



E-FILED
 CNMI SUPERIOR COURT
 E-filed: Nov 08 2024 03:42PM
 Clerk Review: Nov 08 2024 03:42PM
 Filing ID: 74970056
 Case Number: 15-0175-CV
 N/A

1
2
3
4 **IN THE SUPERIOR COURT**
5 **FOR THE**
6 **COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

6 **CONRAD MUNA SABLAN,**

7 **Plaintiff,**

8 **v.**

9 **COMMONWEALTH UTILITIES**
10 **CORPORATION and**
11 **COMMONWEALTH OF THE**
12 **NORTHERN MARIANA ISLANDS,**

13 **Defendants.**

CIVIL ACTION NO. 15-0175

**JUDGMENT AND ORDER GRANTING
 JUST COMPENSATION FOR THE
 UNCONSTITUTIONAL TAKING OF
 TRACT NO. 22654-R2 BY INVERSE
 CONDEMNATION BY THE CNMI
 GOVERNMENT AND THE
 COMMONWEALTH UTILITIES
 CORPORATION**

14 **I. INTRODUCTION**

15 **THIS MATTER** came before the Court for the second part of a Bench Trial on
 16 January 31, 2023, and then continued to March 8, 2024, at 10:00 a.m. in Courtroom 220A.
 17 Attorney Brien Sers Nicholas represented Conrad Muna Sablan (“Plaintiff Sablan” or
 18 “Sablan”) who was present. Attorney Colin Thompson appeared on behalf of the
 19 Commonwealth Utilities Corporation (“Defendant CUC” or “CUC”). Assistant Attorney
 20 General Robert Glass appeared on behalf of the Commonwealth of the Northern Marianas
 21 Islands (“Defendant CNMI” or “Government”). During the Bench Trial, the Court heard
 22 testimonies from four witnesses: Kerry G. Campbell, Jack Diaz, Lilio Tiples, and Plaintiff
 23 Sablan. Exhibit E was admitted into evidence.
 24
 25

26 //

By order of the Court, Judge Joseph N. Camacho

II. FINDINGS OF FACT

The Court adopts and incorporates its Order¹ (“First Order”) issued on September 23, 2022, in the entirety, only briefly listing some of the relevant facts in this Order:

1. Sometime in 1988, Vicente S. Sablan (“Vicente”) died.
2. On May 18, 1990, the Decree of Final Distribution (“Final Distribution”) for the Estate of Vicente S. Sablan distributed the partial of Tract No. 22654 located at Sadog Tasi on the island of Saipan in the Commonwealth of the Northern Mariana Islands to the heirs of Vicente, namely Maria Sablan, Conrad Sablan, Vicente M. Sablan, and Tito Sablan. The partial of TR No. 22654 was approximately 15,441 square meters in size.
3. On or about March 31, 1991, CUC began constructing the Maui IV reservoir/Superblue water tank (“Water Tank”) on TR No. 22654.
4. The Water Tank is built on top of a hollow underground cavern containing a water reservoir.
5. On March 31, 1992, construction of the Water Tank concluded.
6. Sometime in 2013, Plaintiff Sablan, his siblings, and their mother commissioned an as-built survey of the property from Jesus DLG Takai (“Takai”) of Takai & Associates.
7. In October 2013, Takai completed the As-Built Survey Plat of TR. 22654.
8. Plaintiff Sablan, his mother Maria Sablan, and his two siblings, Vicente M. Sablan, and Tito Sablan subdivided TR. 22654 into TR. 22654-1, TR. 22654-2, TR. 22654-3, and TR. 22654-R1².

¹ The Court bifurcated the trial with the first part on the issue to determine if there was a taking, and the second part to the issue of just compensation. The September 23, 2022 Order is uploaded on the CNMI Law Revision Commission website titled Order Finding that (1) There was an Unconstitutional Taking; (2) Defendant CUC Can Be Held Liable in an Inverse Condemnation Action Despite Not Having Eminent Domain Powers; (3) Plaintiff Sablan’s Inverse Condemnation Claim is Not Barred by the Statute of Limitations; (4) There was a Trespass; (5) The Excavation of the Relevant Property and the Water Shaft are Permanent Trespasses; and (6) Defendant CUC Did Not Adversely Possess the Land.

² Tract No. 22654-R1 is sometimes misidentified as TR. 22654-R2 in various documents on record. The Confirmation Deed dated November 25, 2013, in Exhibit 6.1 sought to correct the naming mistake by confirming

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

9. On November 6, 2013, the subdivision of TR. 22654 by Plaintiff Sablan, his mother, and his two siblings, was approved.
10. On November 13, 2013, a Deed of Conveyance was filed conveying TR. 22654-1 (containing an area of 1,845 square meters) and TR. 22654-R1 (comprising an area of 7,497 square meters) to Plaintiff Sablan from his brothers, Tito Sablan, and Vicente M. Sablan, and his mother, Maria Sablan.
11. On November 25, 2013, Plaintiff Sablan’s mother and siblings signed a Confirmation Deed to correct the naming mistake by confirming they conveyed TR. 22654-R1 to Plaintiff Sablan, not TR. 22654-R2.
12. On January 27, 2014, the subdivision splitting TR. 22654-R1 into TR. 22654-R2 (now containing an area of 3,497 square meters) and TR. 22654-4 (containing an area of 4,000 square meters) was approved.
13. On August 13, 2019, the Court, the parties, and their attorneys visited the Water Tank site.
14. In the Bench Trial on January 31, 2023, Mr. Campbell testified that he assessed Plaintiff Sablan’s investor profile using his age and financial resources, stating that he had a long-time horizon since he was twenty-seven in 1991. Plaintiff Sablan also had a healthy income. Mr. Campbell determined that seventy percent equity allocation and thirty percent bond was a prudent portfolio for Plaintiff Sablan. For his assessment of the equity allocation, Mr. Campbell utilized the S&P 500 Total Return Index. For the fixed income allocation, he employed the Bloomberg US Aggregate Bond Total Return Index. Mr. Campbell reviewed the annual returns for both the S&P 500 Total

that Plaintiff Sablan’s siblings and his mother conveyed TR. 22654-1 and TR. 22654-R1 to Plaintiff Sablan, not TR. 22654-R2. *See* Exhibit 6.1. However, after the subdivision in January 2014, part of TR No. 22654-R1 became TR No. 22654-R2.

1 Return and the Bloomberg US Aggregate Total Return, covering the period from April
2 1991³ to December 2022, which totals 31 years and 9 months.

3 15. The model portfolio dollar return is also known as asset weighting return because, at
4 each point in time, you are weighting⁴ the return by the underlying value of the asset
5 at that time. It comprises the dollar amount invested plus the return. This requires
6 inputting the value of the asset, which is the sum of both lots, TR No. 22654-R2 and
7 TR No. 22654-1, totaling \$502,000 for thirty-one years and nine months, starting on
8 April 1, 1991, and ending in December 2022. For example, the starting value on April
9 1, 1991, was \$502,000. The time-weighted return for the model portfolio was 13.51%,
10 and the dollar return was \$67,835.00. The ending value was \$569,835.00. By
11 December 2022, the ending value was \$7,028,320.00. Since the Bench Trial took place
12 in January 2023, Mr. Campbell included January 2023 in the calculation, resulting in
13 an ending value of \$7,077,045 for January 2023, and the timeline changed to thirty-
14 one years and ten months. Mr. Campbell testified that he used the mathematical
15 formula $FVSS = PVSS(1+i)^n$ found in *MPLA v. Heirs of Rita Rogolifoi, represented by*
16 *Dolores Saralu, et al.*, to calculate the prejudgment interest and he determined the
17 prejudgment interest rate to be 8.6674%. *See MPLA v. Heirs of Rita Rogolifoi,*
18 *represented by Dolores Saralu, et al.*, Civil Case No. 05-0197A (NMI Super. Ct. May
19 7, 2009) (Order Granting Prejudgment Interest Rates for Government Taking of Lots
20 630-1R/W And 630-2R/W at 7).
21
22
23
24
25

26 ³ “Mr. Tipler explained that the fair market values of the properties would not be affected if the date of the takings was sometime earlier in March 1991 or sometime later, in April 1991, given the relatively small difference in time between the possible dates.” First Order at 6.

⁴ Weighted refers to adjustments made to a figure to reflect the varying proportions or "weights" of the components that constitute that figure. *See Will Kenton, Weighted: What It Means and How It Works*, INVESTOPEDIA (updated April 26, 2022) <https://www.investopedia.com/terms/w/weighted.asp>

1 16. Mr. Campbell also testified that he calculated the model portfolio with Plaintiff Sablan
2 as the sole owner. He conceded that if there were other owners with investor profiles
3 different from those of Plaintiff Sablan, which would change the weightings in the
4 portfolio, then the model portfolio that Mr. Campbell built would be affected.

5 17. During the March 8, 2024, Bench Trial Jack Diaz testified that he prepared Exhibit E
6 to verify the encroachment area of TR No. 22654-R2. Mr. Diaz is a Surveyor 3 for the
7 Department of Public Lands. He stated that the encroachment area amount of the
8 Water Tank, its chain link fences, and the carved rock wall was 1,029 square meters.
9 The remainder of TR No. 22654-R2 was 2,468 square meters.

10 18. Lilio Tiples (“Mr. Tiples”) testified that the encroachment of the Water Tank and its
11 chain link fences could pose a danger if a residence was built on the remainder. He
12 concluded that there is a negative impact on the remainder.

13 19. Plaintiff Sablan testified that he could not enter TR No. 22654-1 from TR No. 22654-
14 R2 because of a private easement. He stated his brother owns TR No. 22654-3 and in
15 the final distribution decree Plaintiff Sablan, his mother, and his siblings all shared an
16 interest in TR No. 22654-3 when it was part of one property as TR No. 22654. Plaintiff
17 Sablan, his siblings, and their mother subdivided TR No. 22654 in 2013.
18
19

20 **Procedural History**

- 21 1. Plaintiff Sablan filed his Complaint on August 28, 2015.
- 22 2. The first part of the bifurcated Bench Trial took place on August 12-16, 2019,
23 September 6, 2019, and concluded on June 15, 2020. Eleven witnesses testified and
24 fourteen exhibits were admitted.
- 25 a. Wence Aquino (“Mr. Aquino”) is a land claims investigator for the Department
26 of Public Lands. Mr. Aquino testified that in Exhibit D, Parcel W-10 was a
government easement/road that divides TR No. 22654-R2 and TR No. 22654-

1 1. He stated Laguna Drive and Parcel W-10 were both public rights of way that
2 the public can access and use. It does not prevent access to TR No. 22654-1
3 from TR No. 22654-R2.

4 b. Joaquin B. Songsong (“Mr. Songsong”) is the Director of the Division of Land
5 Registration and Survey in the Department of Lands and Natural Resources.
6 When asked who was responsible for providing an easement or right of way
7 when a landowner parcels out their property. Mr. Songsong testified that it was
8 the landowner who was responsible. If there is already an existing right of way
9 that the government established, the landowner of those lots can use that right
10 of way. If there is no road then it is the landowner’s responsibility to provide
11 access to each lot of their property. Mr. Songsong clarified that the regulation
12 in the Division of Land Registration and Survey is that the landowner is
13 responsible for providing an easement or right of way when parceling land.
14 However, Mr. Songsong stated that based on Exhibit 8.1, there is no need for
15 a landowner to make another alternate right of way for TR No. 22654-1 and
16 TR No. 22654-R2 due to the presence of Parcel W-10 as a right of way in
17 between them.
18

19
20 c. Lilio Tipples is a certified real estate appraiser. Mr. Tipples testified that his
21 assignment was to appraise two lots, TR No. 22654-1 and TR No. 22654-R2
22 on the date of the taking on March 31, 1991. Mr. Tipples used the comparable
23 sales approach and analyzed comparable transactions of comparable lots to TR
24 No. 22654-1 and TR No. 22654-R2 to create a value. Based on his report, in
25 1991, TR No. 22654-1 had a fair market value of \$135,000, with a price of \$73
26 per square meter. TR No. 22654-R2 had a fair market value of \$367,000, with
a price of about \$105 per square meter. Mr. Tipples testified that TR No. 22654-

1 R2 was 3,497 square meters. He stated the price per meter could be determined
2 by dividing the fair market value by the square meters of land. For example,
3 TR No. 22654-R2 has a fair market value of \$367,000. TR No. 22654-R2 has
4 3,497 square meters. Dividing 367,000 by 3,497 results in a price of \$104.95
5 per meter for TR No. 22654-R2.

