

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CIVIL ACTION

v.

NO. 16-0792

0.225 ACRES OF LAND, MORE OR LESS,  
SITUATE IN PARISH OF PLAQUEMINES,  
STATE OF LOUISIANA, and GULF CREDIT  
CORPORATION, ET AL.

SECTION "F"

TRACT NO. 104E

ORDER AND REASONS

Before the Court is the United States's motion for determination of title and request for hearing to determine just compensation. On April 3, 2017, the Court granted the motion insofar as the Court ordered that the issues of ownership and just compensation for the taking of Tract 104E will be submitted for hearing on May 17, 2015, on the papers, because no defendant had appeared or answered. On May 5, 2017, the Court granted the United States's motion for leave to file proof of publication and on May 18, 2017, the United States filed its Notice of Service, certifying that it had served a copy by regular and certified mail of this Court's April 3, 2017 order on certain persons listed on the certificate of service. For the reasons that follow, the United

States's motion is GRANTED, and the Court hereby resolves the ownership and just compensation issues -- the only issues in this case -- as follows.

### **Background**

This is a land condemnation case in which the United States has condemned, for the public use of flood protection, 0.225 acres of land situated in Plaquemines Parish, Louisiana (Tract 104E).

On January 29, 2016, the United States filed this land condemnation action, condemning Tract 104E. On February 2, 2016, the United States deposited \$21,000.00 into the Court's registry, at which time title vested in the United States.

The United States has identified the persons, estates, and entity that may have an ownership interest in Tract 104E. The property was purchased by two brothers, Celestin and Esteve Rodi, by Act of Sale in 1897. Both brothers died intestate. Title evidence identified only "the Heirs of Celestine Rode, the Heirs of Esteve Rodi, and Gulf Credit Corporation" as owners. The United States determined that Celestin Rodi had seven children and Esteve Rodi had 10 children, all of whom are now deceased. Of the 159 heirs of the Rodi brothers, at least 50 are deceased, and only nine of the deceased heirs have judgments of possessions placing their heirs into possession of their estate. The United States

identified many of the brothers' heirs, but very few cooperated with attempts to purchase the tract.

After the Notice of Lis Pendens was recorded in Plaquemines Parish on August 1, 2016, the United States obtained a title update to ensure that all parties that may be owed compensation had been identified. The title update revealed that Gulf Credit Corporation had sold its interest to Gulf Loan Company, Inc. by Act of Cash Sale dated December 30, 2015 and recorded on March 2, 2016 in the Conveyance Records of Plaquemines Parish, Louisiana. On December 14, 2016, the Court granted the United States's motion to add Gulf Loan Company to this civil action.

The record reflects that all known interested parties have been served with notice of the condemnation, or that they otherwise have notice by virtue of publication. The title company has determined that more than 100 individuals and estates of individuals, as well as Gulf Loan Company, Inc., have ownership interest in the land. All of these individuals are identified in Schedule F of the Declaration of Taking as interested parties to the action. None of these individuals have filed an appearance or an answer.

Before filing this civil action, the United States obtained a trial appraisal of Tract 104E that estimated the perpetual flood protection levee easement acquired over the 0.225 acres of land to

be \$18,000. The United States deposited \$21,000 in just compensation into the Court's registry.<sup>1</sup>

To assist the Court in determining the owners of compensable interests at the time of the taking, the United States has submitted to the Court a title insurance policy and title update, which indicates the owners of record at the time the Lis Pendens and Amended Lis Pendens were recorded in Plaquemines Parish. The United States now requests that the Court (1) review the evidence submitted to determine who is entitled to receive just compensation for the 0.225 acres of land involved in this action and (2) make a determination of just compensation pursuant to Federal Rule of Civil Procedure 71.1(h).

I.

A.

*Ownership*

Federal courts sitting in condemnation cases are authorized to determine who among competing claimants held title to land prior to its condemnation. Clark v. White, 185 F.2d 528, 530 (5th Cir. 1950); United States v. 22,680 Acres of Land, 438 F.2d 75, 77 (5th Cir. 1971); United States v. 1,629.6 Acres of Land, 503 F.2d 764,

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<sup>1</sup> Although the trial appraisal estimated the tract's value to be \$18,000, the United States deposited \$21,000 in just compensation based upon negotiations with landowners identified prior to the completion of the trial appraisal.

