

NEBRASKA SUPREME COURT

Frenchman-Cambridge Irrigation District v. Nebraska Department
of Natural Resources

Frenchman-Cambridge Irr. Dist. v. Dept. of Nat. Res., 297 Neb. 999 (2017) · No. S-16-1121 · Decided October 6, 2017

SUMMARY

The Nebraska Supreme Court reviewed a challenge to integrated management plans governing groundwater pumping in the Republican River Basin. The court held that Frenchman-Cambridge Irrigation District had not established an injury in fact because the plans did not themselves implement water-use controls, and subsequent orders would be required. The court therefore concluded that the district lacked standing, vacated the district court’s order, and dismissed the appeal and cross-appeal.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Kelch, J.; Heavican, C.J.; Wright, J.; Miller-Lerman, J.; Cassel, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	October 6, 2017
DOCKET	S-16-1121
DISPOSITION	vacated
PROCEDURAL POSTURE	Frenchman-Cambridge Irrigation District appealed, and the defendants cross-appealed, from the Furnas County District Court's order dismissing the irrigation district's petition under Neb. Ct. R. Pldg. § 6-1112(b)(6) for failure to state a claim. The Nebraska Supreme Court addressed standing and subject matter jurisdiction before reaching the merits.
STANDARD OF REVIEW	A dismissal on the pleadings is reviewed de novo, accepting the complaint's allegations as true and drawing reasonable inferences in favor of the nonmoving party. Subject matter jurisdiction may be considered at any time by a party or sua sponte by the court.
PRECEDENTIAL VALUE	published Nebraska Supreme Court opinion

PARTIES

Frenchman-Cambridge Irrigation District v. Nebraska Department of Natural Resources, Director of the Nebraska Department of Natural Resources, Republican River Basin natural resources districts, Nebraska Attorney General

TOPICS

appellate jurisdiction

administrative procedure act

judicial review of agency action

administrative law

environmental law

PRACTICE AREAS

administrative law

water law

environmental law

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Frenchman-Cambridge Irrigation District had standing to challenge the integrated management plans.
2. Whether the Nebraska Supreme Court could reach the statutory and constitutional challenges to the integrated management plans after determining that the irrigation district lacked standing.
3. Whether the district court's order should be vacated and the appeal and cross-appeal dismissed for lack of jurisdiction.

HOLDINGS

1. The irrigation district lacked standing because it did not allege an injury in fact that was actual or imminent. The integrated management plans themselves did not implement groundwater controls or decrease the district's water supply; subsequent orders by the natural resources districts would be required before the alleged injury could occur.
2. The court did not reach the alternative statutory jurisdiction issue because the lack of standing independently resolved the case.
3. Because the irrigation district lacked standing, the district court lacked subject matter jurisdiction; the Nebraska Supreme Court therefore lacked jurisdiction, vacated the district court's order, and dismissed the appeal and cross-appeal.

KEY QUOTATIONS

“To have standing, a litigant first must clearly demonstrate that it has suffered an injury in fact. That injury must be concrete in both a qualitative and temporal sense.” (1004)

“Accordingly, we conclude that FCID has failed to establish standing and that as a result, this court lacks jurisdiction.” (1007)

FACTUAL BACKGROUND

Frenchman-Cambridge Irrigation District is a Nebraska political subdivision that sells irrigation water and uses the resulting revenue to satisfy contractual obligations to the U.S. Department of the Interior and the Bureau of Reclamation. The Republican River Basin was declared fully appropriated, and the Department and basin natural resources districts adopted integrated management plans providing for a 20-percent reduction in groundwater pumping, compared with a prior 25-percent reduction. The irrigation district alleged that increased groundwater pumping allowed by the new plans would reduce stream recharge and surface water available for its operations, requiring budget and operational changes and possible negotiations concerning its contractual obligations.

PROCEDURAL HISTORY

The irrigation district filed a petition for review under the Nebraska Administrative Procedure Act challenging integrated management plans adopted by Republican River Basin natural resources districts and approved by the Nebraska Department of Natural Resources. The defendants moved to dismiss for lack of subject matter jurisdiction and failure to state a claim. The district court found subject matter jurisdiction but dismissed for failure to state a claim. The Nebraska Supreme Court held that the irrigation district lacked standing, vacated the district court's order for lack of jurisdiction, and dismissed both the appeal and cross-appeal.

DISPOSITION

vacated

REMAND INSTRUCTIONS

None. The district court's order was vacated for lack of jurisdiction, and the appeal and cross-appeal were dismissed.

CASES CITED

- *Kansas v. Nebraska*, 574 U.S. 445, 135 S. Ct. 1042, 191 L. Ed. 2d 1 (2015)
- *Zapata v. McHugh*, 296 Neb. 216, 893 N.W.2d 720 (2017)
- *Steven S. v. Mary S.*, 277 Neb. 124, 760 N.W.2d 28 (2009)
- *Davis v. Choctaw Constr.*, 280 Neb. 714, 789 N.W.2d 698 (2010)
- *In re Invol. Dissolution of Wiles Bros.*, 285 Neb. 920, 924, 830 N.W.2d 474, 478 (2013)
- *Selma Development v. Great Western Bank*, 285 Neb. 37, 825 N.W.2d 215 (2013)
- *Central Neb. Pub. Power Dist. v. North Platte NRD*, 280 Neb. 533, 788 N.W.2d 252 (2010)
- *Sierra Club v. Robertson*, 28 F.3d 753 (8th Cir. 1994)
- *Landrum v. City of Omaha Planning Bd.*, ante p. 165, 899 N.W.2d 598 (2017)
- *Johnson v. Nelson*, 290 Neb. 703, 861 N.W.2d 705 (2015)

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