

Bond Case Briefs

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PUBLIC UTILITIES - NEW JERSEY

United Water New Jersey, Inc. v. Borough of Hillsdale

Superior Court of New Jersey, Appellate Division - November 26, 2014 - A.3d - 2014 WL 6675036

Public utility filed an action in lieu of prerogative writs alleging that borough had adopted and sought to enforce ordinances that were preempted by state law, and that the New Jersey Department of Environmental Protection (NJDEP) had exclusive jurisdiction over dam improvement project. The Superior Court permitted flood solution group and water customers to intervene, and following a bench trial, found that NJDEP had exclusive jurisdiction over the project. Intervenors appealed.

The Superior Court, Appellate Division, held that borough was preempted by state law from applying its ordinances to dam project.

Borough was preempted by state Safe Dam Act and Water Supply Management Act from applying its conditional use and tree removal ordinances to public utility's dam improvement project, where state's regulatory scheme for dams and reservoirs was pervasive and comprehensive, thereby precluding the co-existence of municipal regulation reflected in borough's ordinances.