

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**FLORIDA GAS TRANSMISSION  
COMPANY, LLC,**

**Plaintiff,**

**-vs-**

**Case No. 6:10-cv-1266-Orl-18DAB**

**2.324 ACRES OF LAND (MORE OR LESS)  
LOCATED IN ORANGE COUNTY,  
FLORIDA, ORANGE COUNTY, COOPER-  
ATHA-BARR CO. a/k/a is a dissolved  
Florida corporation also known as The  
Cooper-Atha-Bar Real Estate and Mortgage  
Company, ET AL,**

**Defendants.**

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**REPORT AND RECOMMENDATION**

**TO THE UNITED STATES DISTRICT COURT**

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION:    MOTION FOR DEFAULT JUDGMENT AGAINST  
                 CERTAIN DEFENDANTS (Doc. No. 109)**

**FILED:        December 15, 2010**

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**THEREON** it is **RECOMMENDED** that the motion be **DENIED** without prejudice.

Plaintiff has filed a Complaint for Eminent Domain pursuant to the Natural Gas Act (15 U.S.C. § 717 *et seq.*). As part of its Complaint, Plaintiff has identified numerous parties as interested or potentially interested parties and has served a Notice of Condemnation upon these parties. Following

entry of a clerk's default as to some of these parties (Doc. No. 108), Plaintiff now moves for a default judgment of condemnation against these Defendants, finding that any interests that the Defendants have in the subject property is condemned by Plaintiff. The Court **respectfully recommends** that the motion be denied, without prejudice.

As set forth in prior papers filed by Plaintiff, this action named numerous parties, some of whom have appeared and answered, some of whom have disclaimed interest, some of whom Plaintiff has agreed to dismiss, and some of whom have either been defaulted or have not been served. *See* Doc. No. 26. In the instant motion, Plaintiff seeks a judgment against the defaulted defendants which, in effect, would condemn the property only as to their interest. The motion cites no authority supporting such a piecemeal approach, which is disfavored by rule, *see* Rule 54(b), Federal Rules of Civil Procedure (2010), nor does Plaintiff identify whether any actual property interest is being effected by the condemnation judgment sought and, if so, whether compensation is due, as pled in the Complaint. As there is no benefit that the Court can discern in proceeding in this fashion, and no party will be prejudiced by waiting until the completion of the litigation with respect to *all* rights in the property, it is **respectfully recommended** that the motion be **denied, without prejudice** to reassertion at the conclusion of the suit.

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen (14) days from the date of its filing shall bar an aggrieved party from attacking the factual findings on appeal.

Recommended in Orlando, Florida on December 17, 2010.

*David A. Baker*

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DAVID A. BAKER  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge  
Counsel of Record  
Unrepresented Party  
Courtroom Deputy