

Bond Case Briefs

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EMINENT DOMAIN - MICHIGAN

Bruneau v. Michigan Department of Environment

United States Court of Appeals, Sixth Circuit - June 20, 2024 - F.4th - 2024 WL 3063766

Property owners, whose properties were flooded after dam collapsed after several days of rain due to static liquefaction, brought putative class action against counties in which dam was located, alleging gross negligence under Michigan law and violations of both Fifth Amendment's Takings Clause under § 1983 and Takings Clause of Michigan's constitution.

The United States District Court for the Eastern District of Michigan granted the counties' motion for summary judgment, and property owners appealed.

The Court of Appeals held that:

- Counties did not take the properties through petitioning efforts to maintain existing water levels behind dam, and
- Counties did not cause dam to collapse, and thus property owners lacked any inverse condemnation claim against counties under the Michigan Constitution.

Under the federal constitution, counties did not take landowners' properties, which were flooded after dam collapsed after several days of rain due to static liquefaction, through petitioning efforts to maintain existing water levels behind dam; petitions merely preserved the lake depth at the same level that had existed for roughly a century, counties played no part in regulating or controlling the dam's infrastructure, and lake levels had little to do with the dam's collapse, which was caused by soil vulnerabilities in place since the dam's construction.

Counties' action in petitioning to keep water levels behind dam at their historical level did not cause dam to collapse, and thus owners of properties flooded by the collapse lacked any inverse condemnation claim against counties under the Michigan Constitution; dam collapse was caused by heavy rains and static liquefaction, neither of which were caused by the county, and the Federal Energy Regulatory Commission's independent forensic team found that lowering the lake level would not necessarily have stopped the dam's eventual failure from static liquefaction.