

William W. Wade

***General Litigation & Regulatory Takings Resume***

Energy and Water Economics

1021 Riverview Drive, Suite 204

615-628-8731

wade@energyandwatereconomics.com

**Finance and Economic Background:**

William W. Wade specializes in issues related to water and energy policy working with executives, lawyers, engineers and scientists on multi-discipline regulation, litigation, and planning projects. He has 40 years experience managing and conducting financial and economic evaluations of tort damages, policies and decisions bearing on natural resources, project investments, business valuations and regulatory takings. A brief bullet list of activities and expertise summarizes his background involvement in financial valuation and regulatory takings cases.

* Extensive experience in the valuation of businesses and investment opportunities for corporate and public entities – and opposing parties in litigation.
* Substantial involvement in economic values of large complex development projects entailing multi-discipline engineering and scientific teams.
* Consulting and expert witness services since 1976 in a broad range of business and regulatory settings dealing with economic, finance and statistical investigations.
* Strong background in financial analysis, project feasibility, business valuations and lost profits.
* Hundreds of projects entailing forecasting market conditions and estimating financial feasibility of business decisions, project alternatives -- or economic losses.

The economic underpinnings of Regulatory Takings is a subspecialty that began in 1995 and rests upon this financial expertise. Dr. Wade is the expert witness in nine recent & ongoing takings cases, which involve measurement of the *Penn Central* test and damages. He has been qualified as a financial economist in the Court of Federal Claims.

* *Wrights v. City of Shelbyville, TN* Taking/Damages case Settled, 2015. (Defendant)
* Confidential Court of Federal Claims Taking case Ongoing, 2015. (Plaintiff)

(Current takings case involves valuation of damages and severity of economic impact for six large rental properties in CA and the Northeast US.)

* *Richfield Landfill v. State of Michigan* (Temporary taking/damages – settled 2010).
* *Chancellor Manor v. U. S.* (Research for Petition for Certiorari, 2007.)
* *Reed Island v. U. S. (Court of Federal Claims)* (Temporary taking – damages; case settled 2007)
* *HMA Contractors v. Lincoln County, et al* (Regulatory taking – Case dismissed)
* *Chancellor Manor v. U. S*., No. 98-39C (Fed.Cl. Ct.) Testified for plaintiff December, 2004 at Court of Federal Claims. (Temporary taking, decision for the plaintiff August 29, 2005. $17 million award (*“Cienega IX”);* overturned by Fed. Cir. Sept. 2007, *“Cienega X.”)*
* *Palazzolo v. Rhode Island* Testified June 2004 in Rhode Island for plaintiff*.* (Decision for defendant, 2005, based on science and engineering.)
* *K&K v. Michigan DNR,* Decision for plaintiff May 28, 2002; (*K&K v. Michigan DEQ*, $16.5 million award, File No. 88-12120-CM, October 7, 2002. Reversed 2005; appealed for error to MI Supreme Court;

**Complex Development Projects:**

For five years, 1995-1999, he was involved in planning and evaluating the financial feasibility of various combinations of recreation facilities and hotel development within a $250 million development project as part of Metropolitan Water District’s Diamond Valley reservoir in Southern California.

During 2008 & 2009, he conducted economic studies for the ill-fated Nashville Bells Bend multi-billion dollar mixed commercial and residential project in Nashville TN.

**Publications:**

Dr. Wade's published articles and CLE presentations have sought to infuse economic rigor and understanding of financial language poorly used in takings cases.

**Articles in Draft:**

“Texas Groundwater, Regulatory Takings and the *Day* Decision,” blog note, July 17, 2013.

