

SUPREME COURT OF IDAHO

Joyce Livestock Co. v. United States, 144 Idaho 1

156 P.3d 502 (2007) · No. Nos. 32278, 32279, 32846 · Decided February 9, 2007

SUMMARY

The Idaho Supreme Court considered competing instream stockwatering rights claimed by Joyce Livestock Company and the United States on federal rangeland. The court held that Joyce Livestock's predecessors could acquire water rights under Idaho's constitutional appropriation method by applying water to the beneficial use of watering livestock, without exclusive access to the federal land or a diversion from the water source. It vacated the priority-date determination and remanded for redetermination, while affirming denial of the United States' water-right claim and Joyce Livestock's attorney-fee requests.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	EISMANN, Justice; Eismann, Justice; Schroeder, Chief Justice; Trout, Justice; Burdick, Justice; Jones, Justice
JURISDICTION	Idaho
DECIDED	February 9, 2007
DOCKET	Nos. 32278, 32279, 32846
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Both parties appealed a Rule 54(b)-certified judgment in the Snake River Basin Adjudication. The district court recognized Joyce Livestock's instream stockwater rights, assigned priority dates beginning April 26, 1935, denied the United States' competing water-right claims, and denied Joyce Livestock attorney fees.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	Joyce Livestock Company, United States of America v. United States of America, Joyce Livestock Company

TOPICS

[real estate](#)[federalism](#)[appellate procedure](#)[standard of review](#)[final judgment rule](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an appropriator may acquire a water right in nonnavigable water located on federal land without exclusive access to the land or water source.
2. Whether, under Idaho's constitutional method of appropriation, stockwatering can establish a water right without diversion from the natural watercourse.
3. Whether Joyce Livestock's predecessors acquired water rights by watering livestock on federal rangeland and whether those rights were appurtenant to their patented ranch properties.
4. Whether appurtenant water rights pass with conveyed real property absent express reservation or clear evidence of an intent to reserve them.
5. Whether the district court correctly determined the priority dates of Joyce Livestock's water rights.
6. Whether the United States acquired instream stockwater rights through ownership and management of federal rangeland or through permission granted to ranchers.
7. Whether the Idaho Supreme Court or an Idaho district court may award attorney fees against the United States under 28 U.S.C. § 2412(d).
8. Whether Joyce Livestock was entitled to attorney fees under Idaho Code § 12-121 or on appeal.

HOLDINGS

1. An appropriator may obtain a water right in nonnavigable water located on federal land without having exclusive access to the federal land or water source.
2. Under Idaho's constitutional method of appropriation, no diversion from a natural watercourse or diversion device is required to establish a valid appropriative water right for stockwatering.
3. Joyce Livestock's predecessors acquired water rights on federal land by applying water to the beneficial use of watering livestock; no additional evidence of an intent to obtain a legally recognized water right was required.
4. Water rights acquired by the predecessors on federal grazing land were appurtenant to their deeded ranch properties.
5. An appurtenant water right passes with the conveyed real property unless it is expressly reserved in the deed or clear evidence shows that the parties intended the grantor to reserve it.
6. The district court erred by requiring historical documents or grazing-permit applications acknowledging the water rights and by failing to determine where the predecessors actually grazed their livestock. The priority determination was vacated and remanded for redetermination consistent with the opinion.
7. The United States did not acquire the claimed instream stockwater rights because it did not itself apply the water to the beneficial use of watering livestock, and the ranchers were not shown to have acted as its agents.
8. 28 U.S.C. § 2412(d) does not authorize state courts to award attorney fees against the United States.

9. