

Why Two Eminent Domain Cases Could Reshape Property Rights for Farmers and Ranchers

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Overview

For farmers and ranchers, private property is more than an investment - it is the foundation of their livelihood, their family legacy, and often their retirement security. Private property disputes rarely make national headlines, but two recent eminent-domain cases illustrate how judicial interpretation can either preserve or erode those property rights. Although one case involves interstate natural-gas pipelines and the other concerns water infrastructure, both raise broader constitutional questions about the limits of eminent domain authority over privately owned agricultural land.

***WBI Energy Transmission, Inc. v. Township 149 N., Range 98 W Section 11*¹**

In *Hoffmann*, a private pipeline company exercised condemnation authority delegated by Congress under the Natural Gas Act² after negotiations with North Dakota landowners failed. Although the parties ultimately agreed on the value of the property taken, they disagreed over whether North Dakota's condemnation statute requiring reimbursement of certain attorney's fees remained applicable. The federal trial court said it was. However, on appeal, the U.S. Court of Appeals for the Eighth Circuit reversed, reasoning that because the company exercised federal eminent domain power, federal law displaced the state's additional protections.

This issue extends well beyond North Dakota. Across much of rural America, farmers and ranchers increasingly face pipeline easements for natural gas, carbon dioxide, electric transmission, and other infrastructure projects. Even when compensation is ultimately paid, landowners often incur substantial legal expenses simply to protect their constitutional rights. Whether those costs remain recoverable under state law can materially affect a producer's willingness and ability to defend his or her property interests.

The Constitutional question. The central question is not whether Congress possesses authority to preempt state law. Rather, the question is whether Congress actually exercised that authority. The Natural Gas Act contains no express language eliminating state-law attorney-fee protections. As such, judicial restraint is in order. Courts should not infer sweeping federal preemption from statutory silence, particularly with respect to property law, a domain that has traditionally belonged to the states.

¹ 132 F.4th 1058 (8th Cir. 2025), *cert. granted*, *Hoffmann, et al. v. WBI Energy Transmission, Inc.*, No. 25-159, 2026 U.S. LEXIS 2811 (U.S. Sup. Ct. Jun. 29, 2026).

² 15 U.S.C. §§717-717z.



Agricultural Significance: The Framers designed a federal government of limited and enumerated powers. Property rights have historically been defined and protected by state law except where Congress unmistakably provides otherwise. Reading implied federal preemption into the Natural Gas Act risks upsetting that constitutional allocation of authority while diminishing protections long afforded to farmers, ranchers, and other rural landowners.

A Parallel Development in Colorado

The Colorado Supreme Court's decision in *Northern Integrated Supply Project Water Activity Enterprise v. VIMA Partners*³ illustrates a similar interpretive trend. Rather than strictly construing eminent domain authority, the court broadly extended condemnation power to a governmental enterprise. Traditionally, eminent domain statutes have been construed strictly against the condemning authority because the power to compel the transfer of private property is extraordinary. Departing from that principle risks gradually expanding condemnation authority beyond legislative intent.

For western agriculture, water infrastructure is indispensable. Irrigation systems, reservoirs, diversion works, and transmission pipelines frequently require easements across privately owned agricultural land. Consequently, any judicial decision that broadly interprets condemnation authority has implications far beyond a single project. It potentially affects every producer whose land may someday be needed for expanding municipal water supplies.

Constitutional Perspective: None of this diminishes the importance of pipelines, water projects, or other critical infrastructure. A strong economy depends upon reliable energy and water systems. But constitutional protections are tested precisely when public objectives are widely viewed as beneficial. If legislatures determine that condemnation authority should be broadened, they possess the constitutional authority to enact those changes. Courts should not accomplish the same result through expansive interpretation.

