

1-1-2004

## Washington County Water Conservancy Dist. v. Morgan, 82 P.3d 1125 (Utah 2003)

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Robert E. Wells, Court Report, Washington County Water Conservancy Dist. v. Morgan, 82 P.3d 1125 (Utah 2003), 7 U. Denv. Water L. Rev. 538 (2004).

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determinations by operation of law did not unconstitutionally confer adjudicative power on the state engineer.” Acknowledging USF’s ability to seek leave of court to excuse its untimely objection, the court concluded that until USF explored that remedy, HCIC was entitled to the ten cfs water right reflected in the State Engineer’s proposed award.

Thus, because USF did not object to the proposed determination within ninety days, the trial court lacked authority to hear an action that could result in a judgment inconsistent with an uncontested determination. Therefore, the court held the trial court lacked jurisdiction over this claim and vacated the judgment.

*Jessica L. Grether*

**Washington County Water Conservancy Dist. v. Morgan, 82 P.3d 1125 (Utah 2003)** (holding that Utah Water Conservancy Act did not create standing for a water conservancy district to bring cause of action for forfeiture; and party protesting a change application does not gain standing, by virtue of the protest, to petition the court for a declaration of forfeiture).

The Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints (“CPB”) submitted a change application to the State Engineer for certain water rights located in Washington County, Utah. The Washington County Water Conservancy District (“Conservancy District”) submitted a challenge to the change application, asserting that CPB forfeited some of its water rights. The State Engineer granted CPB’s request, noting that it lacked jurisdiction to determine whether CPB forfeited its water rights. The Conservancy District then petitioned the Washington County District Court challenging the State Engineer’s determination of the change application, and charged that CPB had forfeited the water rights at issue. The trial court ruled that the Conservancy District lacked standing to bring its cause of action and the Conservancy District appealed directly to the Utah Supreme Court.

On appeal, the court considered three issues: (1) whether the Utah Water Conservancy Act (“Act”) granted standing to the Conservancy District, (2) whether the Conservancy District’s participation in the change application proceedings gave standing to challenge the state engineer’s determination, and (3) whether the Conservancy District qualified for standing under traditional standing requirements.

First, in addressing standing under the Act, the court concluded that the Act did not grant the Conservancy District standing. The court reached this conclusion by noting that the Act contained broad statements outlining the purposes of conservancy districts. Subsequent to these broad statements were specific powers that the legislature

delegated to conservancy districts. The court noted that none of the delegated specific powers granted standing to challenge water rights or to appeal the State Engineer's determinations with respect to change applications. Finally, the court rejected the Conservancy District's argument that members of a class protected by a statute have standing to enforce the statute. The court reasoned that many statutes protect large classes generally, but this fact did not grant standing to those general members to press for enforcement of those statutes.

Next, the court addressed whether participation in the change application proceedings gave the Conservancy District standing. Utah law permits "interested" persons to file protests with the State Engineer. It also permits persons who are "aggrieved" because of actions taken by the State Engineer to obtain judicial review of those actions. The Conservancy District argued that because it was an "interested" person who was "aggrieved" by the State Engineer's determination, it therefore obtained standing to challenge the State Engineer's determination in court. The court concluded that not every "interested" person is necessarily "aggrieved." The court held that to be "aggrieved," a person must show a particularized injury. Further, the court cautioned that if the court allowed every "interested" person to become "aggrieved" whenever the State Engineer ignores a protest, water rights that would not otherwise be subject to challenge would be easier to contest.

Finally, as to traditional standing principles, the Conservancy District argued that the trial court incorrectly applied the traditional standing test. The trial court stated that a party seeking standing must demonstrate that that they would suffer a distinct and palpable injury giving rise to a personal stake in the outcome. Here the trial court required the Conservancy District to show a particularized harm, to show some connection between the Conservancy District's use and CPB's use. The court held this was not a new test as the Conservancy District had argued, but the traditional test, and concluded that the trial court did not incorrectly apply the traditional standing test. Next, the court reviewed the Conservancy District's evidence that allegedly supported a connection between CPB's use and the Conservancy District's use. The relevant inquiry was whether CPB's underground supply was part of the Ash Creek hydrological system. The court concluded that the trial court had ample evidence to reach its conclusion and therefore upheld the trial court's decision. According to the court, three exceptions exist to the standing requirement: (1) no one has a greater interest in the outcome, (2) the issues will not ever be raised unless the plaintiff is granted standing to raise them, and (3) the legal issues are sufficiently crystallized for immediate judicial resolution. If none of the requirements apply, then a plaintiff may qualify for standing if the issues are "so unique and of such great importance that they ought to be decided in furtherance of the public interest." The court concluded that none of the exceptions applied in this case. Therefore, the court affirmed the trial court's ruling.

*Robert E. Wells*