- 6 3. On September 23, 2022, the Court issued its Order Finding that 1) There was an
7 Unconstitutional Taking; 2) Defendant CUC can be Held Liable in an Inverse
8 Condemnation Action Despite not Having Eminent Domain Powers; 3) Plaintiff
9 Sablan's Inverse Condemnation Claim is not Barred by the Statute Of Limitations; 4)
10 There was a Trespass; 5) The Excavation of the Relevant Property and the Water Shaft
11 are Permanent Trespasses, and 6) Defendant CUC did not Adversely Possess the Land
12 ("First Order"). The Court found that both a taking and a trespass had occurred, but
13 could not determine the amount of just compensation owed, whether Plaintiff owned
14 the relevant property at the time of the taking, which Defendant was liable, and to what
15 extent either Defendant was liable. *See* First Order at 34-35. The Court found issues
16 that required additional testimony to resolve.
- 17 4. On January 26, 2023, Plaintiff filed a Notice of Claim Dismissal for his Trespass
18 claim.
- 19 5. On January 31, 2023, the second part of the bifurcated Bench Trial was held. Mr. Kerry
20 G. Campbell testified. No exhibits were admitted into evidence.
- 21 6. On March 8, 2024, the continuation of the second part of the Bench Trial. Jack Diaz
22 of Public Lands, Lilio Tipler, and Plaintiff Sablan testified. Exhibit E was admitted
23 into evidence.
24
25
26

III. LEGAL STANDARD

1
2 “An action for inverse condemnation is one alleging a governmental taking, brought
3 to recover the value of property which has been appropriated in fact, but with no formal
4 exercise of the power of eminent domain.” *Slate v. Pierce Cnty.*, 2016 U.S. Dist. LEXIS 13149
5 at *18 (citing *Phillips v. King County*, 136 Wn.2d 946, 957 (1998)) (quotations omitted). “To
6 assert an inverse condemnation claim, a party ‘must establish the following elements: (1) a
7 taking or damaging (2) of private property (3) for public use (4) without just compensation
8 being paid (5) by a governmental entity that has not instituted formal proceedings.’” *Slate*,
9 2016 U.S. Dist. LEXIS 13149 at *13 (citing *Wallace v. Lewis County*, 134 Wn. App. 1, 15
10 (2006)).
11

12 “The Fifth Amendment of the United States Constitution and Article XIII, Section 2,
13 of the NMI Constitution state that private property may not be taken without just
14 compensation.” *Commonwealth v. Lot No. 353 New G*, 2015 MP 6 ¶15. “Awarding just
15 compensation is a judicial, not a legislative function.” *Estate of Muna v. Commonwealth*, 2007
16 MP 16, ¶14 (citing *Schneider v. County of San Diego*, 285 F.3d 784, 793 (9th Cir.
17 2002). “[T]he amount of prejudgment interest should be calculated in a manner that ensures
18 that the property owner receives constitutionally adequate compensation.” *Id.* (citing
19 *Schneider v. County of San Diego*, 285 F.3d at 794) (quotations omitted).
20

IV. CONCLUSIONS OF LAW

21
22 In its First Order, the Court found an Unconstitutional Taking but noted there were
23 remaining issues for the parties to address such as the ownership interest in the land, the
24 amount of land taken, the amount of just compensation owed, and the Defendants’ liability.
25 Plaintiff Sablan argues a taking of both TR No. 22654-R2 and TR No. 22654-1.
26

1. Ownership Interest

“From the foregoing it should be apparent that identification of the time a taking of a tract of land occurs is crucial to determination of the amount of compensation to which the owner is constitutionally entitled.” *Kirby Forest Indus. v. United States*, 467 U.S. 1, 11 (1984). In its First Order, the Court found the date of the taking as March 31, 1991.

Both Defendants argue that Plaintiff Sablan failed to establish ownership at the time of the taking. “The person entitled to compensation for a taking of property by the Government is the owner of the property at the time of the taking.” *Lacey v. United States*, 219 Ct. Cl. 551, 560 (2007) (citing *United States v. Dow*, 357 U.S. 17, 20 (1958)). In 1988, Vicente died and two years later on May 18, 1990, the probate court issued a Final Distribution. *See* Exhibit 1. The Final Distribution distributed the partial of TR No. 22654 to Plaintiff Sablan, his mother Maria Sablan, and his two siblings Tito Sablan and Vicente M. Sablan. *See Id.* at 7-8. The partial of TR No. 22654 totaled 15,441 square meters. *Id.* TR No. 22654-R2 and TR No. 22654-1 were part of TR No. 22654 as one property before November 2013. The two lots were subdivided out of TR No. 22654 in November 2013 and January 2014. The taking occurred on March 31, 1991, when Plaintiff Sablan shared an interest with his mother and siblings in TR No. 22654. Plaintiff Sablan’s shared interest in TR No. 22654 with his mother and siblings does not negate his ownership status. Plaintiff Sablan acquired ownership of the land on which the Water Tank is situated in 1991 and continues to hold ownership as of the issuance of this Order.

The Court finds Plaintiff Sablan was an owner (with his mother Maria Sablan and siblings Vicente M. Sablan and Tito Sablan) of TR No. 22654-R2 and 22654-1 when it was part of one property as TR No. 22654 at the time of the taking on March 31, 1991.

1 **2. Amount of Land Taken**

2 **a. TR No. 22654-R2**

3 CUC began building the Water Tank in 1991 and finished construction on March 31,
4 1992. The Water Tank is located in what is currently, TR No. 22654-R2. “The Takings
5 Clause provides: nor shall private property be taken for public use, without just
6 compensation.” *Horne v. Dep't of Agric.*, 576 U.S. 351, 358 (2015) (citing U.S. Const., Amdt.
7 5) (internal quotations omitted)). The Court has already found a taking in its First Order
8 because there was a physical appropriation of private property by the placement of the Water
9 Tank. The issue here is deciding how much land has been taken due to the presence of the
10 Water Tank and its chain link fences.

11
12 According to Jack Diaz, the encroachment on TR No. 22654-R2 by the Water Tank,
13 the chain link fences, and the carved wall is 1,029 square meters (TTR⁵ 188: 19-25, 189: 22-
14 25.) Defendant CNMI concedes a partial taking, specifically for 1,029 square meters of TR
15 No. 22654-R2 that the Water Tank encroaches upon. Therefore, the Court finds a taking of
16 the 1,029 square meters of TR No. 22654-R2 the area occupied by the Water Tank and its
17 chain link fences.

18
19 Now, the Court will address the remainder portion of TR No. 22654-R2. Jack Diaz
20 testified that the Water Tank encroaches 1,029 square meters onto TR No. 22654-R2 and there
21 is a remainder of 2,468 square meters in TR No. 22654-R2. (TTR 183: 16:25.) Plaintiff Sablan
22 argues a taking of the entirety of TR No. 22654-R2 which totals 3,497 square meters. *See*
23 Exhibit E. Defendant CNMI argues Plaintiff Sablan failed to show entitlement to just
24 compensation for the 2,468 square meters remainder of TR No. 22654-R2 as an uneconomic
25 remnant. Defendant CNMI believes that based on the size and location of the remainder, it
26

⁵ TTR refers to Trial Transcript which includes the second part of the bifurcated January 31, 2023 and the March 8, 2024 Bench trial.

