

MONTANA SUPREME COURT

United States v. Korman

427 P.3d 72 (Mont. 2018) · No. DA 16-0019 · Decided September 18, 2018

SUMMARY

The Montana Supreme Court affirmed a Water Court order granting the Bureau of Land Management summary judgment concerning water rights for the Chevy and Poker Reservoirs. The court held that the Kormans forfeited unfiled claims for reservoir storage and stockwater use, and that the BLM's wildlife-use claims were valid and did not expand the original appropriations.

CASE DETAILS

COURT	Montana Supreme Court
WRITING FOR THE COURT	Mike McGrath, Chief Justice; Laurie McKinnon, Justice; Dirk M. Sandefur, Justice; Beth Baker, Justice; Ingrid Gustafson, Justice
JURISDICTION	Montana
DECIDED	September 18, 2018
DOCKET	DA 16-0019
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Kormans appealed the Montana Water Court's order granting the Bureau of Land Management summary judgment and denying their objections to water-right claims for stockwater and wildlife uses in two reservoirs.
STANDARD OF REVIEW	The Supreme Court applies the same standard of review to the Water Court as to a district court and reviews summary judgment de novo under Montana Rule of Civil Procedure 56.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Ron Korman, Maxine Korman v. United States, United States Bureau of Land Management

TOPICS

- environmental law
- administrative law
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Water Court correctly determined that the Kormans forfeited interests claimed for stockwater use in the Chevy and Poker Reservoir claims 40M 75208-00 and 40M 75220-00.
2. Whether the Water Court correctly determined that wildlife claims 40M 75209-00 and 40M 75221-00 were valid claims that did not expand the original appropriation.

HOLDINGS

1. The Kormans forfeited any stockwater rights claims associated with the Chevy and Poker Reservoirs because they did not file statements of claim within the statutory deadlines, and the reservoir storage rights at issue were not exempt from those filing requirements.
2. The BLM's wildlife claims for the Chevy and Poker Reservoirs were valid and did not expand the original appropriation because wildlife use was among the beneficial uses associated with the original impoundment.

KEY QUOTATIONS

“A moving party is entitled to summary judgment “if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.”” (¶ 8)

“Here, the impoundment of water for wildlife was not an expansion of use.” (¶ 21)

FACTUAL BACKGROUND

The United States Bureau of Land Management owns two reservoirs on federal grazing lands in Montana Water Basin 40M. The reservoirs were constructed under BLM-approved range-improvement applications for livestock watering, but the BLM considered wildlife needs and authorized capacities larger than necessary for livestock use. The Kormans received assigned interests in grazing permits and range improvements but did not file statements of claim for stockwater rights by the statutory deadlines.

PROCEDURAL HISTORY

The Water Court initially granted the BLM partial summary judgment on thirty-four of forty-six claims. The Montana Supreme Court affirmed in Korman I and remanded the remaining claims for further proceedings. After the Kormans withdrew two objections, the Water Court granted the BLM summary judgment on the remaining Chevy and Poker Reservoir claims, concluding that the Kormans forfeited unfiled stockwater claims and that the BLM's wildlife claims were valid; the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Heavirland v. State, 2013 MT 313, 372 Mont. 300, 311 P.3d 813
- Mont. Trout Unlimited v. Beaverhead Water Co., 2011 MT 151, 361 Mont. 77, 255 P.3d 179
- RN & DB, LLC v. Stewart, 2015 MT 327, 381 Mont. 429, 362 P.3d 61
- Feller v. First Interstate Bancsystem, Inc., 2013 MT 90, 369 Mont. 444, 299 P.3d 338
- Scott Ranch, LLC, 2017 MT 230, 388 Mont. 509, 402 P.3d 1207
- BLM v. Barthelmess Ranch Corp., 2016 MT 348, 386 Mont. 121, 386 P.3d 952
- United States v. Korman, 2016 MT 351N, 386 Mont. 397
- Pub. Lands Council v. Babbitt, 529 U.S. 728, 120 S. Ct. 1815, 146 L. Ed. 2d 753 (2000)
- Teton Coop Canal Co. v. Teton Coop Reservoir Co., 2018 MT 20, 390 Mont. 210, 412 P.3d 1
- In re Eldorado Coop Canal Co., 2016 MT 94, 383 Mont. 205, 369 P.3d 1034
- Quigley v. McIntosh, 110 Mont. 495, 103 P.2d 1067 (1940)
- In re Adjudication of Water Rights in Basin 41I, 2002 MT 216, 311 Mont. 327, 55 P.3d 396