

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

**Case Number: 88-1886-CIV-MORENO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, *et al.*,

Defendants.

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**ORDER GRANTING EXPEDITED REVIEW AND DENYING MOTION TO STAY  
SPECIAL MASTER'S PROCEEDINGS AND TO VACATE SPECIAL MASTER'S  
SUMMARY OF PREHEARING CONFERENCE**

THIS CAUSE came before the Court upon the Miccosukee Tribe of Indians of Florida's Motion for Expedited Review (**D.E. No. 2171**), filed on **June 29, 2010** and the Miccosukee Tribe of Indians of Florida's Motion to Vacate the Special Master's Summary of Prehearing Conference of June 9, 2010 (**D.E. No. 2171**) filed on **June 29, 2010**.

THE COURT has considered the motions, the response, and the pertinent portions of the record, and being otherwise fully advised in the premises, it is


**ADJUDGED** that the Motion to Expedite Review is GRANTED and the Motions to Stay the Special Master's Proceedings and to Vacate the Special Master's Summary of Prehearing Conference are DENIED.

This Court's March 13, 2010 Order contemplated the Special Master would take the necessary steps to make a recommendation. It says: "The Court refers this matter to the Special Master to recommend realistic deadlines for work on this project [EAA A-1 Reservoir], if he deems

them appropriate, and taking into consideration any litigation regarding the permit.” In that Order, the Court also indicated the Special Master should hold a remedial hearing to address the latest violations. In addition, the Court required the Special Master to provide a Report and Recommendation indicating his position on the State Parties’ Consolidated Rule 60(b)(5) Motion for Relief on Remedies. The Special Master has set an evidentiary hearing to start July 26, 2010. In its motion, the Tribe seeks a stay of those proceedings arguing the Special Master exceeded his authority. This Court disagrees.

Federal Rule of Civil Procedure 53(c)(1)(B) permits the Special Master to “take all appropriate measures to perform the assigned duties fairly and efficiently.” Moreover, Rule 53(c)(1)(C) specifically permits the Special Master to hold an evidentiary hearing and “exercise the appointing court’s power to compel, take and record evidence.” The Special Master, in his discretion, deems it appropriate to conduct an evidentiary hearing to determine his position on the Rule 60(b)(5) motion and to advise the Court. The Court does not find that action exceeds his authority. Indeed, it seems like a logical step to make a proper Report and Recommendation. Accordingly, the Tribe’s motions to stay the Special Master’s proceedings and to vacate his summary are denied.

DONE AND ORDERED in Chambers at Miami, Florida, this 7<sup>th</sup> day of July, 2010.

  
FEDERICO A. MORENO  
UNITED STATES DISTRICT JUDGE

Copies provided to:

Counsel of Record