

SUPREME COURT OF IDAHO

City of Coeur D'Alene v. Mackin

143 Idaho 443 (2006) · Decided September 22, 2006

SUMMARY

The Idaho Supreme Court reviewed a judgment concerning the ordinary high water mark of Lake Coeur d’Alene at Sanders Beach and the public’s access to dry land below that mark. The court held that the ordinary high water mark is a uniform line around the lake, rejected the district court’s reliance on vegetation alone and its disregard of historical water-level evidence, and vacated the determination that the mark was 2,130 feet above sea level. The court also concluded that the preliminary-injunction issue was moot and addressed whether littoral rights include the ability to exclude the public from exposed state-owned lakebed.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Eismann, Justice; Eismann; Schroeder; Trout; Burdick; Jones
JURISDICTION	Idaho
DECIDED	September 22, 2006
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeals and a cross-appeal from a Rule 54(b)-certified judgment entered on summary judgment concerning the ordinary high water mark of Lake Coeur d'Alene at Sanders Beach, public access to exposed lakebed, and attorney-fee requests.
STANDARD OF REVIEW	Summary-judgment rulings are reviewed under the same standard used by the trial court. Disputed facts and reasonable inferences are construed liberally in favor of the nonmoving party. If no genuine issue of material fact exists, legal questions are reviewed freely.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential.
PARTIES	Michael and Jeanette Mackin, Wesley and Margaret Delaney, Wayne and Nancy Nash, Susan Cliff, Gerald and Patricia Frank, Charles and Shirley Wilke, Dawn Kettell, Berger Family Investments, LLC, John C. Brett, State Board of Land Commissioners, State of Idaho, Coeur d'Alene Lakeshore Property Owners Association, Greg Delavan, Gary Bartoo, John McGruder, Idaho Conservation League v. City of Coeur

TOPICS

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PRACTICE AREAS

real estate municipal law appellate procedure property and public trust

QUESTIONS PRESENTED

1. Whether the district court erred by determining that the ordinary high water mark of Lake Coeur d'Alene at Sanders Beach was 2130 feet above mean sea level.
2. Whether the district court erred in granting the City's preliminary injunction permitting public access to the beach up to the toes of the seawalls.
3. Whether littoral rights include the right to exclude the public from dry land below the ordinary high water mark.
4. Whether the Crimps or the Sanders Beach Preservation Association were entitled to attorney fees against the State, the State Board of Land Commissioners, or the commissioners individually.

HOLDINGS

1. The ordinary high water mark of Lake Coeur d'Alene could not properly be determined as a different elevation at different locations around the lake, and the district court erred in setting the Sanders Beach mark at 2130 feet. The ordinary high water mark applicable to the lake was no higher than 2128 feet.
2. Littoral rights of owners whose property abuts navigable waters do not include the right to exclude the public from exposed lakebed lying below the ordinary high water mark.
3. The challenge to the preliminary injunction was moot because the district court had vacated the injunction. The court nevertheless noted that the injunction was procedurally deficient because the district court failed to state findings of fact and conclusions of law as required by Rule 52(a), and an easily identified line could not justify taking private property without compensation.
4. The Crimps and Sanders Beach Preservation Association were not entitled to attorney fees from the State, the State Board of Land Commissioners, or the commissioners individually, either below or on appeal.

KEY QUOTATIONS

"The OHWM of a lake is a specific line, not differing specific lines." (447)

"Their littoral rights do not include the right to exclude the public from that portion of the exposed lake bed lying below the OHWM." (454)

"We therefore decline to create the littoral right requested by the Lakeshore Owners." (454)

FACTUAL BACKGROUND

The dispute concerned the shoreline at Sanders Beach on Lake Coeur d'Alene, where the State of Idaho holds title in trust for the public to the bed of navigable waters below the ordinary high water mark as it existed when Idaho entered the Union on July 3, 1890. The district court determined that the ordinary high water mark was 2130 feet above sea level, which would place substantial portions of the gradually sloping beach in state ownership. Adjoining property owners claimed that their littoral rights included the right to exclude the public from exposed lakebed below the ordinary high water mark. Historical evidence showed that dams at Post Falls had maintained the lake at approximately 2128 feet since 1907 and had raised, rather than lowered, water levels.

PROCEDURAL HISTORY

The City of Coeur d'Alene and the Kootenai County Prosecuting Attorney brought an action to determine the ordinary high water mark at Sanders Beach. The district court set the ordinary high water mark at 2130 feet above mean sea level, denied adjoining owners' claim that their littoral rights allowed them to exclude the public from exposed state-owned lakebed below that mark, and granted a preliminary injunction permitting public access to the toes of the seawalls. The court certified the judgment as final under Idaho Rule of Civil Procedure 54(b), and the parties appealed; the preliminary injunction was later vacated.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The judgment is vacated and the case is remanded for further proceedings consistent with the opinion. The denials of attorney fees to the Crimps and Sanders Beach Preservation Association are affirmed, and costs on appeal are awarded to the State of Idaho, the State Board of Land Commissioners, and John C. Brett.

CASES CITED

- *Infanger v. City of Salmon*, 137 Idaho 45, 44 P.3d 1100 (2002)
- *Idaho Forest Indus., Inc. v. Hayden Lake Watershed Improvement Dist.*, 135 Idaho 316, 17 P.3d 260 (2000)
- *Erickson v. State*, 132 Idaho 208, 970 P.2d 1 (1998)
- *Raide v. Dollar*, 34 Idaho 682, 203 P. 469 (1921)
- *Petajaniemi v. Washington Water Power Co.*, 22 Idaho 20, 124 P. 783 (1912)
- *Driesbach v. Lynch*, 71 Idaho 501, 234 P.2d 446 (1951)
- *Deffenbaugh v. Washington Water Power Co.*, 24 Idaho 514, 135 P. 247 (1913)
- *Payette Lakes Protective Ass'n v. Lake Reservoir Co.*, 68 Idaho 111, 189 P.2d 1009 (1948)
- *Washington Water Power Co. v. Waters*, 19 Idaho 595, 115 P. 682 (1911)
- *Gibbert v. Washington Water Power Co.*, 19 Idaho 637, 115 P. 924 (1911)
- *Northern Pac. Ry. Co. v. Hirzel*, 29 Idaho 438, 161 P. 854 (1916)
- *West v. Smith*, 95 Idaho 550, 511 P.2d 1326 (1973)

- Ritter v. Standal, 98 Idaho 446, 566 P.2d 769 (1977)
- Callahan v. Price, 26 Idaho 745, 146 P. 732 (1915)
- Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc., 105 Idaho 622, 671 P.2d 1085 (1983)
- State ex rel. Haman v. Fox, 100 Idaho 140, 594 P.2d 1093 (1979)
- Blundell v. Catterall, 106 Engl. Reprint 1190 (1821)
- Jones v. Stauffer, 49 Idaho 387, 288 P. 419 (1930)

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