

1-1-2008

Stockton Eastern Water District v. United States

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Christopher Frenz, Case Note, Stockton Eastern Water District v. United States, 11 U. Denv. Water L. Rev. 383 (2008).

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CASE NOTE

STOCKTON EASTERN WATER DISTRICT V. UNITED STATES

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I. INTRODUCTION

Contracting with the government involves inherent risk—especially when a governmental body has the ability to pass laws precluding enforcement of that contract to the detriment of the non-governmental beneficiaries. The federal government can enter into water distribution agreements with existing state water agencies to “provide federal project water to the district.”¹ The federal government initially obtains these water rights through acts like the Reclamation Act (“Act”).² The Act allows the government “to locate and construct irrigation works for the appropriation, development, and storage of water.”³ The government thus obtains water rights to benefit the public as a whole through allocating water fairly for irrigation purposes. However, an important provision in the Act provides that the federal government must follow state water law⁴ and that no person may use the “federal” water except by contract.⁵ This contract is the essence of the current dispute.

II. THE DISPUTE

In 1983, the United States Bureau of Reclamation (“Reclamation”) contracted with Stockton East Water District and Central San Joaquin Water Conservation District (“the Districts”) to provide the Districts

1. 45 AM. JUR. 2D *Irrigation* § 94 (2008).
2. *Id.*
3. 45 AM. JUR. 2D *Irrigation* § 87 (2008).
4. 45 AM. JUR. 2D *Irrigation* § 94 (2008).
5. *Id.*

with water from the New Melones Dam.⁶ The Districts claimed that Reclamation breached the contract between 1993 and 2004 by not allocating the required amount of water to the District during those years.⁷ Reclamation argued that the contract expressly allowed for lower allocation amounts during shortage periods.⁸ The long procedural history dates back to an initial complaint in 1993 from Stockton East.⁹ In the following four years, there were various motions entertained and some “unexplained circumstances” held up the main substantive arguments until 2004.¹⁰ The final amended opinion was issued on April 27, 2007, and reconsideration was denied on May 18, 2007.¹¹

III. THE PARTIES

The Stockton East Water District provides surface water for agricultural and urban uses for areas in San Joaquin County, located south of Sacramento and east of San Francisco in California.¹² The specific purpose of forming the Central San Joaquin Water Conservation District was to contract with the Central Valley Project.¹³ Several other parties, including California Water, a corporation, and the city of Stockton, claimed they were third party beneficiaries, but the court did not allow them to become parties in the suit.¹⁴ Defendant Reclamation is a federal agency charged with allocating water from the New Melones Dam.¹⁵

IV. CONTEXT

Controversy surrounded the New Melones Dam even before its completion,¹⁶ so there is little surprise that problems still lingered over 40 years after authorization of its construction. Once the dam was completed in 1978, the government needed “firm commitments from entities” before actually filling the reservoir.¹⁷ In 1983, Reclamation entered into contracts for surface water use with the Districts. These

6. See *Stockton E. Water Dist. v. United States*, 75 Fed. Cl. 321 (Fed. Cl. 2007).

7. *Id.*

8. *Id.*

9. *Stockton E. Water Dist. v. United States*, 62 Fed. Cl. 379, 383 (Fed. Cl. 2004).

10. *Id.* at 387.

11. *Stockton E. Water Dist. v. United States*, 76 Fed. Cl. 497 (Fed. Cl. 2007).

12. See *Stockton East Water District*, <http://www.sewd.net/> (last visited Apr. 30, 2008).

13. *Stockton*, 75 Fed. Cl. at 331.

14. *Id.* at 332.

15. *Id.*

16. Kimra Dawn McAfee, *Post-Audit of New Melones Dam, Central Valley Project, Stanislaus River, California (May 2000)* (unpublished Master of Arts in Geography thesis, San Francisco State University), available at <http://kimra.sankmcafee.com/NMDpa.pdf>.

17. *Stockton*, 75 Fed. Cl. at 332.

contracts were essentially fulfilled until changes in environmental law¹⁸ in 1993 required Reclamation to reallocate some of its water.¹⁹ The Central Valley Project (“CVP”), a long-term plan for water use in the San Francisco Bay area and San Joaquin Valley farmlands,²⁰ required Reclamation to allocate more water for fish and water quality needs, which prevented Reclamation from fulfilling its contractual obligations with the Districts.²¹

The ensuing litigation found itself tangled in contract interpretation, but central to the court’s decision was an earnest attempt to balance Reclamation’s duty to the public, whether it is for environmental, agricultural, or urban uses, with a determination of how Reclamation should allocate water during shortages, whether the government itself or nature should impose such shortages.

V. OUTCOME

The court ruled in favor of defendant Reclamation because Reclamation followed state law requirements that overrode any contract with the Districts.²² What follows are the District’s main substantive arguments and the court’s analysis.

