

# **Bond Case Briefs**

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## **EMINENT DOMAIN - SOUTH DAKOTA**

### **Krsnak v. Brant Lake Sanitary District**

**Supreme Court of South Dakota - December 19, 2018 - N.W.2d - 2018 WL 6683535 - 2018 S.D. 85**

Landowners brought action against municipal sanitary district alleging inverse condemnation and nuisance arising from sanitary district's construction of an additional sewage lagoon treatment pond approximately 675 feet from landowners' property on which they operated a vegetable farm.

The Circuit Court granted sanitary district's motion for summary judgment. Landowners appealed.

The Supreme Court of South Dakota held that:

- Odor from treatment pond was not a sufficiently unique or peculiar injury to mandate just compensation; and
- A decrease in economic value of landowners' property was not a sufficiently unique or peculiar injury to mandate just compensation;
- There was no evidence that the treatment pond caused fecal contamination of landowners' well, as needed to establish a taking of well water; and
- There was no evidence that the treatment pond caused fecal contamination of well, as needed to establish a nuisance.

Odor or smell from an additional sewage lagoon pond that municipal sanitary district built 675 feet from landowners' property was not a sufficiently unique or peculiar injury to mandate just compensation for a taking or damaging of property, where many landowners surrounding the treatment pond wrote letters opposing the pond's construction and complained of the odor emanating from the ponds.

A decrease in the economic value of landowners' property, on which they operated a vegetable farm, as compared to other properties was not a sufficiently unique or peculiar injury to mandate just compensation for a taking or damaging of property following municipal sanitary district's construction of an additional sewage lagoon pond 675 feet from their property, despite claim that landowners could not obtain certification for good agricultural practices because of proximity of sewage pond.