
EMINENT DOMAIN - NORTH DAKOTA

WBI Energy Transmission, Inc. v. 189.9 Rods, More or Less, Located in Township 149 North

United States Court of Appeals, Eighth Circuit - March 24, 2025 - 132 F.4th 1058

Natural gas company filed condemnation action under Natural Gas Act (NGA) to obtain easements for pipeline.

The United States District Court for the District of North Dakota granted owners' motion for attorney fees, and company appealed.

The Court of Appeals held that owners were not entitled to recover attorney fees they expended in condemnation action.

Federal law, rather than state law, governed compensation that was due when natural gas company exercised federal eminent domain power pursuant to Natural Gas Act (NGA) to obtain easements for pipeline, and thus property owners were not entitled to recover attorney fees they expended in condemnation action, even though attorney fees were available under state law, and NGA did not address issue.

Under Fifth Amendment, property owners cannot recover for indirect costs in condemnation proceedings, like attorney fees and expenses.

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