similarly situated landowners.

The parties ultimately entered into a settlement agreement under which the Government would pay Plaintiffs \$324,928.65 in principal for the value of the land allegedly taken, \$57,445.47 in interest calculated through September 20, 2016, \$240,000 in statutory attorneys' fees and costs to be reimbursed to class counsel under the Uniform Relocation Act, and interest at the rate of 3.55% on \$324,928.65 from September 21, 2016, compounded annually, until the judgment is paid. On September 26, 2016, the Court held a fairness hearing on the proposed settlement under Rule 23(e). The issue before the Court in a fairness hearing is to determine if the agreement is "fair, reasonable, and adequate" for all class members, including whether the agreement is procedurally and substantively fair. The Court also evaluates the terms of the agreement in conjunction with the likely risks and rewards of litigation.

Here, the Court concluded that the class received adequate notice, including a comprehensive and detailed notice of the settlement terms. The Court also found that the settlement was uniformly available to the class members, and the settlement negotiations favored no individual class member over another. The Court thus concluded that the settlement agreement was procedurally fair and the substantive terms were fair, reasonable, and adequate.

The Court therefore approved the settlement agreement.

Read Judge Lettow's full decision [here](#).