

IN THE UNITED STATES DISTRICT COURT

FILED
BILLINGS DIV.

FOR THE DISTRICT OF MONTANA

2008 DEC 3 PM 12 25

BILLINGS DIVISION

PATRICK B. ...

BY
DEPUTY CLERK

PACIFICCORP, an Oregon corporation,)

CV-07-14-BLG-RFC

Plaintiff,)

vs.)

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

KENNARD REAL BIRD, HENRY
REAL BIRD, JAMES REAL BIRD,
RICHARD REAL BIRD, BIRDENA
REAL BIRD, and ROSE LEE
REAL BIRD,)

Defendants.)

On September 12, 2008, United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation. Magistrate Judge Ostby recommends this Court grant Plaintiff's Motion for Summary Judgment re: Jurisdiction and deny Defendants' Motion to Dismiss.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the September 12, 2008 Findings and Recommendation. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After an extensive review of the record and applicable law, this Court finds Magistrate

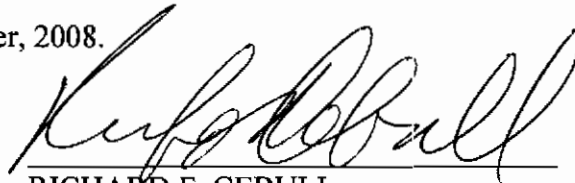
Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

In light of this Court's prior ruling in the closely related condemnation action, *PacifiCorp v. Real Bird, et al.*, CV-06-122-BLG-RFC, the Court Tribal Court lacks jurisdiction over matters already at issue in the condemnation action. Additionally, the Crow Tribal Court is not an indispensable party under Fed.R.Civ.P. 19(a).

Accordingly, **IT IS HEREBY ORDERED** that PacifiCorp's Motion for Summary Judgment [*doc. #45*] is **GRANTED** and that the Real Birds' Motion to Dismiss [*doc. #52*] is **DENIED**.

The Clerk of Court shall notify the parties of the making of this Order, enter Judgment in favor of PacifiCorp, and close this case.

DATED the 3rd day of December, 2008.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE