

# Bond Case Briefs

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## **EMINENT DOMAIN - MISSOURI**

### **Big Oak Farms, Inc. v. United States**

**United States Court of Federal Claims - March 17, 2017 - Fed.Cl. - 2017 WL 1046465**

Landowners, whose land was located in floodway, filed complaint, alleging that United States took their property without just compensation in violation of Fifth Amendment when Army Corps of Engineers activated floodway by breaching levee that protected their property, thereby unleashing flood that caused damage to their land, crops, equipment, and infrastructure, as well as leaving behind sand and gravel deposits that subjected their property to flooding during low-level rainstorms.

Parties moved for summary judgment.

The Court of Federal Claims held that:

- Landowners had initial burden to show that flood control project and activation of project's floodway caused additional flooding beyond what would have occurred under same conditions had government not constructed project or activated floodway;
- If landowners satisfied their burden, government had burden of showing that benefits to landowners' tracts from years of flood protection more than offset damage to each tract from activating floodway;
- Factual issue existed as to whether landowners whose land was located in floodway suffered more property damage from activation of floodway than each would have suffered without its operation;
- Factual issue existed as to whether benefits that landowners received from flood control project more than offset damage caused by flooding;
- Landowners claiming rights under flowage easements had to show that activation of floodway caused flooding that exceeded or changed character of flooding authorized by those easements; and
- Factual issue existed as to whether government was liable to compensate landowners under terms of flowage easements.