

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MISSOURI**

### **Tubbs v. Surface Transp. Bd.**

**United States Court of Appeals, Eighth Circuit - December 28, 2015 - F.3d - 2015 WL 9465907**

Property owners filed petition for review of the decision of the Surface Transportation Board (STB) that their state-law claims against railroad, in connection with damage to their property due to flooding, were preempted by the Interstate Commerce Commission Termination Act (ICCTA).

The Court of Appeals held that:

- In determining whether the ICCTA preempted state-law claims, the STB should ask whether those claims would have the effect of unreasonably burdening or interfering with rail transportation, and
- State-law claims were preempted by the ICCTA.

State-law claims for trespass, nuisance, negligence, inverse condemnation, and statutory trespass asserted by property owners against railroad, in connection with property damage due to flooding after elevated railroad embankment on owners' property failed, were preempted by the Interstate Commerce Commission Termination Act (ICCTA). The claims arose from railroad's alleged actions in designing, constructing, and maintaining an active rail line, which would unreasonably burden or interfere with rail transportation.