

# **Bond Case Briefs**

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## **UTILITIES - UTAH**

### **Metropolitan Water Dist. of Salt Lake & Sandy v. Questar Gas Co.**

**Court of Appeals of Utah - October 29, 2015 - P.3d - 2015 WL 6567671 - 2015 UT App 265**

Local water district brought action against public utility that operated natural gas pipeline on district's easement, seeking a declaratory judgment that district had statutory authority to require a licensing agreement for utility's continued occupancy in the easement, and that the utility's continued presence in the easement amounted to trespass, interference with waterway, and public nuisance as a matter of law.

District filed motion for summary judgment. The Third District Court denied the motion. District appealed.

The Court of Appeals held that:

- District enjoyed no express or implied statutory authority to regulate utility's pipeline, and
- Utility's pipeline did not unreasonably interfere with district's water pipeline.

Local water district had no express statutory authority to regulate public utility's natural gas pipeline located within its non-exclusive easement, since nothing in the relevant statutes expressly authorized local districts to regulate any public utility.

Local water district had no implied statutory authority to regulate public utility's natural gas pipeline located within its non-exclusive easement. Existence of gas pipeline on opposite side of street from water pipeline did not affect district's ability to carry out its duties, even if gas pipeline crossed the water pipeline in four locations, and authority exercised by other government entities in regulating utilities was with express statutory grants of power, which district lacked.

Public utility's gas pipeline located within local water district's non-exclusive easement did not unreasonably interfere with district's water pipeline so as to justify removal. District's concerns about costs of future rehabilitation and replacement for its pipeline being affected by the existence of the gas pipeline were speculative since it had no present construction plans, and pipelines had peacefully coexisted underground for more than 60 years.