Suits against the County (Quay cty v. ENMWUA)

N.M. Stat. Ann. § 4-46-1 (West)
In all suits or proceedings by or against a county, the name in which the county shall sue or be sued shall be the board of county commissioners of the county of ....., but this provision shall not prohibit county officers, when authorized by law, from suing in their name of office for the benefit of the county.

Under the New Mexico Tort Claims Act (NMTCA), a plaintiff may sue a New Mexico public employee as well as the agency or entity for whom the public employee works, but this is limited by New Mexico statute providing that, in all suits or proceedings by or against a county, the name in which the county shall sue or be sued shall be the board of county commissioners of the county. Gallegos v. Bernalillo County Board of County Commissioners, 2017, 272 F.Supp.3d 1256.

Eminent Domain v. Village ordinance

Vill. of Logan v. E. New Mexico Water Util. Auth., 2015-NMCA-103, 357 P.3d 433
Village brought action against Eastern New Mexico Water Utility Authority (ENMWUA), a state entity, for injunctive and declaratory relief to enforce its zoning regulations on ENMWUA's construction of water intake structure. The District Court, Santa Fe County, Sarah M. Singleton, D.J., adopted the "statutory guidance test" and granted ENMWUA's motion to dismiss. Village appealed.

The "statutory guidance test," rather than the balancing of interests test, applies to determine whether a land use proposed by one political subdivision of the state may be prohibited by the zoning regulation of another; courts review the statutory powers assigned to each entity to ascertain whether the Legislature intended that one entity's local zoning ordinances apply to the other entity's activities.
Eastern New Mexico Water Utility Authority (ENMWUA), a state entity created to develop and construct a water delivery system to local governments, was immunized from village's zoning ordinances requiring a special use permit for the construction of a water intake structure; ENMWUA was designed to benefit local governments, ENMWUA was given the power to condemn land by eminent domain, and purpose of ENMWUA would have been frustrated by requiring it to adhere to zoning ordinances.

a wholly separate analysis is needed to resolve zoning and land use disputes between co-equal political subdivisions of the state concerning activities on non-state-owned land.

the district court correctly identified the statutory guidance test as that most consistent with our jurisprudence. Pursuant to it, courts review the statutory powers assigned to each entity to ascertain whether the Legislature intended that one entity's local zoning ordinances apply to the other entity's activities. Macon Ass'n, 314 S.E.2d at 222; see Village of Swansea v. Cnty. of St. Clair, 45 Ill.App.3d 184, 4 Ill.Dec. 33, 359 N.E.2d 866, 867 (1977) (utilizing statutory guidance test to conclude that to allow application of municipal zoning regulations to prevent construction

of dog pound would frustrate the intent of the Illinois legislature and the statutory mandate of the animal control act it enacted); ... "When construing statutes, our guiding principle is to determine and give effect to legislative intent ... aided by classic canons of statutory construction *437 ... giving the words their ordinary meaning, [absent indication that] a different one was intended."); Griego v. Oliver, 2014–NMSC–003, ¶ 20, 316 P.3d 865 ("Our principal goal in interpreting statutes is to give effect to the Legislature's intent."). We adopt the statutory guidance test as that which applies to determine whether a land use proposed by one political subdivision of the state may be prohibited by the zoning regulation of another. While we note the availability of additional possible tests to guide district courts in such instances, neither party seeks application of the tests not evaluated in this Opinion.

We therefore elect to briefly explain why, as a matter of law and pursuant to the statutory guidance test, the district court's dismissal of the Village's complaint was proper. The Act established, directed, and ultimately empowered ENMWUA in a manner greater than that allowed to municipalities such as the Village regarding land use regulation. Specifically, the Act identified the need for and created a water utility authority spanning multiple counties in eastern New Mexico. See §§ 73–27–1 to –4. It was designed to benefit local governments in that quadrant of the state by sharing water from the Canadian River stored in the Ute Reservoir. Section 73–27–2(A)(3). The power to condemn land by eminent domain is not an insignificant one,1 yet it was provided to ENMWUA to directly acquire and utilize property in Quay County, where the Village exists. See § 73–27–7(G). Ultimately, ENMWUA was directed to "provide an organized structure to work with state, local and federal agencies," Section 73–27–2(A)(3), not simply any local entity. See § 73–27–7(G).

In this instance, the legislative purpose behind its creation of ENMWUA would be frustrated by requiring that it adhere to municipal zoning ordinances. We conclude that the statutory guidance test applies to immunize ENMWUA from the Village's zoning ordinances, and thus from its special use permit process in this instance.

STANDARD OF REVIEW - Motion to Dismiss
1{8} "A district court's decision to dismiss a case for failure to state a claim under Rule 1–012(B)(6) is reviewed de novo." Valdez v. State, 2002–NMSC–028, ¶ 4, 132 N.M. 667, 54 P.3d 71. We accept as truthful well-pleaded factual allegations and resolve all doubts in favor of the complainant. Id. "A Rule [1–0]12(B)(6) motion is only proper when it appears that [a] plaintiff can neither recover nor obtain relief under any state of facts provable under the claim." Valdez, 2002–NMSC–028, ¶ 4, 132 N.M. 667, 54 P.3d 71 (emphasis, internal quotation marks, and citation omitted). The facts in this case are not in dispute; thus, we review only the district court's application of the statutory guidance test de novo.

