

Bond Case Briefs

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EMINENT DOMAIN - OHIO

State ex rel. AWMS Water Solutions, L.L.C. v. Mertz

Supreme Court of Ohio - September 23, 2020 - N.E.3d - 2020 WL 5648287 - 2020 -Ohio-4509

Saltwater injection well operator filed petition for writ of mandamus to compel state to commence property-appropriation proceedings, alleging that state's suspension order with respect to one of its two wells effected a governmental total or partial taking of property requiring state to pay it just compensation.

State moved for summary judgment. The Eleventh District Court of Appeals granted the motion. Operator appealed.

The Supreme Court held that:

- Operator's failure to submit third restart plan did not render its takings claim unripe;
- Fact issues precluded summary judgment on determination that state effected a total regulatory taking;
- State waived its nuisance defense to total takings claim;
- Fact issues precluded summary judgment on economic-impact factor of test for partial takings;
- Fact issues precluded summary judgment on reasonable-backed expectations factor of test for partial takings;
- Character of state's regulation weighed against finding a partial taking.