

'Takings' Snapshots Volume 11
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1. Dittmer v. County of Suffolk, 1998 WL321575 (U.S. 2nd Cir, June 4, 1998)

Reversing trial court order dismissing under abstention doctrine facial due process and equal protection challenges to Long Island Pine Barrens Protection Act, because suit did not seek to overturn a prior state court or administrative determination as required for Burford abstention, and because there was no contemporaneous state court action involving the same parties and therefore abstention was not warranted under the Colorado River Water Conservation District.

2. Woodland Manor III Associates v. Keeney, 1998 WL340376 (R.I., June 25, 1998)

State Supreme Court vacated trial court order granting summary judgment to Director of Department of Environmental Management in takings suit, where State had effectively denied a wetlands fill permit and a court had previously ruled that State was equitably stopped from denying a permit to fill the site.

3. Loretto Development Co., Inc. v. Village of Chardon 1998 WL320981 (U.S. 6th Cir., June 4, 1998)

(unpublished decision) Affirming rejection of takings claim based on denial of application for rezoning of property to allow construction of a Walmart, where rezoning denial did not deny owner all economically viable use of the property and decision substantially advanced a legitimate state interest.

4. In re Brotherton v. DEC Appeal (N.Y. App. Div. May 14, 1998)

Appellate Division of New York Supreme Court affirmed the trial court's dismissal of this wetlands takings action, ruling that the owner's expectations were fixed as of the date he acquired the property, not the earlier date when his close corporation acquired the property, and that two lots on either side of coastal road were properly treated as one parcel.

5. Moore v. United States (U.S. Cis. Ct. July 2, 1998)

Order granting motion to certify opt-in class of over 2,000 landowners burdened by Katy trial in suit alleging that establishment of trail under federal rails-to-trails program effects unconstitutional taking.