'Takings' Snapshots Volume 25, September 27, 1999

1. East Cape May Associates v. State of New Jersey, No. CPM L-1217-92 (N.J. Super. Ct., September 20, 1999) (following a limited remand from the appellate division, and after an extensive trial, the N.J. Superior Court issued an opinion which strongly supports if it does not dictate a finding of a taking in this case; the court ruled that the relevant parcel included only the portion of the plaintiff's property holdings in the City of Cape May which was the subject of the State coastal permitting action that gave rise to the takings claim; the court also rejected the State's argument that a finding of a taking was precluded by the State's offer to allow limited development of the property).

2. Buckles v. King County, 1999 WL 700579 (9th Cir., September 10, 1999) (affirming summary judgment for county in regulatory takings challenge to down-zoning decision; court rejected the argument that U.S. Supreme Court's Del Monte Dunes decision required submission of a claim based on the means-ends takings theory to a jury, relying in part of the 'extreme facts' of Del Monte Dunes and the fact that this case, unlike Del Monte Dunes, involved a challenge to the application of general regulatory policies).

3. Texas Natural Resource Conservation Comm'n v. Accord Agriculture, Inc., 1999 WL 699825 (Texas Ct. Apps., September 10, 1999) (The Texas Court of Appeals recently withdrew its prior opinion (Takings Snapshots XXIII, July 19, 1999) and substituted a new opinion in this decision rejecting a takings challenge to the Texas right to farm law for lack of standing; a quick review reveals no substantive change in the court's prior discussion of the taking issue).

4. Taylor v. United States, No. 90131L (U.S. Ct. Cls., August 18, 1999) (the Court of Federal Claims denied the United States' motion to dismiss this takings challenge to ESA restrictions on ripeness grounds; the U.S. had apparently argued that the claim was not ripe because the F& WS had not yet denied the application; the court ruled that the claim was ripe where the F&WS' failure to act on the application was based on the owner's failure to propose adequate mitigation measures and the owner's taking claim was based on the theory that the mitigation requirements were too onerous).

5. Garamella v. City of Bridgeport, 1999 WL 704689 (U.S.D.Ct. CT, August 17, 1999) (federal district court dismissed regulatory taking challenge to airport zoning restrictions under Williamson County on the ground that application of the regulations to the owner's property had not been definitively determined). 944).