

SUPREME COURT OF THE STATE OF IDAHO

Kaseburg v. State, Board of Land Commissioners

154 Idaho 570 (2013) · No. 38917 · Decided May 2, 2013

SUMMARY

The Idaho Supreme Court reviewed the Idaho Department of Lands’ denial of two encroachment permit applications involving pilings, a dock system, and a mooring buoy on Lake Pend Oreille. The Court held that pilings are not per se navigational encroachments and reversed the district court as to Application 219-B. It affirmed the setting aside of the denial of Application 219-C because the Department had not properly established the applicable line of navigability, and it denied attorney’s fees.

CASE DETAILS

COURT	Supreme Court of the State of Idaho
WRITING FOR THE COURT	Justice W. Jones; Chief Justice Burdick; Justice Eismann; Justice Horton; Justice Jones
JURISDICTION	Idaho
DECIDED	May 2, 2013
DOCKET	38917
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Idaho Department of Lands appealed from a Bonner County district court decision, issued on judicial review under the Idaho Administrative Procedure Act, that set aside the Department's denials of two encroachment-permit applications.
STANDARD OF REVIEW	The Supreme Court independently reviews the agency record when reviewing a district court acting in its appellate capacity under the Idaho Administrative Procedure Act. It defers to agency factual findings unless clearly erroneous and will not substitute its judgment for the agency's weighing of evidence when findings are supported by substantial competent evidence. An agency order is affirmed unless the appellant shows substantial-rights prejudice and a statutory, constitutional, procedural, evidentiary, or arbitrary-and-capricious defect. An agency's reasonable interpretation of a statute it administers receives deference, although courts retain ultimate authority to construe statutes.

PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	State of Idaho, Board of Land Commissioners, Department of Lands v. Peter Kaseburg, Shelagh Kaseburg, Kaseburg Family Trust

TOPICS

judicial review of agency action administrative law statutory interpretation standard of review
environmental law

PRACTICE AREAS

administrative law environmental law water and lake regulation statutory interpretation
appellate procedure

QUESTIONS PRESENTED

1. Whether the district court properly set aside the Department of Lands' denial of Application 219-B.
2. Whether the district court properly set aside the Department of Lands' denial of Application 219-C.
3. Whether Kaseburg was entitled to attorney's fees.

HOLDINGS

1. Pilings are not per se navigational encroachments. The statutory reference to pilings is illustrative, and whether a particular piling is a navigational encroachment depends on its actual purpose and the statutory distinction between navigational and nonnavigational encroachments.
2. The district court erred in setting aside the Department's denial of Application 219-B. The Department properly classified the proposed replacement pilings as a nonnavigational encroachment and had substantial evidence that the replacement would provide no public benefit and perpetuate a navigation hazard.
3. The district court properly set aside the denial of Application 219-C because the Department improperly assumed that the line of navigability was fifty-five feet waterward of the artificial high water mark without a statutory-compliant, factually supported determination.
4. Kaseburg was not entitled to attorney's fees because he was not a prevailing party on either application. Remand for further administrative consideration did not establish relief on the merits.

KEY QUOTATIONS

“The district court should have deferred to the IDL’s determination that pilings are not per se navigational.”
(154 Idaho at 578)

“The line of navigability must be measured from the low water mark. It is not measured from the AHWL.”
(154 Idaho at 579)

“On remand, the IDL should create a record of specific facts that establish the line of navigability, which must lie waterward of the low water mark.” (154 Idaho at 579)

“An order remanding a case to an administrative agency for further consideration normally does not qualify as relief on the merits.” (154 Idaho at 580)

FACTUAL BACKGROUND

Peter Kaseburg held a permit for decaying wooden pilings in Lake Pend Oreille that had no established navigational purpose, except that one piling incidentally anchored a neighboring marina dock. He sought to replace ten pilings with steel pilings without initially specifying a navigational purpose; the Department denied that application because the replacement would provide no public benefit and perpetuate a navigation hazard. He later sought approval for a movable dock and mooring buoy, which the Department processed as a navigational encroachment beyond the line of navigability based on an asserted line fifty-five feet waterward of the artificial high water mark.

PROCEDURAL HISTORY

The Department denied Application 219-B to replace decaying wooden pilings and Application 219-C to install a movable dock and mooring buoy. The district court set aside both denials, reasoning that all pilings were navigational encroachments as a matter of law. The Idaho Supreme Court reversed as to Application 219-B, affirmed the setting aside of the denial of Application 219-C on different grounds, and remanded for a proper determination of the line of navigability.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court's decision was reversed as to Application 219-B and affirmed as to Application 219-C. On remand, the Idaho Department of Lands must create a record of specific facts establishing the line of navigability, determine whether Application 219-C extends beyond that line, and process the application under the appropriate statutory and regulatory standard.

CASES CITED

- Brett v. Eleventh St. Dockowner's Ass'n, 141 Idaho 517, 522-23, 112 P.3d 805, 810-11 (2005)
- Driesbach v. Lynch, 71 Idaho 501, 508-09, 234 P.2d 446, 450-51 (1951)
- Lovitt v. Robideaux, 139 Idaho 322, 326-27, 78 P.3d 389, 393-94 (2003)
- A & B Irrigation Dist. v. Idaho Dep't of Water Res., 153 Idaho 500, 505-06, 284 P.3d 225, 230-31 (2012)
- Hawkins v. Bonneville County Board of Commissioners, 151 Idaho 228, 232, 254 P.3d 1224, 1228 (2011)
- Wheeler v. Idaho Department of Health & Welfare, 147 Idaho 257, 260, 207 P.3d 988, 991 (2009)
- Elias-Cruz v. Idaho Department of Transportation, 153 Idaho 200, 202, 280 P.3d 703, 705 (2012)
- Two Jinn, Inc. v. Idaho Department of Insurance, 154 Idaho 1, 3, 293 P.3d 150, 152 (2013)

- Kuna Boxing Club, Inc. v. Idaho Lottery Commission, 149 Idaho 94, 97, 233 P.3d 25, 28 (2009)
- Idaho Cardiology Associates, P.A. v. Idaho Physicians Network, Inc., 141 Idaho 223, 227, 108 P.3d 370, 374 (2005)
- Dyet v. McKinley, 139 Idaho 526, 528, 81 P.3d 1236, 1238 (2003)
- Verska v. Saint Alphonsus Regional Medical Center, 151 Idaho 889, 265 P.3d 502 (2011)
- Ward v. Portneuf Medical Center, Inc., 150 Idaho 501, 504, 248 P.3d 1236, 1239 (2011)
- Magic Valley Newspapers, Inc. v. Magic Valley Regional Medical Center, 138 Idaho 143, 144, 59 P.3d 314, 315 (2002)
- City of Pocatello v. State, 152 Idaho 830, 838, 275 P.3d 845, 853 (2012)
- State v. Doe, 147 Idaho 326, 328, 208 P.3d 730, 732 (2009)
- Olson v. Ada County, 105 Idaho 18, 20, 665 P.2d 717, 719 (1983)
- Building Contractors Association of Southwest Idaho v. Idaho Public Utilities Commission, 151 Idaho 10, 18, 253 P.3d 684, 692 (2011)
- Hewitt v. Helms, 482 U.S. 755, 760 (1987)
- Environmental Defense Fund, Inc. v. Reilly, 1 F.3d 1254, 1257 (D.C. Cir. 1993)
- Terra-West, Inc. v. Idaho Mutual Trust, LLC, 150 Idaho 393, 401, 247 P.3d 620, 628 (2010)
- Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc., 105 Idaho 622, 671 P.2d 1085 (1983)