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EMINENT DOMAIN - KANSAS

Kickapoo Tribe of Indians of Kickapoo Reservation in Kansas v. Black

United States District Court, D. Kansas - December 20, 2013 - Not Reported in F.Supp.2d - 2013 WL 6796423

The Kickapoo Indian Reservation lies almost entirely within the boundaries of the Nemaha Brown Watershed Joint District No. 7. The Tribe and the District entered into the Watershed Plan and Environmental Impact Statement for the Upper Delaware and Tributaries Watershed (the "Agreement") in 1994 to serve as co-sponsors of a project aimed to carry out works of improvement for soil conservation and for other purposes, including flood prevention.

The Agreement included plans for a multipurpose dam with recreational facilities, otherwise known as the "Plum Creek Project." On multiple occasions, the Tribe asked the District to exercise its power of eminent domain to condemn non-Indian-owned land for the Plum Creek Project that the Tribe had been unable to acquire on its own. The District declined the Tribe's request each time. The Tribe filed a water rights action on June 14, 2006, seeking declaratory relief, injunctive relief, compensatory damages, and specific performance. In essence, the Tribe claims that the Agreement is a binding contract that obligates the District to condemn 1,200 acres of land on the Tribe's behalf to build the Plum Creek Project.

The District Court found that the Agreement was unambiguous, and did not require the District to condemn land on the Tribe's behalf. The District was entitled to summary judgment on this issue.