

# **MODIFIED WATER DELIVERIES TO EVERGLADES NATIONAL PARK**

## **8.5 SQUARE MILE AREA (SMA) - LAND ACQUISITION**

### **FREQUENTLY ASKED QUESTIONS (FAQS)**

#### **WHERE IS THE 8.5 SMA LOCATED?**

The 8.5 Square Mile Area (SMA), a component of the Modified Water Deliveries to Everglades National Park (MWD) Project, is a populated area in South Miami-Dade County located approximately 6.6 miles south of Tamiami Trail (U.S. 41). It is bounded on the west by the Everglades National Park (ENP), and separated from the more intensively developed urban lands to the east by the L-31N flood protection levee and borrow canal.

#### **WHY IS LAND ACQUISITION NECESSARY?**

Land acquisition is necessary to provide flood mitigation for the residential area, which could be affected by water flows from the other components of the Modified Water Deliveries to Everglades National Park Project.

#### **WHAT LAND ACQUISITION STEPS HAVE TAKEN PLACE?**

All landowners were invited to attend public meeting on January 16, 2001. At the meeting, the project was explained, the specific property to be acquired was identified and the Acquisition Process and Land Owner's Rights were explained.

Bilingual information materials were provided to all attendees including maps and a summary of landowners rights. Presentations were simultaneously translated, with bilingual staff members available following the meeting. Landowner's were provided with a toll-free phone number to call for information in both Spanish and English. A community leader's meeting preceded the general public meeting to allow for smaller group interaction with those most outspoken on behalf of their community.

A second meeting, open to the public but specifically for the landowners in the highest priority areas to be acquired was held on January 31, 2001. The acquisition process and landowners rights were explained in greater detail, in both English and Spanish. Two more meetings were held in November 2001, one specifically for Spanish speakers, and a second for the landowners in the next priority.

## **WHAT IS THE STATUS OF AQUISITION?**

As of 2/19/02, 155 Offers to Sell (OTS) have been mailed to landowners and 61 of those have been signed and returned to the Corps of Engineers by the landowner. Corps of Engineers' negotiators have been making contact with landowners on a regular basis and status changes daily.

## **WHY IS CONDEMNATION REQUIRED FOR SOME TRACTS?**

Many tracts require condemnation to clear title defects. Some tracts require condemnation if there is a difference of opinion concerning value and agreement on purchase price has not been reached. In either case, condemnation is used only as a last resort to purchase property.

## **DOES THE CORPS HAVE THE AUTHORITY TO CONDEMN?**

Yes. The power of condemnation was granted under 40 U.S.C. 257 which states:

In every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this section and section 258 of this title, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice. The Corps condemnation authority is set forth in 33 U.S.C. 591 and 33 U.S.C. 701. Declaration of Taking authority comes from 40 U.S.C. 258a which gives the government title in advance of final judgment.

## **WHAT IS THE CONDEMNATION PROCESS?**

*After all possibilities are exhausted, the owner is notified in writing of the Government's intent to condemn and the reason why condemnation is necessary. At the same time, a Condemnation Assembly is sent from the Corps of Engineers to the Department of Justice (DOJ). A Condemnation Assembly includes such information as negotiation report, tract appraisal & review certificate, declaration of taking forms, project maps, etc. DOJ forwards the Condemnation Assembly to the local US Attorney (Miami). The Condemnation Assembly is filed in Federal District Court. The U.S. District Court (Judge) executes an order of possession authorizing the Government to enter the property. The Court conducts a hearing/trial and enters a Final judgment.*

## **WHERE WILL THE CORPS BE FILING THE CASES?**

The cases will be filed in the Federal District Court of the Southern District of Florida located in Miami, FL.

**WHO PREPARED THE APPRAISALS TO ESTABLISH ESTIMATED FAIR MARKET VALUE?**

The Corps of Engineers entered into a contract with an independent contract appraiser familiar with the 8.5 SMA.

**HOW DO LANDOWNERS RETRIEVE FUNDS DEPOSITED IN THE COURT?**

When the case is filed in the Federal District court of the Southern District of Florida, a check in the amount of the estimated fair market value is deposited with the court. Landowners may make application for disbursement of funds to United States Attorney's Office, Southern District of Florida, 99 Northeast Fourth Street, Miami, Florida 33130 or call 305-961-9372.