766 (3d Cir. 1974); United States v. Atomic Fuel Coal Co., 383 F.2d 1, 3 (4th Cir. 1967). Pursuant to Rule 71.1 of the Federal Rules of Civil Procedure, the Court "tries all issues, including compensation, except when compensation must be determined by [a specially constituted tribunal or by a jury]." As the Supreme Court has observed:

The Rule provides that, except for the single issue of just compensation, the trial judge is to decide all issues, legal and factual, that may be presented . . . . It is for him to decide "all issues" other than the precise issue of the amount of compensation to be awarded.

United States v. Reynolds, 397 U.S. 14, 19-20 (1970). This Court has jurisdiction to determine whether a defendant-claimant has a compensable interest and is thus entitled to present evidence as to just compensation at a trial on that issue. Rule 71.1(h) reserves this preliminary determination to the Court.

In furtherance of its *amicus curiae* role regarding ownership issues, the United States has identified the persons who may have an ownership interest in Tract 104E; all informed by the title company's review of the chain of title. The United States submits that the following 115 persons or estates have ownership interests in Tract 104E:

NAME & ADDRESS OF PAYEE	INTEREST	AMOUNT
Gulf Loan Company, Inc. c/o George Pivach, II 8311 Highway 23, #103 Belle Chasse, LA 70037	.0714286	\$1,500.00
Albert Harry Denesse 1214 Port Street New Orleans, LA 70117	.0102041	\$ 214.29
Estate of Herman M. Hingle	.0102041	\$ 214.29
Lyle J. Hingle, Sr. 8 Willow Lane Gretna, LA 70053	.0051020	\$ 107.14
Mark A. Hingle 323 Pasture Lane Hampton, VA 23669	.0051020	\$ 107.14
Estate of Shirley C. Hingle	.0102041	\$ 214.29
Susan Deslatte Colson 110 Sirius Lane Slidell, LA 70458	.0051020	\$ 107.14
Deborah Deslatte Bradford 116 Red Bud Court Covington, LA 70433	.0051020	\$ 107.14
Estate of Marie Hingle Hontz	.0102041	\$ 214.29
Eric Joseph Piediscalzo 2410 Royal Street New Orleans, LA 70117	.0051020	\$ 107.14
Jessica Anne Piediscalzo Hall aka Jessica A. Hall 5487 Triangle Road Dublin, VA 24084	.0025510	\$ 53.57
Chad Piediscalzo 5844 Westower Drive, Apt. C Richmond, VA 23225	.0025510	\$ 53.57

Eve Hingle Dufrene 3665 Martinique Avenue, Apt. D Kenner, LA 70065	.0238095	\$ 500.00
Anna Hingle Ciummo aka Anna Marie Giummo 1064 Marvin Court Harvey, LA 70058	.0039683	\$ 83.33
Ramona Hingle LaFrance 2133 Stumpf Boulevard Terrytown, LA 70056	.0039683	\$ 83.33
Paul J. Hingle 1105 West 1st Street Belle Chasse, LA 70037	.0039683	\$ 83.33
Nina Guillot 102 Sir Barton Court Bush, LA 70431	.0039683	\$ 83.33
Annette C. Williams 601 Center Road Ozark, MO 65721	.0039683	\$ 83.33
Yvette R. Hingle 1089 Marvin Court Harvey, LA 70058	.0039683	\$ 83.33
Lloyd D. Hingle 14153 Beagle Bend Road Tickfaw, LA 70466	.0238095	\$ 500.00
Susie Forbe aka Irene S. Fabre 124 Holly Street Pineville, LA 71360	.0238095	\$ 500.00
Kathy F. Willett 759 Parsonage Road Colfax, LA 71417	.0119048	\$ 250.00
Harold A. Forbes aka Harold A. Forbe, Jr. aka Ricky Forbe 179 Yellow Road Hessmer, LA 71341	.0119048	\$ 250.00

Jason Anthony Forbes 82 Packenham Avenue Chalmette, LA 70043	.0079365	\$ 166.66
Joseph William Forbes aka Joseph William Forbes, Sr. 6730 Cypress Mist Drive Converse, TX 78109	.0079365	\$ 166.66
Mark Anthony Forbes 1514 Schnell Drive Arabi, LA 70032	.0079365	\$ 166.66
Estate of Emma Rodi Dupas	.0714286	\$1,500.00
Juanita Rodi Ancalade 412 2nd Street Gustine, CA 95322	.0178571	\$ 375.00
John B. Rutherford 555 1st Avenue Gustine, CA 95322	.0059524	\$ 125.00
Dale S. Rutherford 12340 Terrace View Lane Waterford, CA 95386	.0059524	\$ 125.00
William E. Rutherford aka Bill Rutherford 555 1st Avenue Gustine, CA 95322	.0059524	\$ 125.00
Dominick J. Rodi 5028 Eighty Arpent Road Marrero, LA 70072	.0178571	\$ 375.00
Jimmy J. Rodi, Jr. 1101 Orchid Drive Harvey, LA 70058	.0044643	\$ 93.75
Giselle Rodi McCarley 40571 Highway 23 Buras, LA 70041	.0044643	\$ 93.75