1 appears to be economically viable. Further, in 1991 when the tract was larger, TR No. 22654
2 would have been economically viable.

3 During the March 8, 2024 trial, Mr. Tipples testified that the height of the Water Tank
4 obstructs visibility. Additionally, Mr. Tipples expressed concerns that if there were a residence
5 on the property, the Water Tank could pose a risk to the occupants in the event of a disaster
6 affecting the tank. (TTR 227: 22-228: 2-3.) Mr. Tipples concluded there was a negative adverse
7 impact on the 2,468 square meters remainder of TR No. 22654-R2. (TTR 229: 3-4.) Following
8 the site visit conducted by the Court and the parties, which included an inspection of the
9 property line, the Court observed that the terrain, characterized by its rocky nature, along with
10 the topography of TR No. 22654-R2, renders the remainder property unsuitable for any viable
11 residential, agricultural, or commercial development. Furthermore, the Water Tank is built
12 on top of a hollowed-out underground water cavern and the underground features of the Water
13 Tank considerably restrict the potential for construction on the site, resulting in a diminished
14 likelihood of attracting prospective buyers. Because of its immediate proximity to the Water
15 Tank, which is built on top of a hollowed-out underground water cavern, the Court finds that
16 the possibility of septic tanks with human or animal fecal contamination or plant pesticide
17 poisoning of the water table makes the 2,468 square meters remainder of TR No. 22654-R2
18 unusable for any residential, commercial and/or agricultural use.
19
20

21 Based on Mr. Tipples' testimony and the site visit on August 13, 2019, the Court finds
22 that the remainder is unusable; therefore, there was a taking of the entirety of TR No. 22654-
23 R2, totaling 3,497 square meters.

24 **b. TR No. 22654-1**

25 Plaintiff Sablan argues that the Water Tank and its chain link fences block his access
26 to TR. 22654-1. Since March 1990, two rights of way, designated as 21709-R/W and 21710-
R/W, have been present. *See* Exhibit 8.2. The Water Tank's chain link fences extend over

1 both rights of way. *See* Exhibit 9.1. During the March 8, 2024 trial, when Plaintiff Sablan
2 was asked why he couldn't access TR No. 22654-1 through other parts of the land (TTR
3 238:11-15.) Plaintiff Sablan testified that he would have to cross a private easement and enter
4 TR No. 22654-1. (TTR 238:13.) Plaintiff Sablan was then asked if he owned some land in
5 TR No. 22654-3 and Plaintiff responded that the tract was his brother's property. (TTR
6 238:16-18.) Plaintiff Sablan testified that TR No. 22654-3 was all part of one property in
7 1990. (TTR 239:2-10.) In 1991, access to TR No. 22654-1, also designated as TR No. 22654,
8 was obtained by navigating along Laguna Drive, entering the larger property TR No. 22654,
9 and crossing Parcel W-10. *See* Exhibit 8.2.

11 At trial on September 6, 2019, Defendant CUC's witness, Mr. Wence Aquino, testified
12 that Parcel W-10, which adjoins TR No. 22654-1 and TR No. 22654-R2, is classified as a
13 government road. (FTTR⁶ 331:16-18.) He further indicated that both Parcel W-10 and
14 Laguna Drive are recognized as public rights of way. (TTR 371:25 – 372:2.) In the State of
15 Washington, an owner's right of access to their property is recognized. *See Hunters Cap., LLC*
16 *v. City of Seattle*, 650 F. Supp. 3d 1187, 1204 (W.D. Wash. 2023). "To establish a taking
17 under this theory of liability, Plaintiffs must show that access to their properties was
18 eliminated or substantially impaired." *Hunters Cap., LLC v. City of Seattle*, 650 F. Supp. 3d
19 at 1204 (citing *Pande Cameron & Co. of Seattle, Inc. v. Cent. Puget Sound Reg'l Transit Auth.*,
20 610 F. Supp. 2d 1288, 1303 (W.D. Wash. 2009)). Washington courts use a two-step process
21 "to determine whether government impairment of access requires compensation." *Id.*

23 In *Reyes v. Mendiola*, the CNMI Department of Public Lands ("DPL") surveyed and
24 redesignated Mr. Mendiola's property located in the I-Denni area. *See Reyes v. Mendiola*,
25 Civil Action No. 21-0271-CV, (NMI Super. Ct. May 8, 2023) (Order Granting the Mendiolas'

⁶ FTTR refers to the First Trial Transcript which includes the first part of the bifurcated Bench Trial that took place on August 12-16, 2019, September 6, 2019, and concluded on June 15, 2020.

1 Motion to Dismiss Because the Deed of Exchange Fulfills the Public Purpose to Provide
2 Mariano Castro Mendiola (and His Heirs) a Homestead When the Department of Public Land
3 Through Surveying and Redesignation of the Land Created a Situation That Cut off all Public
4 Roads to the Homestead, Thus Making the Homestead Landlocked and Inaccessible at 16-
5 17). This action by DPL inadvertently landlocked Mr. Mendiola's property, rendering it
6 inaccessible. *See Id.* To rectify this issue, DPL executed a Deed of Exchange. *See Id.* It is
7 important to note that the inaccessibility was caused by a governmental agency's actions.

8
9 Here, on the established date of taking, the Water Tank did not obstruct access to TR
10 No. 22654-1, also designated as TR No. 22654. In 1991, Plaintiff Sablan, his mother, and two
11 siblings retained access via two public rights of way: Laguna Drive and Parcel W-10. The
12 subdivision in 2013 subdivided TR No. 22654 into several parcels, resulting in TR No. 22654-
13 R2 being landlocked and subsequently cut off from access to the public right of way on
14 Laguna Drive. Additionally, Mr. Songsong testified that it is the responsibility of private
15 landowners to establish easements or rights of way when subdividing property. (FTTR 459:
16 13-16.) The government fulfilled its responsibility by providing the two public rights of way,
17 Parcel W-10 and Laguna Drive, for TR No. 22654.

18
19 In the State of Florida, the general rule is that a taking has not occurred when just
20 portion of access has been eliminated. *See Weaver Oil Co. v. City of Tallahassee*, 647 So. 2d
21 819, 821-22 (1994) (citing *Palm Beach County v. Tessler*, 538 So. 2d 846, 847 (Fla. 1989)).
22 Still, it may happen when a "property owner's right of access was substantially diminished."
23 *Id.* (citing *Tessler*, 538 So. 2d at 849). While the Water Tank's chain link fences were built
24 over TR No. 21709-R/W and TR No. 21710-R/W, the fences did not block Plaintiff Sablan
25 from entering TR No. 22654-1 because the CNMI Government had already designated two
26 other public rights of way to access the property. Plaintiff Sablan has not shown that before
the construction of the Water Tank and its chain link fences, Plaintiff Sablan used TR No.

