

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

NOLAN J. SOLOMON, PRO SE)	Case No. 8:17-CV-328
)	
DEFENDANT)	PRO SE DEFENDANT RESPONSE TO PLAINTIFF'S
)	MOTION FOR PARTIAL SUMMARY
)	JUDGMENT (DOC #35), AND PRO SE MOTION
vs.)	TO DISMISS COMPLAINT IN ITS ENTIRETY
)	
)	
NORTHERN NATURAL GAS COMPANY,))	
)	
PLAINTIFF)	

PRO SE DEFENDANT RESPONSE AND MOTION TO DISMISS

1. I, Nolan J. Solomon, Pro Se defendant, am responding to Northern Natural Gas Company (NNG) Motion for Partial Summary Judgment. NNG filed their motion on April 23, 2017, in their effort to condemn tracts 742-2 and 742-4, located within the exterior boundaries of the Omaha Indian reservation in Nebraska.
2. NNG filed an Amended complaint (NNG: DOC #26) to clarify they provided a "letter of intent" to the Bureau of Indian Affairs, in their effort to renew the expired Right-of Way (ROW).
3. Pro Se defendant, believes that a "letter of intent" is not an application. Letter of Intent only identifies their reason(s) for renewal of the ROW. An application, which is required under 25 CFR 169, is the official document or formal request with all identified regulatory requirements.
4. NNG implied acknowledgement through this Amended complaint (NNG: DOC #26) that tracts 742-2 and 742-4 are separate ROW's from any other ROW.

5. NNG provided within their Motion for Partial Summary Judgment (NNG: DOC #35), a copy of the ROW (NNG: DOC #37-2, Exhibit 1) which expired on February 7, 2016. The copy of the ROW reflects tracts 742-2 and 742-4. It is agreed and there is no contention that this ROW has expired and is considered null and void, therefore this document does not pertain to this proceeding.
6. NNG further provided within their Motion for Partial Summary Judgment, a copy of the ROW (NNG: DOC #37-3, Exhibit 2) which has been approved by the Omaha Tribe of Nebraska via Resolution number 18-15 (NNG: DOC #37-4, Exhibit 3). The ROW (NNG: DOC #37-3, Exhibit 2) pertains specifically to tracts of land which the Omaha Tribe of Nebraska had ownership, at the time of approval, December 4, 2017.
7. The Omaha Tribe of Nebraska's Resolution number 18-15 (NNG: DOC #37-4, Exhibit 3) pertains specifically to the December 4, 2017 approved ROW (DOC #37-3, Exhibit 2); tracts 742-2 and 742-4 are not included.
8. NNG contends both the current approved ROW (NNG: DOC #37-3, Exhibit 2) and the Omaha Tribal Resolution number 18-15 (NNG: DOC #37-4, Exhibit 3) pertain to tracts 742-2 and 742-4.
9. Pro Se defendant, contends the current approved ROW (NNG: DOC #37-3, Exhibit 2) and the Omaha Tribal Resolution number 18-15 (DOC #37-4, Exhibit 3) do not pertain to tracts 742-2 and 742-4, as these tracts were not included within any negotiations by and between NNG and the Omaha Tribe of Nebraska, and are not included within the current approved ROW (NNG: DOC #37-3, Exhibit 2).

10. Section A of the current approved ROW (NNG: DOC #37-3, Exhibit 2), approved December 4, 2017, states “The Rights-of-Way for the Facilities (“the Rights-of-Way) shall cover the lands described on the maps or plats attached to and made a part of the application filed by Northern with the Bureau of Indian Affairs (“BIA”)...”, **the attached maps or plats do not include, reflect or indicate tracts 742-2 and 742-4** (emphasis added) as part of this ROW.
11. NNG implies that the Omaha Tribe of Nebraska’s Resolution number 18-15 (NNG: DOC #37-4, Exhibit 3) waives their sovereign immunity on future tracts of land that they may acquire land interests, other than what is specific to the current approved ROW (NNG: DOC 37-3, Exhibit 2).
12. Pro Se defendant, contends the Omaha Tribe of Nebraska did not waive their sovereign immunity to any other lands other than what is within the current approved specific ROW (NNG: DOC #37-3, Exhibit 2), approved December 4, 2017.
13. Pro Se defendant, contends Section Y of the current approved ROW (NNG: DOC #37-3, Exhibit 2) is specific to the tracts of land within the agreement and not to any other **“future tracts outside”** (emphasis added) of the specific agreement; tracts 742-2 and 742-4 are not included within this agreement.
14. It is an established fact; Pro Se defendant gift deeded a fractional portion of land interests on tracts 742-2 and 742-4 to the Omaha Tribe of Nebraska, effective and approved February 28, 2018. The gift deed to the Omaha Tribe of Nebraska is clearly after the expiration of the original ROW (NNG: DOC #37-2, Exhibit 1), and clearly after the current approved ROW (DOC #37-3, Exhibit 3), approved December 4, 2017.

15. Pro Se defendant contends 25 USC § 357 does not apply, as the Omaha Tribe of Nebraska has fractional ownership interest in tracts 742-2 (.0033333333) and 742-4 (.0033333333), as shown in the Title Status Report, issued by the Bureau of Indian Affairs - Lands, Title and Records Office, dated February 28, 2018.
16. Tribal Ownership of even a very small fractional interest in an allotment bars condemnation of any interest in the allotment. Further, tribal ownership of a fractional undivided interest in an allotment converts the land from allotted land to “tribal land”, therefore 25 USC § 357 does not apply.
17. Therefore, Pro Se defendant respectfully requests the Motion for Partial Summary Judgment submitted by NNG be rendered MOOT or DISMISSED, as the expired ROW (NNG: DOC #37-2, Exhibit 1) expired February 7, 2016, and the current ROW (NNG: DOC #37-3, Exhibit 3), approved December 4, 2017, is clearly after the Omaha Tribe of Nebraska acquired land ownership interests in tracts 742-2 and 742-4 by gift deed from Pro Se defendant, effective and approved February 28, 2018.
18. Pro Se defendant, again respectfully enters this MOTION TO DISMISS this condemnation complaint (Case No. 8:17-CV-328) in its entirety.
19. In the event the MOTION TO DISMISS this condemnation complaint (Case No. 8-17-CV-328) in its entirety is not granted, Pro Se defendant would like to reserve the right to add the Omaha Tribe of Nebraska as a defendant. NNG has implied and/or made a contention that the Omaha Tribe of Nebraska has waived their sovereign immunity on tracts of land, other than what is specific to the current approved ROW (NNG: DOC 37-3, Exhibit 3), approved December 4, 2017.

Dated this 21st day of May, 2018



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CERTIFICATE OF SERVICE

I certify that on the 21st day of May 2018, I electronically filed the foregoing with the Clerk of the Court using the CFM/ECF system, which will send notification of such filing to all attorneys of record who participate in the CM/ECF system.

I certify that on the 21st day of May, 2018, I provided a copy of this document VIA United States Postal Service to:

Chairman Michael D. Wolfe
Omaha Tribe of Nebraska
P.O. Box 508
Macy, Nebraska 68039