

Bond Case Briefs

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EMINENT DOMAIN - LOUISIANA

Liebman v. United States

United States Court of Federal Claims - August 28, 2018 - Fed.Cl. - 2018 WL 4090890

Property owners brought action against the Government, alleging that National Aeronautics and Space Administration's (NASA) construction and use of a redundant pump station to move stormwater onto strip of navigable water owned by plaintiffs was taking of real property in the form of a servitude of drainage.

Following a non-jury trial, the Court of Federal Claims held that:

- Owners' claim was not barred by laches;
- Construction of pump station was inverse condemnation entitling owners to just compensation; and
- Interest on just compensation award ran from date that NASA began construction.

Claim of plaintiffs, who owned strip of property along bottom of canal and rights to the water above it to the surface, which was used primarily for mooring barges, that National Aeronautics and Space Administration's (NASA) construction and use of a redundant pump station to move stormwater from adjacent property into canal was taking of real property in form of servitude of drainage, or easement of flow, was not barred by laches; NASA did not include plaintiffs in list of adjacent landowners in construction permit application, NASA did not conduct reasonable due diligence to determine whether plaintiffs' land was privately owned, plaintiffs were unaware of the construction and had no reason to suspect that any construction on NASA's property would interfere with use and enjoyment of their property, and plaintiffs notified NASA of their concerns immediately upon finding out about the redundant pumping station.

National Aeronautics and Space Administration's (NASA) construction and use of a redundant pump station to move stormwater from its property into adjacent canal, creating servitude of drainage, was inverse condemnation, entitling owners of strip of property along bottom of canal and rights to the water above it to the surface to a takings remedy; owners' property was used primarily for mooring barges, installing the pump station had predictable effect of making traversing or mooring on portion of the property unsafe, although pumps were not expected to be used often, NASA reserved right to turn them on at any time for any length of time, NASA put up signs warning that mooring near discharge pipes was dangerous, and, because the servitude of drainage NASA created was not naturally occurring, it was protectable property interest under Louisiana law.

Property owners' award of just compensation in amount of \$50,000, for inverse condemnation of portion of navigable water strip when National Aeronautics and Space Administration (NASA) constructed redundant pump station that interfered with navigation and mooring along the strip, was subject to interest at rate set in Declaration of Takings Act (DTA), calculated from date NASA began constructing the pumps.