

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - MISSISSIPPI

State v. United States

United States Court of Federal Claims - February 6, 2020 - Fed.Cl. - 2020 WL 580914

State of Mississippi, Secretary of State, Attorney General, several school districts, and trustee and beneficiaries of trust that owned land in state brought action against United States, alleging that they suffered taking of properties by flooding that resulted from Army Corps of Engineers' construction and operation of structure on river.

United States moved to dismiss claims.

The Court of Federal Claims held that:

- Trustee had standing to bring takings claim;
- Beneficiaries did not have standing;
- Mississippi, Secretary of State, Attorney General, and school districts had standing;
- Plaintiffs' complaints were sufficiently specific to satisfy pleading requirements;
- Plaintiffs' allegation that construction of structure caused flooding of plaintiffs' land of duration and severity that would not have occurred without structure was sufficient to state claim for relief; and
- Plaintiffs' allegations stated claim for a taking, not a tort.

Trustee of trust that owned land 20 miles upstream of structure built on river by Army Corps of Engineers had standing to bring action against United States, on behalf of trust and beneficiaries, alleging that trust suffered taking of land by flooding that resulted from such structure.

Beneficiaries of trust that owned land 20 miles upstream of structure built on river by Army Corps of Engineers, which allegedly caused flooding of land, lacked standing to bring takings claim against United States; beneficiaries had only equitable interest in trust property, and no legal ownership.

State of Mississippi had standing to bring takings claim against United States after structure built on river by Army Corps of Engineers allegedly caused flooding of Mississippi land held in trust for public schools, to which state held absolute title.

Mississippi Secretary of State had standing to bring takings claim, in his official capacity, against United States after structure built on river by Army Corps of Engineers allegedly caused flooding of Mississippi land held in trust for public schools; Secretary of State was supervisory trustee of such land and was responsible for overseeing land's management.

Mississippi Attorney General had standing to bring takings claim against United States after structure built on river by Army Corps of Engineers allegedly caused flooding of Mississippi land held in trust for public schools, where Attorney General had authority under Mississippi Constitution to act on state's behalf as titleholder of such land.

County school districts in Mississippi had standing to bring takings claim against United States after

structure built on river by Army Corps of Engineers allegedly caused flooding of Mississippi land held in trust for public schools; districts were trustees of such land, and had exclusive right to exclude, use, and benefit from land.

Complaints filed by State of Mississippi, as well as Mississippi Secretary of State, Attorney General, school districts, and trustee of land, were sufficiently specific to satisfy pleading requirements in action brought against United States after Army Corps of Engineers built structures on river, alleging that they suffered taking of properties as result of flooding exacerbated by such structures; although United States argued that complaints did not adequately pinpoint precise action that led to taking, plaintiffs contended that, over time, structure had obstructed natural water and sediment flow in river, which caused water to back up and increased flooding, and that such accumulation of sediment and impact on water levels was foreseeable consequence of building structure.

Allegation of State of Mississippi, as well as Mississippi Secretary of State, Attorney General, school districts, and trustee of land, that Army Corps of Engineers' construction and operation of structure on river caused flooding of plaintiffs' land of duration and severity that would not have occurred in absence of structure was sufficient to state claim for relief in takings action brought against United States.

Allegations of State of Mississippi, as well as Mississippi Secretary of State, Attorney General, school districts, and trustee of land, stated claim for a taking, as necessary for plaintiffs to prevail in takings action brought against United States after Army Corps of Engineers built structure on river that allegedly exacerbated flooding of plaintiffs' property; plaintiffs asserted that direct result of construction of structure was buildup of sediment that narrowed channel and raised water levels, and that if structure had not been built, land would not have experienced such long and severe flooding, and argued that United States appropriated benefit to itself at their expense and that structure pre-empted their rights to use land for significant periods of time.