Frances Rodi LaCross 160 Dominick Lane Buras, LA 70041	.0044643	\$ 93.75
Steve P. Rodi 11679 Fieldview Drive N. Grand Bay, AL 36541	.0044643	\$ 93.75
Mary Rosina Rodi Ancar 441 Avenue C Marrero, LA 70072	.0079365	\$ 166.66
Jacqueline Rodi Lopez 1129 Orchid Drive Harvey, LA 70058	.0039683	\$ 83.33
Jack A. Rodi, Jr. 829 Oak Avenue Westwego, LA 70094	.0039683	\$ 83.33
Clarice Encalade Bartholomew 203 Rodi Lane Buras, LA 70041	.0039683	\$ 83.33
Calvin Ray Duplessis 48301 Sibley Road Tickfaw, LA 70466	.0039683	\$ 83.33
Delia Rodi Riego aka Delia J. Riego 473 Old Highway 24 W Kokomo, MS 39643	.0011338	\$ 23.81
Carolyn M. Dinet 141 Rodi Lane Buras, LA 70041	.0011338	\$ 23.81
Theresa Linda Dinet 32337 Tuck Lane Denham Springs, LA 70706	.0011338	\$ 23.81
Lelya D. Bartholomew 119 Kimono Drive Gray, LA 70359	.0011338	\$ 23.81

Alfred T. Dinet, Jr. 2904 Concordia Drive, Apt. 207 LaPlace, LA 70068	.0011338	\$ 23.81
Andrea Ann Ancar 32337 Tuck Lane Denham Springs, LA 70706	.0011338	\$ 23.81
Tommy A. Dinet 113 Dennis Lane Buras, LA 70041	.0011338	\$ 23.81
Roland J. Fitch 4505 7th Street Marrero, LA 70072	.0026455	\$ 55.56
Roy Peter Fitch, Jr. 732 MacArthur Avenue Harvey, LA 70058	.0026455	\$ 55.56
Lollita Fitch Edmundson 13 Derbes Drive Gretna, LA 70053	.0026455	\$ 55.56
Louis Petkovich, Jr. 113 Banks Street Buras, LA 70041	.0019841	\$ 41.67
Tina Petkovich Robertson 2536 Ridgecrest Road Marrero, LA 70072	.0019841	\$ 41.67
Jeannie L. Petkovich North 153 Rodi Lane Buras, LA 70041	.0019841	\$ 41.67
Joseph D. Petkovich 5185 Dueling Oaks Avenue Marrero, LA 70072	.0019841	\$ 41.67
Charmaine St. Ann Adams 107 Field Street Belle Chasse, LA 70037	.0039683	\$ 83.33

Ross J. St. Ann 903 Gulf Drive, Apt. C Gretna, LA 70053	.0039683	\$ 83.33
Darrel Craig Dennis aka Darryl Craig Dennis 324 Louisiana Drive Thibodaux, LA 70301	.0039683	\$ 83.33
Lawrence Dale Dennis 324 Louisiana Drive Thibodaux, LA 70301	.0039683	\$ 83.33
John C. Rodi, Jr. 5267 Tampa Drive N. Pearlington, MS 39572	.0019841	\$ 41.67
Charmaine Rodi Bell 61308 Holly Drive Pearl River, LA 70452	.0019841	\$ 41.67
Leslie Brisset Barrett aka Leslie Marie Brisset 476 Daffodil Street Mount Airy, LA 70076	.0006614	\$ 13.89
William Keith McPherson, Sr. 109 Derek Lane LaPlace, LA 70068	.0006614	\$ 13.89
James McPherson, III 5267 Tampa Drive N. Pearlington, MS 39572	.0006614	\$ 13.89
Anthony C. Mitchell, III 877 Homedale Street New Orleans, LA 70124	.0001984	\$ 4.17
Lisa Marie Mitchell 206 Wing Falls San Antonio, TX 78253	.0001984	\$ 4.17
Joseph Paul Mitchell 6701 Carmen Street Metairie, LA 70003	.0001984	\$ 4.17

