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EMINENT DOMAIN - OHIO

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

Supreme Court of Ohio - January 24, 2024 - N.E.3d - 2024 WL 251182 - 2024-Ohio-200

Operator of saltwater-injection wells associated with oil and gas production filed petition for writ of mandamus to compel state to commence proceedings for property appropriation, alleging that state's suspension order with respect to one of its two wells effected a governmental taking of operator's property, requiring the state to pay it just compensation.

The Eleventh District Court of Appeals granted the state's motion for summary judgment. Operator appealed. The Supreme Court reversed and remanded. On remand, the Court of Appeals denied operator's petition for writ of mandamus. Operator appealed.

The Supreme Court held that:

- Court of Appeals ventured beyond scope of Supreme Court's remand order by determining that operator lacked cognizable property interest, and
- Court of Appeals' determination that operator lacked cognizable property interest for operator's takings claim violated doctrine of the law of the case.

Court of Appeals ventured beyond scope of Supreme Court's remand order by determining that operator of saltwater-injection wells lacked cognizable property interest, and, thus, erred in denying writ of mandamus to compel state to commence proceedings for property appropriation; Supreme Court specified that, on remand, Court of Appeals was required to weigh parties' evidence related to operator's takings claim and to weigh parties' evidence in accordance with Supreme Court's opinion and to balance all Penn Central factors to determine whether operator suffered partial taking, and, instead, Court of Appeals sua sponte ordered parties to file supplemental briefs as to whether operator had cognizable property interest under Takings Clause and denied writ without weighing parties' evidence.

Court of Appeals' determination that operator of saltwater-injection wells lacked cognizable property interest for operator's takings claim violated doctrine of the law of the case, in mandamus proceedings to compel state to commence proceedings for property appropriation; Supreme Court recognized that operator's leasehold was a property interest that triggered takings analysis, and, on remand, Court of Appeals determined that Supreme Court had not deemed that interest to be property interest for purposes of Takings Clause, that question of whether operator had cognizable property interest had not been at issue before Supreme Court, and that Supreme Court noted only that operator was prima facie entitled to invoke constitutional right to just compensation.