

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2011-99

FILED by WJ D.C.

NOV 29 2011

STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

**IN RE: ORDER APPOINTING COMMISSIONERS
FOR EAST EVERGLADES ACQUISITION PROJECT**

Actions are filed in the Southern District of Florida related to the condemnation of property within the East Everglades Additions to Everglades National Park situated in Monroe, Miami-Dade and possibly Broward Counties.

The Court has considered the character, location, and quantity of the property to be condemned and has noted that these actions relate to a large number of separate tracts of land, located in three different counties, at varying distances from the Court and that different interests are to be considered with respect to differing tracts. The Court is of the opinion that considering the distances between the tracts, the congestion of the Court's trial calendar, and the difficulties involved in the transportation of jurors to view the property when so required, the interest of justice will be best served by again appointing a commission to determine the issue of compensation.

Pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure, it is now ORDERED:

1. That not later than ten (10) days from the date hereof, counsel for the United States will mail a copy of this order to the owner of any unsettled tract, or counsel therefor, and certify the same to the Court, which copies will serve as notice to the parties that the Court is appointing a commission to determine the just compensation as to all parcels in each action and will also serve as notice of the identity and qualifications of each prospective commissioner.

2. The Court had appointed land commissioners in June 2008 with the expiration date set as August 1, 2011. Consistent with Administrative Order 2008-15; it is ordered that THOMAS D. WOOD, KEVIN J. MURRAY, DAVID L. TOBIN, and VIVIAN RODRIGUEZ RIVEIRO are

appointed as commissioners to fix the just compensation to be paid by the United States for each parcel of land involved in unsettled pending actions and in related actions to be filed in the future, unless the Court in its discretion orders that such compensation be determined by a jury, or, in proper case, by the Court. The appointed commissioners are practicing attorneys in the Southern District of Florida and members of the Florida Bar. David L. Tobin is also a member of the Florida Bar and is a retired Miami-Dade County Circuit Judge living in the Miami, Florida area.

If in the future any of the commissioners are unable to serve or do not wish to serve further, the Court will appoint replacements as provided in Paragraph 8.

3. That the commissioners named shall, as expeditiously as practicable, commence upon their duties; that they shall, at such times as they deem advisable, view the properties involved; commence their hearings as soon as practicable, and continue thereafter with all reasonable dispatch until they shall have completed their assignment; proceed to determine just compensation as to all parcels in each action in whatever order they deem advisable; that their hearings be conducted at such place or places as may, in their judgment, be convenient to themselves, the parties, their witnesses, and counsel; that they shall give due notice to parties, witnesses, and counsel as to the time fixed for any hearing in which said party, witness, or counsel may be interested; that they shall have authority, *sua sponte*, for cause satisfactory to them, to defer, advance, or otherwise rearrange the order of hearings on the properties involved, provided, however, that the prompt and expeditious disposition of these actions shall not be prevented thereby and that no hearing shall be postponed indefinitely or continued without an order of the Court entered *sua sponte* or upon motion; and that, in all matter, they be guided by the provisions of Rule 71A, Federal Rules of Civil Procedure, and by the law of each case as instructed by this Court.

4. That each of said commissioners is authorized and empowered to administer oaths to witnesses; that in the said hearings the commissioners shall allow counsel for the United States

and the owner or owners, or their attorneys, to make opening statements, if desired, to adduce evidence in regard to the just compensation for the parcel involved, and to argue the cases orally for a reasonable time after the conclusion of the evidence; and that the said commissioners shall file their report in the nature of an award stating specific findings as to the matters on which their valuations were based and illustrating how they have applied the applicable principles of law in reaching their ultimate conclusions as to each tract.

5. That any party may, within ten (10) days of notification of the entry of this Order, object thereto or, for valid cause, object to the appointment of any person as a commissioner and may request from the Court permission to examine each designee, provided, however, that if any party objects to the appointment of a commissioner on the grounds of bias, prejudice, or the like, such party shall accompany such objection by an affidavit setting forth with specificity facts in support thereof and a certificate of counsel of record, if any, stating that the objection is made in good faith.

6. That this Order be entered in each of the actions designated in the caption hereof, and that this Order shall be construed as entered separately in each of said actions, the Clerk to place a certified copy hereof in the record and file of each action.

The notice to the parties pursuant to the preceding paragraphs shall inform the United States and each owner or counsel, if any, of the Court's proposed instructions as to the law of the case with respect to each unsettled tract of land. The parties may, within fifteen (15) days of their receipt of such notification, take exceptions to such proposed instructions and present additional or supplemental instructions, and be heard thereon. Exceptions to the Court's proposed instructions and additional or supplemental instructions, shall be accompanied by a memorandum of points and authorities in support thereof. Rulings on exceptions and additional or supplemental instructions shall be made by the Court.

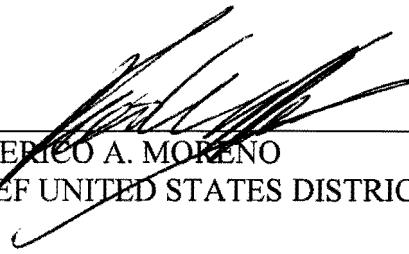
7. The Court reserves the right to order included additional actions (heretofore or hereafter filed), parcels, and tracts of land not included in the actions enumerated in the caption hereof, provided, however, that such actions, parcels, and tracts and provided further, that no such action shall be included in this Order until the parties and their counsel have been notified of the Court's intention to so include. Such inclusion shall be by Order of the judge of this Court to whom the action is assigned, and shall be filed by the Clerk in the record and file of such action, together with a certified copy of this Order.

8. The Court retains jurisdiction to appoint additional commissioners or substitute commissioners as justice may require or circumstances may dictate.

9. Counsel for the United States shall promptly notify the Court and the commission of any settlement that shall make it unnecessary for the commissioners to act in a particular case.

This Order supersedes Administrative Order 2008-15. This Order shall be effective immediately and shall expire on August 1, 2013, without further Order.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County Florida, this 28th day of November, 2011.


FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

c: All Southern District Judges and Magistrate Judges
All Land Commissioners
Steven M. Larimore, Court Administrator • Clerk of Court
United States Attorney
Library

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