

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NORTHERN NATURAL GAS COMPANY,

Plaintiff,

v.

80 ACRES OF LAND IN THURSTON
COUNTY, NEBRASKA, UNITED STATES
OF AMERICA, PATRICIA E.

ABATANGELO, also known as Patricia
Pettit Solomon, CORA N. SOLOMON,
MARIANNE SOLOMON WIGGANS,
CHRISTINE MARIE SOLOMON,
KATHERINE SOLOMON, WILBUR
SOLOMON, MICHAEL ANDREW
SOLOMON, NOLAN J. SOLOMON, and
UNKNOWN OWNERS,

Defendants.

8:17CV328

ORDER

This matter is before the court on its own motion. This is an action for condemnation under [25 U.S.C. § 357](#). Jurisdiction is based on a federal question under [28 U.S.C. § 1331](#).

Under the Federal Rules of Civil Procedure, Rule 71.1 governs all proceedings to condemn real or personal property, including actions involving eminent domain under state law. [Fed. R. Civ. P. 71.1\(a\)](#), (k). “[E]xcept for the issue of whether a jury may hear the case, a federal court hearing a condemnation case under a state’s power of eminent domain must follow the procedures in Rule 71A [later renamed Rule 71.1].” [City of Arlington, Tex. v. Golddust Twins Realty Corp.](#), 41 F.3d 960, 964 n. 2 (5th Cir. 1994); see [Village of Walthill, Neb. v. Iowa Elec. Light & Power](#), 228 F.2d 647, 653 (8th Cir. 1956) (stating that Rule 71A (k) [now 71.1(k)] mandates that, except for the issue of

whether a jury may hear the case, a federal court hearing a condemnation case under a state's power of eminent domain must follow the procedures in the Federal Rules); *EQT Gathering, LLC v. A Tract of Prop. Situated in Knott Cty., Ky.*, No. CIV. A. 12-58-ART, 2012 WL 6049691, at *2 (E.D. Ky. Dec. 5, 2012).

Accordingly, the plaintiff shall effectuate service and notice pursuant to [Federal Rule of Civil Procedure 71.1](#). Under [Federal Rule of Civil Procedure 71.1\(d\)\(1\)](#), “[o]n filing a complaint, the plaintiff must promptly deliver to the clerk joint or several notices directed to the named defendants.” Also, “[w]hen a defendant whose address is known resides within the United States or a territory subject to the administrative or judicial jurisdiction of the United States, personal service of the notice (without a copy of the complaint) must be made in accordance with Rule 4.” [Fed. R. Civ. P. 71.1\(d\)\(3\)\(A\)](#).¹ Upon effectuation of such notice, the plaintiff shall contact the chambers of the undersigned to set a hearing for a status conference at which all parties will discuss progression of the case.

IT IS SO ORDERED.

Dated this 12th day of September, 2017.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

¹ Service by publication may be effected under Rule 71.1 (d)(3)(B).