

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 01-801-CIV-MOORE

JORGE AND SUSAN GARCIA, NELSON RUIZ
and OSVALDO E. CUELI,¹

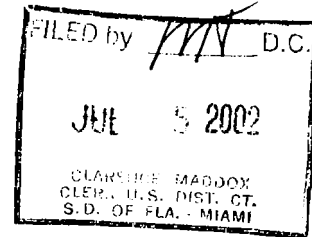
Plaintiffs,

vs.

ORDER

UNITED STATES OF AMERICA, U.S. ARMY
CORPS OF ENGINEERS, and JOSEPH W.
WESTPHAL, Assistant Secretary of Army (Civil
Works), in his official capacity,

Defendants.



THIS CAUSE is before the Court upon Plaintiff's Motion for Summary Judgment (DE#14), Federal Defendants' Cross-Motion for Summary Judgment (DE#22) and Plaintiff's Motion for Preliminary Injunction (DE#12). These matter were referred to United States Magistrate Judge John J. O'Sullivan pursuant to 28 U.S.C. § 636. A Report and Recommendation dated May 7, 2002 has been filed, recommending that Plaintiff's Motion for Summary Judgment be GRANTED in part, Federal Defendant's Cross-Motion for Summary Judgment be DENIED and Plaintiff's Motion for Preliminary Injunction be DENIED AS MOOT.

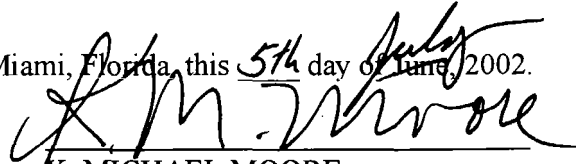
The Federal Defendants filed objections to the Magistrate's Report and Recommendation on May 24, 2002. Plaintiffs filed a response to the Federal Defendants' objections on June 10, 2002. After requesting leave of the Court, *Amici Curiae* Madeleine Fortin and Raymond E. Woodard, Jr. also filed a brief in support of the Magistrate's Report and Recommendation, which was received on June 10, 2002.

After due and proper consideration of all portions of this file deemed relevant to the issues raised and a *de novo* determination of those portions of the recommendation to which objection is made, the recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated

¹ During argument before Magistrate Judge John J. O'Sullivan, counsel for the Plaintiffs announced that Osvaldo E. Cueli is the sole remaining plaintiff in the matter.

May 7, 2002 (DE#52), is ADOPTED as the opinion of this Court. Accordingly, the Federal Defendants' objections are OVERRULED.

DONE AND ORDERED in Chambers at Miami, Florida, this 5th day of July, 2002.


K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

copies provided:

Richard A. Warren, Esq., Counsel for Plaintiffs

Richard J. Suarez, Esq., Counsel for Plaintiffs

Samuel A. Danon, Esq., Counsel for *Amici Curiae*

Matthew S. Clifford, Esq., Counsel for Federal Defendants

United States Magistrate Judge John J. O'Sullivan