John Michael Mitchell 4774 Pontchartrain Drive, Apt. 53 Slidell, LA 70458	.0001984	\$ 4.17
Nicole A. Mitchell aka Amanda Nicole Mitchell Kittok 53 Berkley Avenue Harahan, LA 70123	.0001984	\$ 4.17
Mitchell P. Mitchell 206 Wing Falls San Antonio, TX 78253	.0001984	\$ 4.17
Christopher John Mitchell 5240 Savannah Lane Marrero, LA 70072	.0001984	\$ 4.17
Raquel Ann Mitchell Roach 3608 N. Turnbull Drive Metairie, LA 70002	.0001984	\$ 4.17
Bianca Mitchell Medina 601 Vintage Drive, Apt. C217 Kenner, LA 70065	.0001984	\$ 4.17
Elizabeth Lauren Mitchell Murillo 4300 California Avenue Kenner, LA 70065	.0001984	\$ 4.17
Audrey Rodi Gratia 1120 N. Bengal Road Metairie, LA 70003	.0250000	\$ 525.00
Estate of Ervin Rodi	.0250000	\$ 525.00
Lucille Duplessis Baudin 822 Bonnabel Boulevard Metairie, LA 70005	.0071429	\$ 150.00
Edith Duplessis Welty 7421 Saturn Court Violet, LA 70092	.0071429	\$ 150.00
Estate of William B. Duplessis, Jr.	.0071429	\$ 150.00

Daniel Joseph Duplessis 101 Herwig Bluff Road Slidell, LA 70461	.0071429	\$ 150.00
Anthony J. Duplessis 1572 Broadmoor Drive Slidell, LA 70458	.0071429	\$ 150.00
Estate of Nolan J. Duplessis, Jr.	.0071429	\$ 150.00
Elizabeth A. Moore aka Elizabeth Ann Owens 40550 Falcon Drive Franklinton, LA 70438	.0014286	\$ 30.00
Travis W. Duplessis 3408 Montesquieu Street Chalmette, LA 70043	.0007143	\$ 15.00
Clifton J. Duplessis, III 129 Lil Rabbit Lane Hessmer, LA 71341	.0007143	\$ 15.00
Mark J. Duplessis 121A Bosworth Street Slidell, LA 70461	.0014286	\$ 30.00
Todd W. Duplessis 1823 East End Court NW Olympia, WA 98502	.0014286	\$ 30.00
Troy J. Duplessis 12231 Havburg Drive Pensacola, FL 32506	.0014286	\$ 30.00
Theophile S. Soulet, Jr. 171 Linwood Road Fayetteville, NC 28306	.0083332	\$ 175.00
Robert J. Soulet 211 Hollow Rock Court Slidell, LA 70461	.0083332	\$ 175.00
Calvin D. Soulet 1165 Maris Stella Street Slidell, LA 70460	.0083332	\$ 175.00

Marie S. Smith 4324 Arkansas Avenue Kenner, LA 70065	.0083332	\$ 175.00
Henrietta Soulet Godwin 625 West Avenue N. McComb, MS 39648	.0083332	\$ 175.00
Michael L. Marcotte 22430 Benville Road Picayune, MS 39466	.0016667	\$ 35.00
Rachel M. Conrad 6661 Tracey Street, Apt. B Fort Polk, LA 71459	.0016667	\$ 35.00
Sharlene Marcotte Cox 22430 Benville Road Picayune, MS 39466	.0016667	\$ 35.00
Laurie Marcotte Tortorich 603 Plantation Boulevard Mandeville, LA 70448	.0016667	\$ 35.00
Tracey Marcotte Raybon 20 Pecan Grove Lane Meraux, LA 70075	.0016667	\$ 35.00
Estate of Nelson N. Rodi	.0125000	\$ 262.50
Louise M. Laviolette 517 Mimosa Street LaPlace, LA 70068	.0125000	\$ 262.50
Theresa R. Pitre 427 Mahogany Street LaPlace, LA 70068	.0125000	\$ 262.50
Deyone R. Bartholomew 653 Wiegand Drive Westwego, LA 70094	.0125000	\$ 262.50
Estate of Elsie Rodi	.0500000	\$1,050.00

