

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

DEBORAH E. BARRON, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 21-2181
	)	
UNITED STATES OF AMERICA,	)	Judge Edward Meyers
	)	
Defendant.	)	

**PLAINTIFF-LANDOWNERS’ MOTION FOR PARTIAL  
SUMMARY JUDGMENT UNDER RULE 56**

This case involves twenty-one parcels of private property owned by nineteen plaintiff-landowners. See Second Amended Compl., ECF No. 18. In May 2019 the Surface Transportation Board (the Board) issued an order invoking section 8(d) of the federal Trails Act, 16 U.S.C. §1247(d), encumbering these owners’ property with a new federal rail-trail corridor easement. The Board’s order created the northern extension of the Legacy Trail, a public recreational trail, and established a “rail-banked” corridor for a possible future railroad.

This motion is brought by eighteen of the plaintiff-landowners. These owners are listed in Exhibit 1 (Joint Title Stipulations, ECF No. 19). These landowners ask this Court to enter partial summary judgment, under Rule 56 of the Rules of the Court of Federal Claims, holding the United States responsible to pay these owners just compensation for that property the federal government took when the Board issued an order invoking section 8(d) of the Trails Act.

The Tucker Act, 28 U.S.C. §1491(a) provides this Court jurisdiction of this matter. Section 1491(a) states that the “United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded...upon the Constitution...in cases not sounding in tort.” In support of this motion, these plaintiff-landowners provide the accompanying memorandum of law and statement of uncontroverted material facts.

We ask this Court to find the United States liable for a taking of these landowners' private property in May 2019 when the Board invoked the Trails Act and to hold this is a taking for which the Fifth Amendment requires the government to pay these landowners "just compensation."

Summary judgment "is a 'salutary method of disposition designed "to secure the just, speedy, and inexpensive determination of every action.'"" *InterImage, Inc. v. United States*, 146 Fed. Cl. 615, 618 (2020) (quoting *Sweats Fashions, Inc. v. Pannill Knitting Co., Inc.*, 833 F.2d 1560, 1562 (Fed. Cir. 1987)). "A grant of summary judgment is appropriate when the pleadings, affidavits and evidentiary materials filed in a case reveal that 'there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *Biloxi Marsh Lands Corp. v. United States*, 152 Fed. Cl. 254, 268 (2021) (quoting *Lippmann v. United States*, 127 Fed. Cl. 238, 244 (2016) (citing RCFC 56(a))). See also *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). A genuine issue is one that "may reasonably be resolved in favor of either party." *Anderson*, 477 U.S. at 250. A fact is material if it "might affect the outcome of the suit." *Id.* at 248. "The evidence of the nonmovant is to be believed, and all *justifiable* inferences are to be drawn in his favor." *Id.* at 255 (emphasis added). If no rational trier of fact could find for the non-moving party, a genuine issue of material fact does not exist and the motion for summary judgment may be granted. *New York & Presbyterian Hosp. v. United States*, 152 Fed. Cl. 507, 515 (2021) (citing *Matsushita Elec. Indus. v. Zenith Radio Corp.*, 475 U.S. 574, 588 (1986)).

Once this burden is met, the onus shifts to the non-movant to point to sufficient evidence to show a dispute over a material fact that would allow a reasonable finder of fact to rule in its favor. *Anderson*, 477 U.S. at 256. It is not necessary that such evidence be admissible, but mere denials, conclusory statements, or evidence that is merely colorable or not significantly probative will not defeat summary judgment. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986); *Anderson*,

477 U.S. at 248-50; *Mingus Constructors, Inc. v. United States*, 812 F.2d 1387, 1390-91 (Fed. Cir. 1987).

Accordingly, the eighteen landowners listed in Exhibit 1 ask this Court to enter partial summary judgment and order the federal government to pay them just compensation for the property the government took under the Trails Act.

Respectfully submitted,

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