

# **Bond Case Briefs**

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## **LAND USE - IDAHO**

### **Telford Lands LLC v. Cain**

**Supreme Court of Idaho, Pocatello, May 2013 Term - June 20, 2013 - P.3d - 2013 WL 3064935**

Purported dominant estate owners brought action against purported servient estate owner seeking to enforce alleged oral agreement permitted them to construct irrigation pipeline.

The Supreme Court of Idaho held that:

- Reasonable necessity existed for condemnation;
- Fact that dominant estate owners were currently under irrigation did not preclude condemnation;
- Dominant estate owners were required to make good faith effort at purchase only prior to lawsuit;
- Lessee of dominant estate had standing to maintain condemnation action;
- Judgment failed to limit length of lessee's easement;
- Servient estate owners did not abandon counterclaim for trespass;
- Statute governing costs in eminent domain proceedings provided for award of court costs, not attorney fees; overruling State ex rel. Winder v. Canyon Vista Family Ltd. Partnership, 228 P.3d 985; and
- Servient estate owners were not entitled to award of attorney fees as prevailing parties.

Reasonable necessity existed so as to permit dominant estate owners to condemn easement over servient estate for construction of irrigation pipeline, where dominant estate owner suffered conveyance losses of 35% to 40% by using a nearby canal rather than using irrigation pipeline, and public policy of state was to secure maximum use and benefit, and least wasteful use, of its water resources. Article I, § 14, of the Idaho Constitution.