

Bond Case Briefs

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WATER DISTRICTS - CALIFORNIA

Central San Joaquin Water Conservation District v. Stockton East Water District

**Court of Appeal, Third District, California - December 27, 2016 - Cal.Rptr.3d - 7
Cal.App.5th 1041 - 2016 WL 7985787**

Water conservation district that used another district's conveyance system brought action against the district that owned the conveyance system for declaratory judgment as to the proper calculation of the wheeling charges.

The Superior Court issued a preliminary injunction requiring the system owner to offer the prior wheeling rate.

System owner appealed, and the Court of Appeal affirmed. System owner filed a cross-complaint for declaratory relief and quantum meruit. The Superior Court concluded that two annual wheeling rates set by the system owner were not reasonable since they failed to consider incremental costs and other factors. System owner appealed.

The Court of Appeal held that Wheeling Statutes did not permit wheeling rates to include pro rata allocation of fixed costs in all cases.

Under the Wheeling Statutes, a water conservation district that owned a conveyance system was required to consider a share of capital, overhead, maintenance, and other fixed or ongoing costs in calculating a wheeling rate for another district's use of the conveyance system, but the district that owned the system could not simply total its costs and force a pro rata allocation in all cases, where the district that used the system was not a member of the district that owned the system.

Water conservation district could not complain on appeal that the trial court's determination that district's wheeling rates were "demonstrably unreasonable inasmuch as they run counter to any 'real-world' analysis of competitive pricing," in granting declaratory judgment that the rates were not reasonable, constituted a factual matter that was never tried, where the district had the opportunity throughout the litigation to present evidence in support of its rates.