1 21709-R/W and TR No. 21710-R/W to access TR No. 22654-1 and was blocked from doing
2 so afterward.

3 “From the foregoing it should be apparent that identification of the time a taking of a
4 tract of land occurs is crucial to determination of the amount of compensation to which the
5 owner is constitutionally entitled.” *Kirby Forest Indus. v. United States*, at 11. Plaintiff Sablan
6 has not identified the time regarding the taking of TR No. 22654-1. While Plaintiff Sablan
7 contends that the taking occurred in 1991, he has not provided evidence to indicate that he
8 was unable to access TR No. 22654-1 during that time. Given that Plaintiff Sablan, his
9 siblings, and their mother all held an interest in TR No. 22654 as a single property prior to its
10 subdivision, it follows that Plaintiff Sablan had access to TR No. 22654-1 since he could
11 traverse TR No. 22654, which had not yet been subdivided. The evidence presented by
12 Plaintiff Sablan is lacking, as it does not demonstrate that in 1991, when the property was
13 unified, he was unable to access TR No. 22654-1.
14

15 Furthermore, access is not completely lost to Plaintiff Sablan as crossing Parcel W-10
16 from TR No. 22654-R2 to reach TR No. 22654-1 is possible. However, the Court has found
17 that TR No. 22654-R2 was taken. Despite that and Water Tank’s chain link fences built over
18 21709-R/W, and 21710-R/W, there are other avenues for access. For example, the CNMI
19 government or an agency within it could grant Plaintiff Sablan an easement for an access road
20 through TR No. 22654-R2 or TR No. 21709 and TR No. 21710. Also, Plaintiff Sablan could
21 acquire an easement for an access road through TR No. 22654-4.
22

23 The Court finds that Plaintiff Sablan’s inability to access TR No. 22654-1 was not
24 caused by the Water Tank’s chain link fences built over TR No. 21709-R/W and TR No.
25 21710-R/W in 1991. There was no lack of access in 1991 due to the Water Tank’s chain-link
26 fences. Plaintiff Sablan has not shown a taking of TR No. 22654-1 on March 31, 1991.
Therefore, there is no taking of TR No. 22654-1.

3. Just Compensation

1
2 Plaintiff Sablan's expert, Mr. Kerry G. Campbell, developed a model portfolio tailored
3 to Plaintiff Sablan's investment profile and calculated the prejudgment interest rate from April
4 1, 1991, to January 31, 2023. (TTR 30:2-11.) Mr. Campbell stated that the portfolio was
5 designed with Plaintiff Sablan as the sole owner. (TTR 115:9-10.) He considered Plaintiff
6 Sablan's age at the time of acquisition. (TTR 116:16-21.) During cross-examination, Mr.
7 Campbell was asked whether the portfolio would be adjusted if there were additional owners
8 aside from Plaintiff Sablan. (TTR 116:6-8.) Mr. Campbell affirmed that the portfolio would
9 indeed change if other owners possessed a different investment profile than that of Plaintiff
10 Sablan. (TTR 116:9-11.) This adjustment is because he constructed the investment portfolio
11 to reflect the approach of a prudent investor matching Plaintiff Sablan's profile. (TTR 121:21-
12 25.)

14 Mr. Campbell then used the mathematical formula $FVSS = PVSS(1+i)^n$ found in *MPLA*
15 *v. Heirs of Rita Rogolifoi*. See *MPLA v. Heirs of Rita Rogolifoi* at 7 (quoting Robert M. Crowe,
16 *Time and Money – Using Time-Value Analysis in Financial Planning* (7th ed., Keir
17 Educational Resources 2002)). FVSS represents the future value of a single sum. *Id.* PVSS
18 represents the present value of a single sum. *Id.* The “i” represents the compound periodic
19 interest rate expressed as a decimal. *Id.* The “n” represents the number of periods in which
20 compounding occurs. *Id.* According to Mr. Tipples' appraisals, the fair market value of TR
21 No. 22654-1 is assessed at \$135,000, while TR No. 22654-R2 is valued at \$367,000, resulting
22 in a combined total of \$502,000. Mr. Campbell incorporated this total of \$502,000 into the
23 mathematical formula as the PVSS. Mr. Campbell utilized the time frame from April 1, 1991,
24 to January 1, 2023, calculating “n” as 31.833 in decimal form. For the FVSS, Mr. Campbell
25 derived a value of \$7,077,045 based on the model portfolio. Mr. Campbell inputted those
26 values into the mathematical formula and solved for “i”:

1 $\$7,077,045 = 502,000(1+i)^{31.833}$

2 Mr. Campbell obtained a value of 0.086674 for “i” and an interest rate of 8.6674%.
3 Defendant CNMI used the same mathematical formula to determine the prejudgment interest
4 rate. It contends there was a partial taking of TR No. 22654-R2, specifically concerning the
5 1,029 square meters occupied by the Water Tank, its chain link fences, and the carved rock
6 wall. Mr. Tiples affirmed that the price per square meter can be calculated by taking the fair
7 market value of the land and dividing it by the total square meters of the property (TTR 204:
8 21-25). TR No. 22654-R2 encompasses a total of 3,497 square meters of land. By applying
9 Mr. Tiples’ methodology, the calculation of \$367,000 divided by 3,497 yields a price per
10 square meter of \$104.95. Defendant CNMI multiplied this price by the 1,029 square meters
11 occupied by the Water Tank and related structures, resulting in a fair market value of
12 \$107,993.55 for the partial taking. Additionally, Defendant CNMI calculated the timeframe
13 from April 1991 to July 2024. To find the FVSS, Defendant CNMI relied upon the Moody’s
14 Aaa Corporate Bond Index (“Moody’s Aaa”). To achieve the FVSS, the annual rate of return
15 on a lump sum placed is calculated for each year or partial year from 1991 to 2024,
16 compounded annually.
17

18 Defendant CNMI used Moody’s Aaa chart which provided the annual return rates for
19 1991 to 2024. Defendant CNMI applied \$107,993.55 to the annual return rates and
20 compounding annually for 33.5 years rendered a future sum of \$664,954.59. Defendant CNMI
21 inputted \$664,954.59 as the FVSS, \$107,993.55 as the PVSS, and 33.5 years as “n” in the
22 mathematical formula. The formula with Defendant CNMI’s inputted values is shown below:
23

24 $664,954.59 = 107,993.55(1+i)^{33.5}$
25
26

1 Defendant CNMI also solved for “i” and determined that the prejudgment interest rate
2 was 5.58% which should be compounded annually to comply with the prudent investor rule.⁷
3 Defendant CNMI calculated the total just compensation award as \$664,954.59. As Plaintiff
4 Sablan was previously one of four co-owners, Defendant CNMI allocated the total award by
5 dividing it by four. Consequently, Plaintiff Sablan's share of the award amounted to
6 \$166,238.65.

