

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

Case Number: 99-0672-CIV-MORENO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

10.00 ACRES OF LAND and JAIME
GONZALEZ, *et al.*,

Defendants.

**ORDER AFFIRMING IN PART LAND COMMISSION'S REPORT AND DENYING
DEFENDANT'S MOTION TO VACATE**

THE MATTER was referred to the Land Commission for a Report and Recommendation (D.E. No. 263)¹, filed on March 19, 2010. Magistrate Judge Turnoff reviewed the Land Commission's Report and filed an intervening Report and Recommendation (D.E. No. 285) on August 3, 2010. The Court has reviewed the entire file and record. The Court has made a *de novo* review of the issues that the objections to the Land Commission's Report present, and being otherwise fully advised in the premises, it is

ADJUDGED that the Defendants' Motion to Vacate Magistrate Judge Turnoff's Report and Recommendation is DENIED as the Court is undertaking a *de novo* review of the issues presented by the objections to the Land Commissioners' Report. The intervening report of Magistrate Judge Turnoff does not impede this Court's *de novo* review of the objections. *Platypus Wear, Inc. v.*

¹The docket entry numbers referenced here apply only to Case No. 99-0672-CIV-MORENO. The member cases contain different docket entry numbers for the filings and will be reflected in the orders docketed in the respective case.

Horizonte Fabricacao Distribuicao Importacao Exportacao, Ltd., Case No. 08-20738-CIV-JORDAN, 2010 WL 1524691, *1 (S.D. Fla. Apr. 15, 2010) (district court, after *de novo* review, adopted magistrate judge's report and recommendation regarding special master's findings of fact). Judge Turnoff's report is helpful to the Court in its *de novo* review and does not impede that review and therefore, the Court finds it unnecessary to vacate it as requested by the Defendants.

ADJUDGED that Land Commission's Report (**D.E. No. 263**) is **AFFIRMED** in part as set forth in this order. Accordingly, it is

ADJUDGED that:

- (1) As to the tract of land of 111.81 acres located in Management Area 3B ("Tract 604-03"), which is the subject of this case, the Court agrees with the valuation of John Underwood, MAI, who opined the value was \$2200/acre. This parcel is adjacent to permitted farmland.
- (2) The Court also sustains the Government's objection to the Land Commissioners' Report and finds the Commission's utilization of a 5% upward adjustment for passive recreational use was improper. Not only did Underwood not include this adjustment, but the report by Pritchett, Ball & Wise (PBW Study) likewise did not include that adjustment.
- (3) Accordingly, the Court finds that the proper just compensation for Tract 604-02 is \$ 22,000 or \$2,200/acre. For which sum let execution issue. It is also

ADJUDGED that this case is **CLOSED** and all other pending motions are **DENIED** as moot. **DONE AND ORDERED** in Chambers at Miami, Florida, this 20 day of September, 2010.



FEDERICO A. MORENO
UNITED STATES DISTRICT JUDGE

Copies provided to:

United States Magistrate Judge William Turnoff

Counsel of Record