**Published Finance and Takings Articles:**

1. “Liquid Gold or Water for Pecans: Valuation of Edwards Aquifer Water for the Braggs’ taken Orchards,” Environmental Law Reporter 1, Forthcoming October 2015.
2. “Theory and Abuse of Just Compensation in Income Producing Property in Federal Courts: A View from above the Forest,” Forthcoming Texas Environmental Law Review, 2016.
3. “Misconstruing Size of Economic Impacts as the Determinant of Penn Central test Does Not Invoke Average Reciprocity of Advantage,” 21 West Northwest Journal of Environmental Law & Policy, No.2, 197 (summer 2015).
4. “Temporary Takings, Tahoe Sierra and The Denominator Problem,” 43 Environmental Law Reporter 10189, February 2013.
5. “Sources of Regulatory Takings Economic Confusion Subsequent to *Penn Central,*" 41 Environmental Law Reporter 10936, October 2011.
6. “Federal Circuit’s Economic Failings Undo the Penn Central Test,” 40 Environmental Law Reporter 10914, September 2010.
7. “Penn Central’s Ad Hocery Yields Inconsistent Takings Decisions,” 42 The Urban Lawyer 549, summer, 2010.
8. Republished in 2011 Zoning and Planning Law Handbook, Patricia E. Salkin, ed.
9. “Temporal Posture & Discount Rates for Groundwater Contamination Damages,” 40 Environmental Law Reporter 10262, March 2010.
10. “Confusion about “Change in Value” and “Return on Equity” Approaches To Penn Central Test in Temporary Takings*,”* 38 Environmental Law Reporter 10486, July 2008.

“Average Reciprocity of Advantage: ‘Magic Words or Economic Reality: Lessons from Palazzolo," 39 The Urban Lawyer 319, spring, 2007.

“’Sophistical and Abstruse Formulas’ Made Simple: Advances in Measurement of *Penn Central’s* Economic Prongs and Estimation of Economic Damages in Federal Claims and Circuit Courts,” 38 The Urban Lawyer 337 spring2006.

"Economic Backbone of the *Penn Central test* post *Florida Rock* *V*, *K&K* and *Palazzolo*," 32 Environmental Law Reporter 11,221 (October, 2002).

“Penn Central’s Economic Failings Confounded Takings Jurisprudence,” 31 The Urban Lawyer 2, 277 - 308, spring, 1999.

“Economic Impacts, The Bennett Decision, and Investment-Backed Expectations,” 6 Cal Land Use Law and Policy Reporter 11, (1997).

“Economic Considerations of Regulatory Takings Reform: Judicial Precedent and Administrative Law v. Legislative Intent,” BNA Environmental Reporter, August 4, 1995.

“The Role of Economics in Regulatory Takings Cases,” with Robert Trout, Litigation Economics Digest, 1, 1, Fall 1995.

“The Role of the Economist in a Regulatory Taking Claim,” California Land Use Law and Policy Reporter, March, 1995.

**CLE Presentations on regulatory takings:**

* “Denominator Problems with *Penn Central* (1978) and *Mayhew* (1998), 12th Annual Texas Eminent Domain SuperConference, Austin, February 11, 2013.
* "Economically Impoverished Federal Circuit Decisions dim the *Polestar*\* of the *Penn Central* Test," ALI-ABA CLE Inverse Condemnation seminar, February 2011, Coral Gables FL. (\*“Our polestar instead remains the principles set forth in *Penn Central* itself and our other cases that govern partial regulatory takings.” (*Palazzolo v. Rhode Island,* 533 U.S. 606, 617–18 (2001) (O’Connor, J., concurring).
  + “Valuing a Temporary Takings Claim: ‘Every Which Way but Right,’” ALI-ABA Conference, Inverse Condemnation and Related Government Liability, Scottsdale, April 14, 2007
  + United States Court of Federal Claims, 18th Judicial Conference, “Damages against the Sovereign: Theory and Practice,” Panelist on Damages, November 4, 2005.
  + “Vicissitudes of Valuing a Temporary Takings Claim; or, 'Sophistical and Abstruse Formulas' Made Simple."  (with thanks to Justice FRANKFURTER @ (338 U.S. 1, 20, 1949), ALI-ABA Conference, Boston, October 1, 2005.
* “Bennett & Undue Economic Hardship: Florida Rock V’s ‘Stable Framework’ to Analyze Penn Central’s Significant Factors,” Law Seminars International Conference, San Francisco, November 1999.
* “*Penn Central’s* Economic Failings Confounded Takings Jurisprudence,” ALI-ABA Conference, Boston, September 30, 1999.
* “Economic Considerations of Regulatory Takings*,”* Presentation, *Restructuring in California: The Morning After*, Law Seminars International Conference, Sacramento, CA, September 1998.
* “Economic Considerations of Regulatory Takings: ‘The Mouse that Roared,’” CLE International Regulatory Takings Conference, San Francisco, March 2, 1995.