Peggy Denese Messmer 2600 Bay Adams Drive Marrero, LA 70072	.0250000	\$ 525.00
Donald Patrick Denese 253 Evella Drive Slidell, LA 70458	.0250000	\$ 525.00
Jamie Moran St. Germaine aka Jamie Joe St. Germaine 1430 Constitution Drive Slidell, LA 70458	.0083332	\$ 175.00
Scott Michael Moran 237 Clara Drive Slidell, LA 70458	.0083332	\$ 175.00
Chad William Nichols 277 Cypress Lakes Drive Slidell, LA 70458	.0083332	\$ 175.00
Jacquelyn Ann Brock Scamardo 1531 Ridgecrest Drive Slidell, LA 70458	.0250000	\$ 525.00
Eraina Rodi Rooks 4 Pueblo Lane Picayune, MS 39466	.0250000	\$ 525.00
Adam Clarence Rodi, Jr. 118 Foxbriar Court Slidell, LA 70461	.0250000	\$ 525.00
Estate of Arthur Rodi	.0500000	\$1,050.00
Gayle R. Nichols 217 Crescentwood Loop Slidell, LA 70458	.0166667	\$ 350.00
Sandra Rodi Chauppetta 76309 Jim Parker Road Pearl River, LA 70452	.0166667	\$ 350.00
Brenda Rodi Crowson 120 Brittany Lane Slidell, LA 70458	.0166667	\$ 350.00

None of these persons or estate representatives have filed either an appearance or an answer. This is so even though the United States published on three occasions in April 2017 in the Times-Picayune an announcement that the Court would determine ownership and just compensation issues relative to this tract of land on or after May 17, 2017; and, even though the United States certified that it served on the claimant-defendants by regular and certified mail this Court's April 3, 2017 Order giving notice that the Court will resolve the ownership and just compensation issues on or after May 17, 2017. There being no challenge or additional evidence to consider with respect to ownership, the Court is persuaded by the United States's submission, which is based foremost on the title policy on the tract. Considering the evidence presented, the Court finds that this list of 115 payees comprise the owners of compensable interests in Tract 104E at the time of its taking on January 29, 2016. Each are therefore entitled to just compensation for the public taking of Tract 104E.

*B.*

*Just Compensation*

Once the Court determines ownership of the tract as of January 29, 2016, the Court should hold a hearing to determine just compensation. See Fed. R. Civ. P. 71.1(e)(3). Because no jury has been demanded, the Court may make a determination of just



compensation. Fed. R. Civ. P. 71.1(h). Rule 71.1(e)(3) suggests that during the trial on just compensation "a defendant -- whether or not it has previously appeared or answered -- may present evidence on the amount of compensation to be paid and may share in the award." Although the United States served the claimant-defendants with a copy of this Court's order, which gave notice that the Court would resolve the issues of ownership and just compensation by May 17, 2017, and although notice was published in the newspaper, no one has appeared to contest the United States' submission.

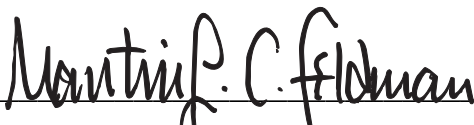
The United States submits that it would proffer at any hearing, consistent with what it has already submitted in the paper record, evidence on its estimate that just compensation in the amount of \$21,000.00 is proper and appropriate. Just compensation is fair market value of the property on the date of its appropriation. Kirby Forest Industries, Inc. v. United States, 467 U.S. 1, 9-10 (1984).

The United States obtained an appraisal report from Robert W. Lowe, Jr., estimating \$18,000.00, as of January 26, 2006, as just compensation for the real estate interest acquired in the .225 acres of land. However, based upon negotiations with landowners identified prior to completion of the trial appraisal, the United States deposited into the Court's registry \$21,000 in just

compensation. No party has contested the United States's just compensation valuation or submitted an alternative estimate of just compensation. The record supports a finding that \$21,000 is the fair market value of Tract 104E. Accordingly, the Court determines that \$21,000.00 constitutes just compensation for the taking of the 0.225 acres of condemned land identified as Tract 104E.

IT IS ORDERED: that the United States's motion for determination of title and to determine just compensation is hereby GRANTED. IT IS FURTHER ORDERED: that prior to title vesting in the United States, ownership of the property was held by the company, persons, and estates of persons listed in this Order and Reasons. IT IS FURTHER ORDERED: that the just compensation payable by the United States to the defendants-claimants shall be the sum total of \$21,000.00 for the taking of the Tract 104E. Within seven days, the United States shall submit a proposed judgment consistent with this Order and Reasons.

New Orleans, Louisiana, June 16, 2017

  
MARTIN L. C. FELDMAN  
UNITED STATES DISTRICT JUDGE