7 In *Estate of Vicente S. Muna v. Commonwealth*, the court did not agree with utilizing
8 the 3% statutory interest rate for eminent domain as the prejudgment interest in the case. *See*
9 *Estate of Vicente S. Muna v. Commonwealth*, Civil Case No. 96-0769 (NMI Super. Ct. Dec.
10 4, 2003) (Order Granting Summary Judgment in Part and Denying Summary Judgment in Part
11 at 8). The *Estate of Vicente S. Muna* Court also rejected the 9% interest rate set in 7 CMC §
12 4101 which governs judgments affecting interest in land. *See Estate of Vicente S. Muna* at 8.
13 “The judgment incurred here is a payment of money, yet the underlying interest is an interest
14 in land, and will be governed according to the Court’s discretion guided by fairness
15 considerations.” *Id.* The *Estate of Vicente S. Muna* Court settled upon 6% as the interest rate
16 which was situated between 3% and 9%⁸ interest rates. *See Id.*

17 Also, in *MPLA v. Heirs of Rita Rogolifoi*, the court heard expert testimony from Daniel
18 Webb, a financial advisor, about the calculation of the interest rate and adopted his interest
19 rates. *See MPLA v. Heirs of Rita Rogolifoi*, at 4. “In determining these interest rates, Webb
20 relied on concepts found in the Uniform Prudent Investor Act (UPIA).” *Id.* Mr. Webb also
21 created an investor portfolio using the Federal Reserve Statistical Release H.15, Standard &
22 Poor's, Inc., and the Wall Street Journal. *See Id.* “Webb used this technique, which he
23
24
25

26 _____
⁷ “The prudent investor rule also requires interest to be compounded.” *In re Upstream Addicks & Barker (Tex.) Flood-Control Reservoirs*, 162 Fed. Cl. at 533 (citing Tech. Coll. of the Low Country, 147 Fed. Cl. at 370).

⁸ Public Law No. 23-1 amended 7 CMC §4101 which lowered the 9% interest rate for civil money judgments to 3%.

1 considered a prudent investment strategy, to calculate the 7.724 percent and 6.991 percent
2 prejudgment interest rates.” *Id.*

3 Here, the Court looks to the approach followed by the Court of Federal Claims for
4 guidance in determining the prejudgment interest rate. The Court of Federal Claims has
5 jurisdiction for determining just compensation in federal takings cases and accepts Moody’s
6 Aaa to calculate prejudgment interest rates.⁹ “The Moody's Aaa Corporate Bond Index rate
7 has been held to satisfy the prudent investor rule without over-compensating the plaintiff.” *In*
8 *re Upstream Addicks & Barker (Tex.) Flood-Control Reservoirs*, 162 Fed. Cl. 495, 533
9 (citing *Jackson v. United States*, 155 Fed. Cl. 689, 720 (2021)). *See also Adkins v. United*
10 *States*, 2014 U.S. Claims LEXIS 53 at *5 (“Courts have consistently found the Moody's Rate
11 to satisfy [the prudent investor rule]”) (citing *Biery v. United States*, 2012 U.S. Claims LEXIS
12 1445 at *3-4). Using a prejudgment rate that satisfies the prudent investor rule complies with
13 the legal mandates in inverse condemnation cases.

14
15 “In the Commonwealth, the legal standard for establishing prejudgment and post-
16 judgment interest is that the interest rate must be set to an amount that places the owner “in as
17 good a pecuniary position as they would have enjoyed if the payment of just compensation
18 had coincided with the taking.” *Lot No. 353 New G, 2015 MP 6 ¶ 15* (citing *Lot No. 353 New*
19 *G, 2012 MP 6 ¶ 43*). The Court finds Mr. Campbell’s method focuses on Plaintiff Sablan’s
20 personal characteristics and did not consider the other owners to create an accurate portfolio
21 especially if the portfolio would change due to the inclusion of Plaintiff Sablan’s mother and
22
23
24

25 ⁹ “The Tucker Act, which provides the standard procedure for bringing such claims, gives the Court of Federal
26 Claims jurisdiction to “render judgment upon any claim against the United States founded either upon the
Constitution” or any federal law or contract for damages “in cases not sounding in tort.” *Knick v. Twp. of Scott*,
588 U.S. 180,188-190 (2019) (citing 28 U.S.C. §1491(a)(1)). “We have held that “[i]f there is a taking, the claim
is ‘founded upon the Constitution’ and within the jurisdiction of the Court of Claims to hear and determine.” *Id.*
(citing *United States v. Causby*, 328 U. S. 256, 267 (1946)).

1 siblings. In *Lot No. 353 New G*, the appellants did not agree with the post-interest rate of
2 4.136% set by the trial court. One of the appellants' arguments was that the "trial court erred
3 because it did not consider their particular circumstances when it established the interest rate."
4 *Lot No. 353 New G*, ¶23. The NMI Supreme Court quoted *Tulare Lake Basin Water Storage*
5 *District v. United States*, to show that taking into consideration the particular circumstances
6 of an individual when calculating interest rate has been rejected by the United States Court of
7 Federal Claims. See *Lot No. 353 New G*, ¶24. The standard for determining the interest rate
8 is the prudent investor rule, which is based on how "a reasonably prudent person would have
9 invested the funds to produce a reasonable return while maintaining safety of principal." See
10 *Id.* (quoting *Tulare Lake Basin Water Storage District v. United States* 61 Fed. Cl. 624, 627
11 (Fed. Cl. 2004) (internal quotations and citations omitted)).

13 Since the Moody's Aaa is an objective standard that complies with the prudent investor
14 rule, the Court will use the Moody's Aaa. See *Precision Pine & Timber, Inc. v. United States*,
15 596 F.3d 817, 833 (Fed. Cir. 2010). See *Id.* "To carry its burden, the landowner must show
16 actual damages 'with reasonable certainty, [*sic*]' which 'requires more than a guess, but less
17 than absolute exactness.'" *Otay Mesa Prop., L.P. v. United States*, 779 F.3d 1315, 1323 (citing
18 *Precision Pine*, 596 F.3d at 833). While the Court agrees with the *Rogolifoi*¹⁰ formula used
19 by Plaintiff Sablan, the values inputted do not reflect the Court's findings.

