

SUPREME COURT OF WYOMING

Geringer v. Runyan

235 P.3d 867 (Wyo. 2010) · No. S-09-0122 · Decided July 14, 2010

SUMMARY

The Wyoming Supreme Court affirmed the denial of Joe and Tammy Geringer’s petitions seeking abandonment of water rights held by the respondents. The court held that the Geringers lacked standing because they did not show that abandonment would benefit their existing water rights or that the respondents’ water use injured those rights. The inability to operate their pivot irrigation system at the same time as the respondents’ wells was not an injury to a legally protected water right.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Golden, Justice; Kite, C.J.; Golden, J.; Hill, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	July 14, 2010
DOCKET	S-09-0122
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Wyoming State Board of Control denied the Geringers' petitions seeking declarations that the appellees' additional supply water rights had been abandoned, concluding that the Geringers lacked standing. The district court affirmed, and the Geringers appealed to the Supreme Court of Wyoming.
STANDARD OF REVIEW	Under the Wyoming Administrative Procedures Act, legal issues are reviewed de novo, without deference to the agency's legal conclusions.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Joe and Tammy K. Geringer v. Mark D. Runyan and Sharon K. Runyan, Robert Willson and Jana Willson

TOPICS

- judicial review of agency action
- administrative procedure act
- administrative law
- real estate
- standard of review

PRACTICE AREAS

administrative law

water rights

real estate

appellate procedure

QUESTIONS PRESENTED

1. Whether the Wyoming State Board of Control erred in finding that the Geringers lacked standing under the third element of Wyo. Stat. § 41-3-401(b), because they failed to show that they would benefit from abandonment or be injured by reactivation of the appellees' water rights.
2. Whether the Geringers' inability to operate their pivot irrigation system at the same time as the appellees constituted an injury to their additional supply water rights sufficient to establish standing.

HOLDINGS

1. A petitioner seeking abandonment of another's water right must show that the petitioner's own water right would be affected in a legally cognizable and discernible manner by the abandonment or reactivation. The Geringers failed to make that showing because they presented no evidence that the amount of water available in the underlying aquifer was limited.
2. The Supreme Court disagreed with the Board's factual finding that the Geringers were taking water in excess of their additional supply rights, because the Board made no finding and received no evidence concerning the amount of water necessary for beneficial irrigation. That error did not require reversal because the Board's independent legal conclusion that the Geringers lacked standing was correct.

KEY QUOTATIONS

“An injury to a pattern of use of water is not the same as an injury to a water right.” (235 P.3d at 871; ¶ 15)

“Rather, the critical factor in the analysis of the instant applications for abandonment is the amount of water available in the aquifer.” (235 P.3d at 872; ¶ 17)

FACTUAL BACKGROUND

The parties acquired land from a common grantor. The Geringers held additional supply water rights associated with the Leonard No. 1 and Chambers No. 2 wells, which also supplied lands owned by the appellees. The Geringers operated two pivot irrigation systems and needed the full flow from both wells to operate both pivots simultaneously. They sought abandonment declarations because the appellees' concurrent use of the wells reduced the flow available to the Geringers, but they presented no evidence that the underlying aquifer's water supply was limited.

PROCEDURAL HISTORY

The Geringers filed two petitions with the Wyoming State Board of Control seeking abandonment declarations concerning water rights held by the Runyans and Willsons; the petitions were consolidated. After a hearing, the Board denied the petitions for lack of standing. The district court affirmed the Board's ruling, and the Supreme Court of Wyoming affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- Three Sons, LLC v. Wyoming Occupational Health & Safety Comm'n, 2007 WY 93, ¶ 11, 160 P.3d 58, 62-63
- Pine Bar Ranch, LLC v. Luther, 2007 WY 35, ¶ 8, 152 P.3d 1062, 1065
- Snider v. Kirchhefer, 2005 WY 71, ¶ 11, 115 P.3d 1, 5
- Schulthess v. Carollo, 832 P.2d 552, 557 (Wyo. 1992)
- Laramie Rivers Co. v. Wheatland Irrig. Dist., 708 P.2d 20 (Wyo. 1985)
- State Board of Land Commissioners v. Lonesome Fox Corp., 707 P.2d 167 (Wyo. 1985)
- Platte County Grazing Ass'n v. State Board of Control, 675 P.2d 1279 (Wyo. 1984)
- Cremer v. State Board of Control, 675 P.2d 250 (Wyo. 1984)
- Mitchell Irrig. Dist. v. Whiting, 59 Wyo. 52, 136 P.2d 502 (1943)
- Horse Creek Conservation Dist. v. Lincoln Land Co., 54 Wyo. 320, 92 P.2d 572 (1939)
- Hagie v. Lincoln Land Co., 18 F. Supp. 637 (D. Wyo. 1937)
- Joe Johnson Co. v. Wyoming State Bd. of Control, 857 P.2d 312, 316-17 (Wyo. 1993)
- Lewis v. State Bd. of Control, 699 P.2d 822, 824 (Wyo. 1985)