

SUPREME COURT OF OHIO

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

2026-Ohio-1487 · No. 2024-1433 · Decided April 29, 2026

SUMMARY

The Supreme Court of Ohio held that AWMS failed to prove that the State’s suspension of operations at a saltwater-injection well deprived its leasehold of all economically beneficial use, so no total regulatory taking occurred. The court further held that the Penn Central factors did not establish a compensable partial regulatory taking because the economic impact did not outweigh the State’s public-health and safety purpose and the limited interference with AWMS’s investment-backed expectations. The court affirmed in part, reversed in part, and denied the writ of mandamus.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Justice DeWine; Chief Justice Kennedy; Justice Fischer; Justice Brunner; Justice Deters; Justice Hawkins; Justice Shanahan
JURISDICTION	Supreme Court of Ohio
DECIDED	April 29, 2026
DOCKET	2024-1433
DISPOSITION	other
PROCEDURAL POSTURE	AWMS appealed and the State cross-appealed from an Eleventh District Court of Appeals judgment that denied a writ of mandamus on AWMS's total-regulatory-taking claim but granted a writ on its partial-regulatory-taking claim and ordered the State to institute eminent-domain proceedings.
STANDARD OF REVIEW	Whether a compensable taking occurred is a legal question based on factual underpinnings. The court deferred to the court of appeals' factual determinations when supported by competent, credible evidence and did not second-guess its credibility determinations.
PRECEDENTIAL VALUE	Published
PARTIES	AWMS Water Solutions, L.L.C., AWMS Holdings, L.L.C., AWMS Rt. 169, L.L.C. v. Ohio Department of Natural Resources, Mary Mertz, Director of the Ohio Department of Natural Resources, Ohio Department of Natural Resources, Division of Oil and Gas Resources

TOPICS

takings clause oil and gas remedies appellate procedure constitutional law

PRACTICE AREAS

constitutional law oil and gas administrative law takings mandamus

QUESTIONS PRESENTED

1. Whether the suspension of well #2 deprived AWMS of all economically beneficial use of its leasehold and therefore constituted a total regulatory taking under Lucas.
2. Whether the suspension constituted a compensable partial regulatory taking under the three Penn Central factors.
3. Whether the Eleventh District erred by allowing a successor judge who had not observed the trial testimony to participate in the decision.
4. Whether the court of appeals exceeded the scope of remand or improperly limited potential damages.
5. Whether the State's nuisance defense barred AWMS's takings claim.

HOLDINGS

1. The suspension order did not effect a total or categorical taking because AWMS failed to prove that it was deprived of all economically beneficial use of its leasehold.
2. The suspension order was not a compensable partial regulatory taking because the Penn Central factors, properly balanced, weighed against AWMS.
3. The Eleventh District's judgment did not need to be vacated because a successor judge participated in the three-judge panel after the trial.
4. AWMS was not entitled to a writ of mandamus compelling the State to institute eminent-domain proceedings because it had no clear legal right to compensation for a regulatory taking.

KEY QUOTATIONS

“If AWMS could have reasonably expected the possibility of termination, then its investment-backed expectations cannot be diminished by other government actions that fell short of a permanent suspension order.” (¶ 53)

“Balancing the Penn Central factors, we conclude that AWMS’s lack of investment-backed expectations and the character of the regulation outweigh the economic impact of the suspension order.” (¶ 63)

“Though the court of appeals correctly held that AWMS failed to prove a total taking under Lucas, it erred in finding a partial regulatory taking under the Penn Central analysis.” (¶ 72)

FACTUAL BACKGROUND

AWMS leased 5.2 acres in Trumbull County to operate saltwater-injection wells for disposal of oil-and-gas wastewater. After earthquakes occurred near the wells, the Ohio Division of Oil and Gas Resources Management determined that AWMS's activities caused the seismicity and suspended operation of well #2 from 2014 until 2021, while allowing well #1 to resume operations. AWMS claimed that the suspension deprived it of the economic use of its leasehold and constituted a total or partial regulatory taking, although it had known before investing that injection wells could cause earthquakes and that regulators might suspend or terminate operations.

PROCEDURAL HISTORY

AWMS sought a writ of mandamus compelling the State to commence appropriation proceedings, alleging that the suspension of operations at one saltwater-injection well was a regulatory taking. The Eleventh District initially granted summary judgment to the State, but the Supreme Court reversed in *AWMS I* and remanded for factual analysis of total and partial takings. After the Eleventh District failed to apply the ordered framework, the Supreme Court reversed again in *AWMS II* and remanded. On the third review, the Supreme Court affirmed the denial of the total-taking claim, reversed the grant of the partial-taking claim, and denied the writ.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The court affirmed the total-taking ruling, reversed the partial-taking ruling, and denied the writ of mandamus.

CASES CITED

- State ex rel. AWMS Water Solutions, L.L.C. v. Mertz, 2020-Ohio-5482
- State ex rel. AWMS Water Solutions, L.L.C. v. Mertz, 2024-Ohio-200
- State ex rel. AWMS Water Solutions, L.L.C. v. Zehringer, 2019-Ohio-923 (11th Dist.)
- State ex rel. Shelly Materials, Inc. v. Clark County Board of Commissioners, 2007-Ohio-5022
- State ex rel. Wasserman v. Fremont, 2014-Ohio-2962
- Chicago, Burlington & Quincy Railroad Co. v. Chicago, 166 U.S. 226 (1897)
- Lingle v. Chevron U.S.A. Inc., 544 U.S. 528 (2005)
- Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922)
- Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992)
- Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419 (1982)
- Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999)
- Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U.S. 302 (2002)
- Love Terminal Partners, L.P. v. United States, 889 F.3d 1331 (Fed. Cir. 2018)
- Loveladies Harbor, Inc. v. United States, 28 F.3d 1171 (Fed. Cir. 1994)

- Anaheim Gardens, L.P. v. United States, 953 F.3d 1344 (Fed. Cir. 2020)
- Ruckelshaus v. Monsanto Co., 467 U.S. 986 (1984)
- Appolo Fuels, Inc. v. United States, 381 F.3d 1338 (Fed. Cir. 2004)
- Commonwealth Edison Co. v. United States, 271 F.3d 1327 (Fed. Cir. 2001)
- Rose Acre Farms, Inc. v. United States, 559 F.3d 1260 (Fed. Cir. 2009)
- Maritrans Inc. v. United States, 342 F.3d 1344 (Fed. Cir. 2003)
- Yurkowski v. University of Cincinnati, 2015-Ohio-1511 (10th Dist.)
- Vergon v. Vergon, 87 Ohio App. 3d 639 (8th Dist. 1993)
- Welsh v. Brown-Graves Lumber Co., 58 Ohio App. 2d 49 (9th Dist. 1978)
- Arthur Young & Co. v. Kelly, 68 Ohio App. 3d 287 (10th Dist. 1990)

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