

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

ROCKIES EXPRESS PIPELINE LLC, )  
)  
Plaintiff, )  
)  
v. )  
)  
77.620 acres more or less, et al., )  
)  
Defendants. )  
)  
)

NO. 08-3127

**OPINION**

RICHARD MILLS, U.S. District Judge:

Plaintiff Rockies Express Pipeline, LLC (“REX”) moves, pursuant to Federal Rule of Civil Procedure 71.1(h), for the appointment of a commission to determine just compensation. The motions [d/e 401, 409] are denied.

Rule 71.1(h)(2)(A) provides that “[i]f a party has demanded a jury, the court may instead appoint a three-person commission to determine compensation because of the character, location, or quantity of the property to be condemned or for other just reasons.” REX initially sought the

condemnation of 98 tracts spread across several counties and owned by 166 defendants. At this point, however, only five properties and nine defendants remain. Of those five properties, four are adjacent and lie within 15 miles of this courthouse. The remaining property is in Moultrie County, approximately 51 miles away. Of the remaining owners, all but two live in Sangamon County.

In light of these circumstances, this Court cannot conclude that a sufficient reason exists for appointing a commission. First, the quantity and locations of the property and defendants create few difficulties. Although one property is situated in a different county, the owner and most of the remaindermen reside in Sangamon County, as do the owners of the Sangamon County properties. Further, the four Sangamon properties are not only near the courthouse, but also adjacent to one another. As such, consolidation of the cases is a strong possibility, thereby reducing the likely number of trials from five to two. Second, nothing suggests that the character of the land will cause any difficulties or require the expertise of a commission.

Thus, none of the factors set out in Rule 71.1 strongly support the appointment of a commission. Nor do any of the cases cited by REX suggest that a commission is appropriate in a case involving so few properties and defendants, all of which are located very near the courthouse.

Ergo, REX's motions for the appointment of a commission [d/e 401, 409] are DENIED.

IT IS SO ORDERED.

ENTERED:

January 6, 2009

FOR THE COURT:

/s Judge Richard Mills  
United States District Judge