

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.

ORDER ADOPTING REPORTS OF THE SPECIAL MASTER

THIS CAUSE came before the Court upon the United States' Motion to Adopt March 1, 2012 Report of the Special Master (**D.E. No. 2384**), filed on **December 28, 2012** and the State Parties' Motion to Adopt Recommendations Contained in the Report of the Special Master (March 29, 2013) Supplementing the Special Master's March 1, 2012 Report (**D.E. No. 2401**) filed on **April 23, 2013**.

On March 1, 2012, the Special Master issued a Report establishing realistic deadlines for operation of stormwater treatment areas (STA), referred to as Compartments B and C. The parties requested the Court hold the matter in abeyance to engage in settlement discussions on the Maximum Annual Discharge Limit ("MADL"). The Court held the matter in abeyance until November 12, 2012 and on March 25, 2013 heard oral argument on the United States' Motion to Adopt the March 1, 2012 Report of the Special Master. At the hearing, the Court requested the Special Master supplement his initial Report, and he filed his supplemental Report on March 29, 2013. Now, before the Court, are two motions to adopt both reports. Notably, the parties are in agreement for the most

part that the Court should affirm the Reports of the Special Master.

Summary of the March 1, 2012 Report of the Special Master

This Court instructed the Special Master on March 31, 2010 to recommend deadlines for the completion of stormwater treatment areas referred to as Compartments B and C. The March 1, 2012 Report of the Special Master establishes deadlines for the completion of the projects listed in Appendix A to the July 5, 2006 Report. In his Report, the Special Master recommends:

(1) The Court determine that July 31, 2012 is a realistic date by which the District must be treating water in Compartment B and the northern and southern flow ways of Compartment C, subject to receipt of permits needed to discharge treated water as long as the failure or inability of the regulatory agencies to issue permits in time to meet this recommended deadline is not related to any acts or failure to act by the District.

(2) As for the central flow way of Compartment C, the Special Master recommends that the Court direct the Special Master to issue a follow-up Report and Recommendation once the resolution of the cultural resource issues associated with the central flow way are finalized and a construction plan and schedule have been approved by all stakeholders.

Summary of the March 29, 2013 Report of the Special Master

A little over a year later, the Special Master supplemented his Report. He advises that the North Buildout of Compartment B and the northern and southern flow ways of Compartment C are fully operational. Setting a deadline for completion of these areas is now moot.

The South Buildout of Compartment B and the central flow way of Compartment C require vegetation growth, which is anticipated in the 2013 wet season. If the Court deems a deadline appropriate, the Special Master recommends the Court set a deadline of October 1, 2013, for the South Buildout of Compartment B to be fully operational.

Objections to the Reports

The parties all agree the Court should adopt the Reports of the Special Master. The United States and the Miccosukee Tribe of Indians of Florida's only point of contention is a footnote in the State Parties' Motion to Adopt the March 29, 2013 Report. That footnote reiterates the arguments made by the State Parties in their Motion Seeking Declaration of Compliance with the Court's September 30, 2012 Order and Withdrawal of Reference to Special Master. The Court will address this issue in a separate order on that motion.

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

ADJUDGED that the motions are GRANTED and the Court AFFIRMS the Report of the Special Master dated March 1, 2012 and the Supplemental Report dated March 29, 2013. The Court finds it moot to set a deadline for the North Buildout of Compartment B and the northern and southern flow ways of Compartment C. The Court sets a deadline of October 1, 2013, for the South Buildout of Compartment B to be fully operational.

DONE AND ORDERED in Chambers at Miami, Florida, this 10 day of August, 2013.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:
Special Master John Barkett
Counsel of Record