21 **a) Prejudgment Interest**

22 Plaintiff Sablan and Defendant CNMI's proposed interest rates of 8.6647% and 5.58%,
23 respectively, will not be utilized because those proposed interest rates by the parties do not
24 reflect the Court's findings. Plaintiff Sablan's proposed timeline for the calculation of the
25
26

¹⁰ *MPLA v. Heirs of Rita Rogolifoi, represented by Dolores Saralu, et al.*, Civil Case No. 05-0197A (NMI Super. Ct. May 7, 2009) (Order Granting Prejudgment Interest Rates for Government Taking of Lots 630-1R/W And 630-2R/W).

1 interest covers the period from April 1991 to January 2023. Defendant CNMI's timeline
2 covers the period from April 1991 to July 2024. The Court's timeline covers the period from
3 April 1991 to October 2024 which is thirty-three years and seven months.¹¹ The Court used
4 the Moody's Aaa chart, which published annual return rates from 1991-2024. The Court
5 applied the principal amount of \$367,000 to the annual return rates compounded annually
6 from 1991 to 2024.¹² The Court then calculated the compound annual growth rate using
7 $CAGR = ((EV/BV)^{1/n} - 1) \times 100$ as the formula. CAGR represents the compound annual
8 growth rate, EV stands for the ending value, BV stands for the beginning value, and "n"
9 represents the time. The fair market value of TR No. 22654-R2 is \$367,000 and therefore the
10 BV is \$367,000. Based on the application of \$367,000 to the Moody Aaa chart, the EV is
11 \$2,106,366.97. Thirty-three years and seven months as a decimal is 33.58 and therefore the
12 "n" value. The formula with the inputted values is below:

14
$$CAGR = ((2,106,366.97 \div 367,000)^{33.58} - 1) \times 100$$

15
$$CAGR = ((5.739419536784)^{33.58} - 1) \times 100$$

16
$$CAGR = (1.053413325899 - 1) \times 100$$

17
$$CAGR = 0.053413325899 \times 100$$

18 **Compound Annual Growth Rate = 5.341332589943 (5.341%)**

19 The Court also used the *Rogolifoi* formula to find "i":

20
$$2,106,366.97 = 367,000(1+i)^{33.58}$$

21
$$1. 2,106,366.97 \div 367,000 = 5.739419536784$$

22
23
24
25 ¹¹ The Court used Moody's Seasoned Aaa Corporate Bond Yield annual return rates found on fredstlouisfed.org.

26 ¹² The return rates for the years 1991 and 2024 were calculated on a monthly basis due to the incomplete utilization of the full year. For 1991, the Court calculated the return by taking \$367,000, multiplying it by the annual rate of 8.77%, and then dividing that product by twelve months. The result was then multiplied by the applicable nine months for that year (calculation: $367,000 \times 0.0877 / 12 \times 9$).

For 2024, the Court determined the average rate from January to October (5.01%) and applied that average in place of the annual rate. The relevant period was ten months, with the initial value calculated at \$2,106,366.96931 based on the Moody Aaa chart (calculation: $2,106,366.96931 \times 0.0501 / 12 \times 10$).

1 2. $5.739419536784(1+i)^{33.58}$

2 3. $5.739419536784^{(1/33.58)}$

3 4. $1.053413325899 - 1 = 0.053413325899$

4 5. **$i = 0.053413325899$ (5.341%)**

5 The result is an approximate 5.341% growth rate over the thirty-three years and seven
6 months. Therefore, the prejudgment interest rate to be applied to the principal amount for the
7 unconstitutional taking of TR No. 22654-R2 is 5.341%. This rate is reasonable because it
8 considers the principal amount, the number of years, and the accumulated growth over time.
9 The 5.341% is reasonably close to the 6% interest rate determined in *Estate of Vicente S.*
10 *Muna v. Commonwealth*, Civil Case No. 96-0769 (NMI Super. Ct. Dec. 4, 2003) (Order
11 Granting Summary Judgment in Part and Denying Summary Judgment in Part). Additionally,
12 5.341% is in general alignment with the rates of 6.991% and 7.724% determined by the court
13 in *MPLA v. Heirs of Rita Rogolifoi, represented by Dolores Saralu, et al.* While the 5.341%
14 rate is specific to its unique circumstances, it demonstrates that the 5.341% rate is reasonable
15 and comparable to other rates established in similar land-taking cases. Furthermore, “[i]n
16 cases with a long delay since the date of the taking, ‘the award of compound interest is not
17 only proper, but its denial would effectively undercut the protections of the fifth
18 amendment to our Constitution.’” *Jackson v. United States*, 155 Fed. Cl. at 721 (citing
19 *Whitney Benefits, Inc. v. United States*, 30 Fed. Cl. 415 (1994)). The unconstitutional taking
20 occurred in 1991, and none of the Sablans¹³ received any compensation for the taking. The
21 delay in just compensation for the March 31, 1991 taking requires interest to be compounded
22 annually. What is left is to calculate the FVSS using the *Rogolifoi* formula with 0.05341 as
23
24
25
26

¹³ Plaintiff Sablan, his mother and two siblings who were the owners of the land at the time of the unconstitutional taking in 1991. In the 2013, The Sablans sub-divided the land and Plaintiff Sablan had sole ownership of TR No. 22654-R1 that later became TR No. 22654-R2.

1 “i”, \$367,000 as the PVSS, and 33.58 as “n”. The formula with the inputted values and the
2 resulting calculation is shown below:

3
$$FVSS = 367,000(1+0.053413325899)^{33.58}$$

4 1. $1 + 0.053413325899 = 1.053413325899$

5 2. $1.053413325899^{33.58} = 5.739419536784$

6 3. $367,000 \times 5.739419536784 = 2,106,366.97000$

7 4. **FVSS = 2,106,366.97**

8 The just compensation award would include the portion that Plaintiff Sablan, his
9 siblings and their mother would have rightfully received if the CNMI government had
10 compensated them in 1991. Although they are not designated as named plaintiffs, Plaintiff
11 Sablan’s mother Maria Sablan, and siblings Tito Sablan and Vicente M. Sablan should not be
12 excluded from receiving a portion of the just compensation award. “It is settled that when a
13 parcel of land is taken by eminent domain, every person having an estate or interest at law or
14 in equity in the land taken is entitled to share in the award.” *Swanson v. United States*, 156
15 F.2d 442, 445 (9th Cir. 1946). Inverse condemnation and eminent domain are the two sides of
16 the same coin. Eminent domain is a constitutional power that allows the government to
17 acquire private property for a public purpose. *See* NMI Const. art. XIII, § 1. The Fifth
18 Amendment of the U.S. Constitution requires that the government pay just compensation for
19 a taking. *See* NMI Const. art. XIII, § 2. An inverse condemnation lawsuit is brought by
20 landowners alleging a government taking and attempting to recover the value of the
21 appropriated property. *See Slate v. Pierce Cnty.*, at *18. The CNMI government and its
22 agencies utilized private property (TR No. 22654) to build a Water Tank. Plaintiff Sablan, his
23 mother, and his siblings were the owners of TR No. 22654 at the time of the taking and did
24 not receive compensation. The “owner at that time, not the owner at an earlier or later date,
25
26

1 receives the payment.” *See Swanson v. United States*, 156 F.2d at 445. Plaintiff Sablan
2 brought this inverse condemnation lawsuit to recover the value of the taken property.

3 The Court finds that Plaintiff Sablan, Maria Sablan, Tito Sablan, and Vicente M.
4 Sablan are entitled to the just compensation award for the unconstitutional taking of TR No.
5 22654-R2.

6 **4. Defendants’ Liability**

7 Defendant CUC argues that Plaintiff Sablan failed to meet his burden to prove he is
8 entitled to just compensation. Defendant CNMI asserts that Defendant CUC is solely liable
9 for the entire amount of \$166,238.65 owed to Plaintiff Sablan because Defendant CUC
10 physically entered the land and built the Water Tank upon it.¹⁴

11
12 There was an unconstitutional taking of the entirety of TR No. 22654-R2 which was
13 authorized, funded, and constructed by the CNMI Government and its agencies and
14 instrumentalities, including Defendant CUC. Defendant CNMI attempts to absolve itself of
15 any liability by stating that it was Defendant CUC who actually entered the land to construct
16 the water tank and its chain-link fences, not Defendant CNMI. Defendant CNMI is attempting
17 to separate itself from Defendant CUC. However, the actions of both defendants in the taking
18 of TR No. 22654-R2, are intertwined. Ramon S. Guerrero¹⁵, who served as the Executive
19 Director of CUC from 1990 to 1994, provided testimony in his depositions indicating that the
20 funding for the construction of the Water Tank was sourced from the Capital Improvement
21 Project, which is administered through the CNMI government. *See* First Order at 4.
22
23
24

25 ¹⁴ “The Fifth Amendment’s requirements to pay “just compensation” applies to governments and government
26 entities, regardless of whether they are endowed with eminent domain powers.” First Order at 13 (citing *Hughes*
v. UGI Storage Co., 263 A.3d 1144, 1157 (Pa. 2021) (stating that “the Fifth Amendment to the United States
Constitution does not limit the prohibition against the exercise of governmental power to take private property
for public use without just compensation to instrumentalities of government possessing the power of eminent
domain”).

¹⁵ Ramon S. Guerrero is now deceased.

1 Additionally, Peter Sasamoto, the Executive Director of the CUC from 1987 to 1989, testified
2 that under normal conditions, the Commonwealth government designates a parcel of land for
3 the project, and then the design engineer verifies that land is public land. *See Id.* A construction
4 project such as the Water Tank, including its chain link fences and underground features,
5 would necessitate collaboration with the CNMI Government and its agencies and
6 instrumentalities, including Defendant CUC. The Court finds that both Defendant CNMI and
7 Defendant CUC are jointly and severally liable.

8 **V. CONCLUSION**

9
10 In its First Order, the Court found that an unconstitutional taking occurred on March
11 31, 1991, due to the construction of the Maui IV reservoir/Superblue water tank.

12 In this Order, the remaining issues to be determined were Plaintiff Sablan's ownership
13 interest from 1991 to 2024, the amount of land taken, whether just compensation is owed and
14 the amount thereof, and the liability of the defendants.

15 For the reasons given above, the Court makes the following findings in this Order:

- 16 1. The Court finds that Plaintiff Sablan was the owner at the time of the taking on March
17 31, 1991, before the subdivision of TR No. 22654. Plaintiff Sablan shared an interest
18 in TR No. 22654 with his mother Maria Sablan and his siblings Tito Sablan and
19 Vicente M. Sablan at that time until the subdivision in 2013 and 2014.
- 20 2. The Court finds that TR No. 22654-1 was not taken as a result of the Water Tank and
21 its chain link fences because Plaintiff Sablan has not shown that in 1991, he was unable
22 to access TR No. 22654-1. The lack of access occurred after the subdivision in 2013
23 when TR No. 22654 was divided in a way that landlocked TR No. 22654-1. It was
24 Plaintiff Sablan and his family members' subdivision that created the landlock
25 situation. Furthermore, there are other routes for Plaintiff Sablan to access TR No.
26 22654-1.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

3. The Court finds the entirety¹⁶ of TR No. 22654-R2 was taken on March 31, 1991, when the Water Tank and its chain link fences were built. Based on the site visit on August 13, 2019, and Mr. Tipples’ testimony, the remainder 2,468 square meters of TR No. 22654-R2 are economically unusable for residential, commercial, or agricultural purposes.
4. The Court finds that Plaintiff Sablan, Maria Sablan, Tito Sablan, and Vicente M. Sablan, are entitled to just compensation for the taking of TR No. 22654-R2.
5. Plaintiff Sablan, Maria Sablan, Tito Sablan, and Vicente M. Sablan¹⁷ are awarded a prejudgment interest rate of 5.341% with a final award of \$2,106,366.97.
6. Post-judgment interest shall be 3% pursuant to 7 CMC §4101.
7. Finally, the Court finds that Defendant CNMI and Defendant CUC are jointly and severally liable for the just compensation award.

SO ORDERED this 8th day of November 2024.

/s/
JOSEPH N. CAMACHO, Associate Judge

¹⁶ The Court is cognizant that at the time of the taking on March 31, 1991 that what is now referred to as TR No. 22654-R2 was yet to be surveyed and given the designation of TR No. 22654-R2. As a practical matter, the Water Tank, its chain link fences, and the immediate vicinity became TR No. 22654-R2 after the subdivisions in November 2013 and January 2014.

¹⁷ Plaintiff Sablan mentioned during the first part of the Bench Trial, that his mother, Maria Sablan, and his brother Vicente M. Sablan, passed away. The portion of the award belonging to Maria Sablan and Vicente M. Sablan requires the probate of their estate to facilitate the distribution to their heirs.