Declar. Judgment

Ripeness: Declaratory judgment action, claiming that city sought to take utility's electrical transmission lines upon upcoming expiration of franchise *without just compensation*, was **not ripe** for judicial review *until such time as utility had actually been denied compensation*; city government had not as yet taken any action contrary to utility's asserted property interest.

U.S.C.A. Const.Amend. 5. Public Service Co. of New Mexico v. City of Albuquerque, 1991, 755 F.Supp. 1494.

Standing: Where *indispensable parties, the county commissioners*, were not joined, *trial court lacked jurisdiction to adjudicate action by plaintiff to prevent defendant from laying water pipeline along a road on theory that county commissioners either did not legally give their permission for the pipeline or their permission was misconstrued* by defendant and trial court. Rules of Civil Procedure, rule 19. Perez v. Gallegos, 1974, 87 N.M. 161, 530 P.2d 1155.

Injunction based on not meeting statutory requirements for project

Friends of Fiery Gizzard v. Farmers Home Admin., 864 F. Supp. 717 (M.D. Tenn. 1994), aff'd, 61 F.3d 501 (6th Cir. 1995)
Beneficial impact of government project, such as provision of water supplied to city, cannot, by itself, trigger requirement of environmental impact statement (EIS) under NEPA and Council on Environmental Quality (CEQ) regulations.
Preliminary injunctive relief would not issue in connection with challenge to decision of Farmers Home Administration (FmHA) that environmental impact statement (EIS) was not required in connection with project, particularly absent likelihood of success on merits
(Issues as to whether Farmers Home Administration (FmHA) failed to address several potentially significant factors, such as increase of cost of project from $3 to $4.3 million dollars were not significant enough to render FmHA's decision not to permit environmental impact statement (EIS) arbitrary and capricious

Delaware Val. Conservation Ass'n v. Resor, 392 F.2d 331 (3d Cir. 1968)
'For, it is one thing to provide a method by which a citizen may be compensated for a wrong done him by the Government. It is a far different matter to permit a court to exercise its compulsive powers to restrain the Government from acting, or to compel it to act. There are the strongest reasons of public policy for the rule that such relief cannot be had against the sovereign. The Government, as representative of the community as a whole, cannot be stopped in its tracks by any plaintiff who presents a disputed question of property or contract right. As was early recognized, 'The interference of the Courts with the performance of the ordinary duties of the executive departments of the government, would be productive of nothing but mischief * * *'.' Larson v. Domestic & Foreign Commerce Corp., supra, 337 U.S. at page 704, 69 S.Ct. at page 1468. (Action brought by conservation association and others to enjoin federal officials and their employees from proceeding with prosecution of recreation and reservoir project; held that the suit, although nominally directed at defendant officials, would operate directly against the United States and was subject to defense of sovereign immunity.)

Sierra Club v. U.S. Army Corps of Eng'rs, No. CV H-11-3063, 2012 WL 13040281 (S.D. Tex. Aug. 22, 2012)
Additionally, an injunction issued by this Court is not appropriate while the Corps performs this additional analysis. To obtain a permanent injunction, Sierra Club must show:
(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of

hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.
Monsanto Co. v. Geertson Seed Farms, —— U.S. ——, 130 S. Ct. 2743, 2756 (2010) (quoting eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391 (2006)). This test also applies when a plaintiff seeks to delay the contemplated government project until the NEPA violation is cured. Id. (citing Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 30-33 (2008)).

Sierra Club v. Trump, 929 F.3d 670 (9th Cir. 2019)
Environmental injuries have been held sufficient in many cases to support injunctions blocking substantial government projects. The Supreme Court has observed that "[e]nvironmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i.e., irreparable. If such injury is sufficiently likely, therefore, the balance of harms will usually favor the issuance of an injunction to protect the environment." Amoco Prod. Co. v. Village of Gambell, 480 U.S. 531, 545, 107 S.Ct. 1396, 94 L.Ed.2d 542 (1987).
Such institutions may be destined to pass away. But it is the duty of the Court to be last [institution of resort], not first, to give them [free government] up.

Chan v. United States Dep't of Transportation, No. 23-CV-10365 (LJL), 2024 WL 5199945 (S.D.N.Y. Dec. 23, 2024)
Under the last injunction factor, courts must "balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief," as well as ‘the public consequences in employing the extraordinary remedy of injunction.’ " Yang, 960 F.3d at 135–36; see also We The Patriots USA, Inc. v. Hochul, 17 F.4th 266, 295 (2d Cir. 2021) ("When the government is a party to the suit, [the] inquiries into the public interest and the balance of the equities merge."); New York v. United States Dep't of Homeland Sec., 969 F.3d 42, 58–59 (2d Cir. 2020).