

SUPREME COURT OF IOWA

Tom Brakke and Rhonda Brakke d/b/a Pine Ridge Hunting Lodge,
and McBra, Inc. v. Iowa Department of Natural Resources and Iowa
Natural Resource Commission

897 N.W.2d 522 (Iowa 2017) · No. 15-0328 · Decided June 16, 2017

SUMMARY

The Iowa Supreme Court affirmed a district court judgment invalidating an Iowa Department of Natural Resources emergency order that quarantined land formerly used as a whitetail deer-hunting preserve after deer harvested there tested positive for chronic wasting disease. The court held that Iowa Code section 484C.12 authorized quarantine of diseased preserve whitetail but did not authorize quarantine of the land itself. The court also held that the quarantine did not constitute an unconstitutional taking and concluded that the issue of reopening the administrative record was moot.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Appel, Justice; Appel; Mansfield; Waterman
JURISDICTION	Iowa
DECIDED	June 16, 2017
DOCKET	15-0328
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Iowa Department of Natural Resources appealed a district court judgment reversing the Iowa Natural Resource Commission's decision upholding an emergency quarantine order. The landowners cross-appealed the district court's rejection of their constitutional takings claim and the court's refusal to reopen the administrative record for additional evidence.
STANDARD OF REVIEW	Under Iowa Code section 17A.19(10), the court applies the statutory standards to determine whether the agency action prejudiced substantial rights and fell within a listed ground for relief. When the legislature clearly vests an agency with interpretive discretion, the agency's interpretation is overturned only if irrational, illogical, or wholly unjustifiable. Constitutional takings claims are reviewed de novo.

PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Iowa Department of Natural Resources, Iowa Natural Resource Commission v. Tom Brakke, Rhonda Brakke d/b/a Pine Ridge Hunting Lodge, McBra, Inc.

TOPICS

judicial review of agency action

administrative law

statutory interpretation

absurdity doctrine

takings clause

PRACTICE AREAS

administrative law

environmental law

constitutional law

property law

appellate procedure

QUESTIONS PRESENTED

1. Whether Iowa Code section 484C.12 authorized the DNR to quarantine land formerly used as a whitetail deer-hunting preserve after diseased deer had been removed.
2. Whether the DNR's five-year land quarantine and associated fencing requirements constituted a compensable taking under the United States or Iowa Constitutions.
3. Whether the DNR's challenge to the district court's refusal to reopen the administrative record for additional indemnity evidence remained justiciable after the court affirmed the judgment on the merits.

HOLDINGS

1. Iowa Code section 484C.12 authorizes quarantine of diseased preserve whitetail, not quarantine of the preserve land itself. The DNR therefore lacked statutory authority to promulgate and enforce a rule imposing a five-year quarantine on the land and lacked authority to issue the emergency order requiring fencing and exclusion of deer from the property.
2. The emergency order did not constitute a compensable taking under either the United States Constitution or the Iowa Constitution.
3. The DNR's challenge to the district court's refusal to reopen the record to receive evidence of USDA indemnity payments was moot because the court's other rulings resolved the case.

KEY QUOTATIONS

"Our task is to interpret the statute, not improve it." (897 N.W.2d at 555)

"If the legislature wants to assert new regulatory powers over private landowners, it should do so expressly." (897 N.W.2d at 555)

"We therefore reject the Brakkes' per se takings claim and proceed to consider whether the Brakkes have a takings claim under the Penn Central test." (897 N.W.2d at 560)

FACTUAL BACKGROUND

The landowners operated Pine Ridge Hunting Lodge, a licensed whitetail deer-hunting preserve in Iowa. Deer harvested at Pine Ridge tested positive for chronic wasting disease, after which the landowners and DNR entered an agreement requiring fencing, depopulation, testing, and cleaning. After the deer were removed and the landowners ceased operating the preserve, the DNR issued an emergency order requiring the landowners to maintain fencing, keep gates closed, permit access, and submit a plan to prevent CWD from spreading during a five-year quarantine. The order reduced the property's market value and prevented its use as a hunting preserve, although other uses remained available.

PROCEDURAL HISTORY

The landowners challenged the DNR emergency order under the Iowa Administrative Procedures Act. An administrative law judge concluded that the DNR lacked statutory authority to quarantine the land, but the Natural Resource Commission reversed and upheld the order. The Iowa District Court for Polk County reversed the commission, held the order irrational, illogical, and wholly unjustifiable because it exceeded statutory authority, rejected the takings claim, and denied the DNR's request to reopen the record. The Supreme Court of Iowa affirmed and held the DNR's challenge to reopening the record moot.

DISPOSITION

affirmed

CASES CITED

- Kay-Decker v. Iowa State Board of Tax Review, 857 N.W.2d 216, 222 (Iowa 2014)
- Renda v. Iowa Civil Rights Commission, 784 N.W.2d 8, 10-14 (Iowa 2010)
- Meredith Outdoor Advertising, Inc. v. Iowa Department of Transportation, 648 N.W.2d 109, 117 (Iowa 2002)
- Office of Consumer Advocate v. Iowa Utilities Board, 744 N.W.2d 640, 643 (Iowa 2008)
- Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 519 (Iowa 2012)
- Branderhorst v. Iowa State Highway Commission, 202 N.W.2d 38, 40-41 (Iowa 1972)
- United States v. Kirby, 74 U.S. 482, 485-87 (1868)
- Holy Trinity Church v. United States, 143 U.S. 457, 458-65 (1892)
- Public Citizen v. United States Department of Justice, 491 U.S. 440, 452-54 (1989)
- King v. Burwell, 576 U.S. 473, 498 (2015)
- Sherwin-Williams Co. v. Iowa Department of Revenue, 789 N.W.2d 417, 427 (Iowa 2010)
- State v. Hoyman, 863 N.W.2d 1, 13-15 (Iowa 2015)
- Bearinger v. Iowa Department of Transportation, 844 N.W.2d 104, 107-10 (Iowa 2014)
- Case v. Olsen, 234 Iowa 869, 873, 14 N.W.2d 717, 719 (1944)
- Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 124 (1978)
- Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302, 321, 328-29 (2002)
- Lingle v. Chevron U.S.A. Inc., 544 U.S. 528, 537-39 (2005)

- Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1014-18 (1992)
- First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304, 318-21 (1987)
- Bormann v. Board of Supervisors, 584 N.W.2d 309, 316 (Iowa 1998)
- Rose Acre Farms, Inc. v. United States, 559 F.3d 1260, 1268, 1272 (Fed. Cir. 2009)
- Kurth v. Iowa Department of Transportation, 628 N.W.2d 1, 6-7 (Iowa 2001)
- Kafka v. Montana Department of Fish, Wildlife, and Parks, 201 P.3d 8, 31-32 (Mont. 2008)
- Hawkeye Commodity Promotions, Inc. v. Vilsack, 486 F.3d 430, 442 (8th Cir. 2007)

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