The Districts first argued that background principles of state law do not require Reclamation to follow the State Water Control Board’s decisions.²³ Reclamation further argued that state law does not bind it to allocate water to other entities ahead of the Districts, which, in the end, resulted in less water allocation to the Districts because they were at the end of the line.²⁴ The court found that because there was no specific express or implied congressional intent to abrogate Reclamation from specific state laws, Reclamation was bound by any state-imposed requirements.²⁵ This meant that Reclamation was justified in following state requirements to allocate water to the District’s detriment.

18. CVPIA, TITLE XXXIV.

19. *Stockton*, 75 Fed. Cl. at 333.

20. Central Valley Project, http://www.valleywater.org/Water/Where_Your_Water_Comes_From/Imported_Water/Central_Valley_Project.shtm (last visited Apr. 30, 2008).

21. *Id.*

22. The court issued the initial opinion on February 20, 2007. However, there have been several subsequent appeals that have not resulted in significant changes to the opinion’s result. The April 27, 2007 amended opinion mainly addresses minor factual errors in the initial opinion as well as one insignificant substantive error that has no bearing on the outcome. *Stockton E. Water Dist. v. United States*, 76 Fed. Cl. 470 (Fed. Cl. 2007). There is also a May 18, 2007 opinion denying a motion for reconsideration. *Id.* at 497.

23. *Stockton*, 75 Fed. Cl. at 352.

24. *Id.*

25. *Id.* at 355.

The Districts next argued that changes in federal law are not a valid reason for a water allocation shortage. A contractual provision excused Reclamation from breach for failing to allocate enough water when there were shortages due to “drought, or other causes which, in the opinion of the Contracting Officer, are beyond the control” of Reclamation.²⁶ The Districts read this provision only to include shortages based on natural causes, not legislation.²⁷ The court found Reclamation not liable based on both parties’ intent to include future legislation as a valid reason for a shortage.²⁸ Existing law determined the parties’ intent, along with other contractual provisions and extrinsic evidence.²⁹

The District’s final relevant argument was that Reclamation failed to take adequate steps to prevent shortage in order to fulfill its contractual obligations.³⁰ Because Reclamation either invoked the water shortage privileges or followed an express agreement with the Districts, the court found Reclamation not liable for a breach of contract.³¹

VI. DISCUSSION

Nominally, Reclamation won and the Districts lost in this case, but with this type of lengthy litigation no one really wins. In fact, the intended beneficiaries, the farmers, may have been the real losers. Even if the Districts had prevailed, a 2007 Court of Federal Claims Opinion would not have provided water for the Districts retroactively from 1994 to 2003, nor would the court been able to force Reclamation to give back all the water it “kept.” What was the actual effect on the public?

In September 2007, about 20 farms in the Stockton area were in danger of losing crops because of lack of water.³² The farmers had to apply for emergency relief because, in part, the federal government was enforcing its contract with Stockton East more strictly than in the past, denying the district previous beneficial “flexibility.”³³ Perhaps this litigation has generated some ill will, meaning that Reclamation is more likely to strictly enforce its contractual obligations to the District’s detriment to avoid future litigation with any other entity.

Neither the court’s opinion nor any local Stockton news article indicate any major water shortage in the area during the dates the Districts claimed Reclamation breached its contract. However, the recent

26. *Id.* at 356.

27. *Id.*

28. *Id.* at 359.

29. *Id.*

30. *Id.* at 352.

31. *Id.* at 363.

32. Alex Breitler, *Farmers Make Emergency Water Request*, THE RECORD (STOCKTON CAL.), Sept. 7, 2007, at 1.

33. *Id.*

shortage may have been prevented if Stockton had received its contractual supply of water in the previous years and stored it for future shortages. The Districts may have exhausted other resources to keep up with the water demand at the time. In the end, state law excused a federal agency from complying with a contract executed and performed in that same state. This result seems odd because the state had the power to craft the law as it seemed fit, yet this was not an absurd result based on the law. Perhaps the legislature should have been a little more careful in drafting laws that directly upset its own agency's and citizens' needs, unless it was fully aware of the implications.

One of the stated purposes in the Central Valley Improvement Act is "to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California."³⁴ However, another purpose is "to achieve a reasonable balance among competing demands for use of Central Valley Project water."³⁵ Yet, there is no mention of allocation to the Districts in the Act. Perhaps the drafters did not contemplate some of the Act's negative repercussions. On the other hand, the overall benefit to the public as a whole may have outweighed a few farmers' irrigation needs. The Act was intended to restore fish and wildlife habitats in the area. Hopefully, the long-term benefits of this habitat protection will have outweighed the short-term shortages endured by the farmers.

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34. CVPIA, Title XXXIV, sec. 3402.

35. *Id.*

