

Bond Case Briefs

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EMINENT DOMAIN - NORTH DAKOTA

Cass County Joint Water Resource District v. Aaland

Supreme Court of North Dakota - September 15, 2020 - N.W.2d - 2020 WL 5525133 - 2020 ND 196

Joint Water Resource District applied for a permit to enter landowners' properties to monitor environmental impacts in connection with flood control construction project.

The District Court granted the application, and denied landowners' motion for stay pending appeal. Landowner filed motion to stay in the Supreme Court.

The Supreme Court held that:

- Landowners would not suffer irreparable injury if denied stay, and
- Stay would result in substantial harm to District.

Landowners would not suffer irreparable injury if denied stay, pending appeal, of grant of Water Resource District's application for permit to enter their properties to conduct monitoring for flood diversion project, as landowners could bring an inverse condemnation action against the District to obtain money damages for any temporary or permanent taking.

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Issuance of stay, pending appeal, of grant of Water Resource District's application for permit to enter landowners' properties to conduct monitoring for flood diversion project would result in substantial harm to District; stay could delay the project, and even if immediate construction was impractical due to litigation over construction permits, the District's other project tasks of surveys and examinations required for the project's environmental impact statement could continue.