**Selected Other Litigation Cases:**

Selected cases to illustrate range of expertise – antitrust, valuations, lost profits and environmental damages.

* City of Waynesboro, TN v. State of TN TDOT, Valuation for plaintiff of lost water supply due to road widening, 2015. Case settled.
* Harpeth River Watershed Assoc. v. City of Franklin TN, Valuation for plaintiff of financial and economic costs of expanded water treatment plant, ongoing, 2014-2015.
* Confidential (Nashville) Rebuttal of damages of lost use of mineral property.
* Plaquemines Parish v. BP *et al,* Damages related to lost government revenues and consultation, Gulf of Mexico oil blow-out.
* City of San Diego v. Kinder Morgan Rebuttal of damages from lost use of contaminated groundwater aquifer. (Damages dropped on Summary Judgment.) (See Water Resources resume.)
* Tampa Bay Water v. HDR, et al. Rebuttal of damages from alleged lost water supplies. (Plaintiff partially withdrew loss claim; *Daubert* challenge removed the balance of the claim.
* Interstate confidential water dispute Valuation of disputed interstate water flows.
* Royals v. Campbell County VA Lost profits and replacement cost estimates due to groundwater contamination. (Jury decision for the plaintiff.)
* Mississippi v. City of Memphis Damages due to interstate water supply dispute. (Case *sua sponte* removed to SCOTUS; dismissed without prejudice.)
* Michigan DNR v. Four Winns. Groundwater Valuation.
* Village of Oxford v. Township of Oxford Division of assets at dissolution.
* Sumner County v. MGT Pipeline Forecast and Need for Project.
* Piney River Friends v. Bon Aqua Water District Forecast and valuation of Water Project.
* Alpine Valley Ski Area v. Oakland County Tax valuation.
* Aguilar, et al v. Atlantic Richfield, et al. Antitrust.
* Arge v. Glendale Federal S&L. Damages.
* Equitable Real Estate v. C & R Clothiers. Liability/damages/severance damages.
* Greenhill Petroleum v. Mike Hicks Tools Environmental Damages.
* J.R. Muggs v. Hammad. Liability/damages.
* U. S. v. (various) Natural Resource Damages.
* Visionary Games v. Kemper Insurance. Start-up lost profits.

**Education:**

Ph.D., Resource and Applied Economics, University of Minnesota

M.S., Agricultural Economics, University of Minnesota

B.S., English/Journalism, Spring Hill College

**Professional Activities:**

Past President of San Francisco Chapter of National Association of Business Economists; American Economics Association;

American Agricultural Economics Association;

Association of Environmental and Resource Economics.

Treasurer, TN American Water Resources Association, 2002.

Past Board of Directors, Maury County TN Vision 20/20.

Past Board of Trustees, Sam Davis Museum, Smyrna,TN.

Kiwanis International. (Past Member)

Rotary Franklin, TN.

**Honors:**

Past-member Economic Advisory Council of California Chamber of Commerce.

Award for Professional Excellence for Quality of Published Research, 1979; (with others) American Agricultural Economics Assoc.

**Web Site:**

[www.energyandwatereconomics.com](http://www.energyandwatereconomics.com)

References Available on Request.