

# **Bond Case Briefs**

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## **UTILITIES - CALIFORNIA**

### **City of San Buenaventura v. United Water Conservation District**

**Court of Appeal, Second District, Division 6, California - March 17, 2015 - Cal.Rptr.3d - 2015 WL 1212205**

City filed writ of mandate, administrative mandate, reverse validation action, and for declaratory relief against water conservation district and its board of directors, which managed county groundwater resources, seeking to overturn district's decision to increase city's rate to pump water from district's territory to sell to residential customers. City's lawsuits were consolidated and district filed cross-complaint, seeking declaratory relief upholding its rate determinations. The Superior Court issued writ of mandate in favor of city requiring district to issue refund to city and denied city declaratory relief. District appealed and city cross-appealed.

The Court of Appeal held that:

- Rate charged by district was not property-related;
- Even if rate was property-related, rate did not conflict with constitutional provisions governing property-related fees imposed by local governments;
- Fees charged by district conferred specific benefit on city as payor; and
- Fees charged by district did not exceed district's reasonable costs.

Fee charged by water conservation district to city to pump groundwater from district territory to sell to city's residential customers was not property-related, such that constitutional provision prohibiting property-related fees and charges imposed by local government agencies from exceeding proportional costs of service attributable to parcel of land from which water was pumped did not apply. Fees served regulatory purpose of conserving water resources, and pump fee was better characterized as a charge on activity of pumping, rather than charge imposed by reason of property ownership.

Even if water conservation district's groundwater extraction charges were property-related fees subject to constitutional provision prohibiting such fees from exceeding proportional costs of service attributable to parcel of land from which water was pumped, rate city was charged to pump groundwater to sell to its residential consumers did not conflict with provision. Even though city was charged three times more than pumpers who extracted water from district for agricultural purposes, statute governing rate charged to city did not discriminate between persons or parcels, but rather it discriminated between types of use, that city's desired use for water it pumped was subject to higher fee than agricultural use was policy decision made by legislature, not district, and constitutional provision governed only property-related fees imposed by local government agencies.

Fees charged by water conservation district to city to pump groundwater to sell to city's residential consumers conferred specific benefit on city as payor, as required for fees to fall under payor-specific benefits exception to constitutional presumption that any levy, charge, or exaction imposed by local government was a tax subject to majority voter approval. City, as a pumper of groundwater,

received benefit of extracting groundwater from managed basin.

Fees charged by water conservation district to city to pump groundwater to sell to city's residential consumers, which conferred benefit on city as payor, did not exceed district's reasonable costs, as required for fees to fall under payor-specific benefits exception to constitutional presumption that any levy, charge, or exaction imposed by local government was a tax subject to majority voter approval. By imposing fees based on volume of water extracted, district largely charged individual pumpers in proportion to benefit they received from district's conservation activities, and district's costs associated with acquisition, treatment, transport, and delivery of state and surface water were related to district's groundwater management goals.