These cases also arise against the backdrop of increasing demands on privately owned agricultural land. Expanding energy infrastructure, municipal water projects, electric transmission lines, carbon dioxide pipelines, and other public and quasi-public projects are placing growing pressure on farmland and ranchland across the country. As these demands increase, judicial decisions defining the scope of eminent domain authority become increasingly significant. Whether courts faithfully enforce legislative limits on condemnation authority, or instead expand that authority through judicial implication, will directly affect the security, value, and long-term use of privately owned farmland and ranchland throughout rural America.

For generations, courts have recognized that statutes delegating the extraordinary power of eminent domain should be strictly construed against the condemning authority.⁴ Whether that principle continues to guide judicial interpretation may well determine the outcome of both *Hoffmann* and *VIMA Partners* and, more broadly, the future scope of condemnation authority affecting farmers and ranchers across rural America.

³ 588 P.3d 727 (Colo. 2026).

⁴ See *City of Cincinnati v. Vester*, 281 U.S. 439 (1930); *United States v. Carmack*, 329 U.S. 230 (1946).

Practical Implications

Strong private-property protections have long been one of the defining characteristics of American agriculture. Farmers and ranchers routinely make investments measured not merely in years but in generations. Those investments depend upon confidence that government may acquire private property only under clearly defined constitutional and statutory limitations - a confidence that affects financing decisions, succession planning, land improvements, and long-term operational planning. Judicial decisions that expand condemnation authority through implication create uncertainty that ultimately affects land values, investment decisions, financing, succession planning, and long-term agricultural operations.

These constitutional principles have practical consequences. If the Eighth Circuit's reasoning ultimately prevails at the Supreme Court, private entities exercising delegated federal condemnation authority may enjoy a significant financial advantage in litigation because farmers and ranchers could be required to bear substantial legal expenses simply to obtain the just compensation guaranteed by the Constitution. Conversely, reaffirming state-law protections would not impede legitimate infrastructure projects; it would simply require condemning authorities to internalize the full costs of exercising the extraordinary power of eminent domain rather than shifting those costs onto individual landowners.

For farmers and ranchers, the stakes extend beyond litigation expenses. Every expansion of condemnation authority affects bargaining power during easement negotiations. In many cases, the most important negotiations occur before any condemnation petition is filed. The legal rules governing eminent domain often determine the relative bargaining positions of the parties long before litigation begins. If condemning authorities know landowners must bear significant legal costs to challenge governmental action, the practical leverage shifts toward the condemnor. Conversely, preserving state-law protections helps ensure that agricultural landowners can meaningfully defend their property rights without suffering financial losses simply for insisting upon constitutionally required compensation.

Conclusion

For farmers and ranchers, these cases are not merely disputes about attorney's fees or statutory interpretation. They concern whether future generations of agricultural producers will retain meaningful constitutional protections when government or government-authorized entities seek to acquire privately owned farmland and ranchland.

Hoffmann is ultimately a case about constitutional structure. It asks whether courts will respect legislative supremacy, federalism, and the historic role of the states in protecting private property, or whether they will continue expanding condemnation authority through implication. The Fifth Amendment guarantees just compensation, but constitutional freedom rests on more than compensation alone. It depends upon a judiciary willing to exercise restraint, faithfully interpret statutory text, and preserve the constitutional balance the Framers established.



Private property rights are not obstacles to economic growth. They are among the institutions that make economic growth possible. The Supreme Court now has an opportunity to reaffirm that when Congress delegates the extraordinary power of eminent domain, courts may not enlarge that delegation beyond the statute's text or extinguish longstanding state-law protections through silence. These principles are becoming increasingly important as rural America faces expanding carbon dioxide pipeline projects, high-voltage electric transmission lines, municipal water infrastructure, and other projects requiring easements or the exercise of eminent domain across privately owned agricultural land.

As demands for energy, water, and other infrastructure continue to expand across rural America, the Court's decision will help determine whether private property remains a constitutional right that government must respect, even when public objectives are widely viewed as desirable, or whether judicial interpretation will continue to broaden condemnation authority beyond legislative authorization.

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