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EMINENT DOMAIN - NEW MEXICO

McFarland Land and Cattle Inc. v. Caprock Solar 1, LLC

Supreme Court of New Mexico - July 13, 2023 - P.3d - 2023 WL 4523156

Property owner sought injunction against limited liability company (LLC) and county related to the use of a road on property owner's land. County intervened and sought declaratory judgment against property owner.

Following a bench trial, the District Court concluded that LLC and county established the existence of a public prescriptive easement, permitting their use of the road. Property owner appealed, and the Court of Appeal reversed and remanded. County petitioned for writ of certiorari, which was granted.

The Supreme Court held that:

- When proving a public prescriptive easement claim, one does not need to prove a minimum number of users or frequency of use, but only need prove that use of the road in question was free and common to all who had occasion to use it as a public highway, and
- Evidence was sufficient to support finding that public used road at issue and that a public prescriptive easement existed over it at the low water crossing.

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