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EMINENT DOMAIN - FEDERAL

McDonough Family Land, LP v. United States

United States Court of Federal Claims - July 12, 2024 - Fed.Cl. - 2024 WL 3405353

Ranches brought action seeking compensation for an alleged Fifth Amendment takings of their properties that occurred when the United States Forest Service directed ignition of backfires and burnouts on their land in an effort to stop the further spread of wildfire.

The United States filed a motion for summary judgment.

The Court of Federal Claims held that:

- Genuine dispute of material fact as to whether the Forest Service, acting through its incident commander agent, was sufficiently involved in setting of backfires and burnouts precluded summary judgment;
- Burning of trees and shrubs growing on ranch land as part of strategy to stop wildfire was potentially compensable as a taking;
- Appropriation of ranches' forage and timber during backfires and burnouts conducted to stop wildfire spread was a taking, rather than a trespass; and
- Genuine dispute of material fact as to whether Forest Service's actions caused ranches' injury, or whether their property would have been taken by the wildfire absent any actions by the Forest Service, precluded summary judgment.

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