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EMINENT DOMAIN - FEDERAL

Graves v. United States

United States Court of Federal Claims - July 7, 2022 - Fed.Cl. - 2022 WL 2525366

Landowners brought action against United States, alleging physical taking, and land use exaction, of private right-of-way interest in United States Forest Service forest road offshoot that granted them exclusive use without just compensation, in violation of Fifth Amendment, and seeking declaratory and injunctive relief. United States moved to dismiss for lack of subject matter jurisdiction.

The Court of Federal Claims held that:

- Landowners objectively should have known of United States' alleged physical taking of private right-of-way interest when they signed Federal Land Policy and Management Act (FLPMA) easement;
- Landowners failed to establish alleged taking was inherently unknowable; and
- Landowners failed to establish United States concealed alleged taking.

Landowners objectively should have known of United States' alleged physical taking of private right-of-way interest in United States Forest Service (USFS) road offshoot, and thus takings claim accrued and six-year statute of limitations began to run, when they signed Federal Land Policy and Management Act (FLPMA) easement, even though owners argued claim accrued five years later, when they were first told that USFS was claiming ownership of road; takings claim was that USFS' requirement that owner maintain easement, pay fees, obtain special use permit, and allow other landowners to use easement constituted taking, and such requirements were all included in easement owners signed, and owners had previously signed easement that placed upon them exact limitations and restrictions they disputed in instant proceeding.

Landowners failed to establish that United States' alleged physical taking of private right-of-way interest in United States Forest Service (USFS) road offshoot was inherently unknowable as of accrual date of takings claim, as would have suspended accrual of six-year statute of limitations for bringing such claim in Court of Federal Claims, pursuant to accrual suspension rule; all of the United States' actions that landowners alleged constituted takings claim, including that United States Forest Service (USFS) required them to pay fees, maintain permit, and allow others to use road, were requirements found in easements landowners had previously signed.

Landowners failed to establish that United States concealed its alleged physical taking of private right-of-way interest in United States Forest Service (USFS) road offshoot with result that they were unaware of acts' existence, as would have suspended accrual of six-year statute of limitations for bringing such claim in Court of Federal Claims, pursuant to accrual suspension rule, even though their complaint referenced conversation with United States Forest Service (USFS) official who landowners alleged put them on notice and landowners' counsel indicated at oral argument that there was outside agreement; landowners did not allege USFS prevented them from understanding easement into which they entered with United States or otherwise fraudulently concealed material facts to prevent them from learning of alleged taking.

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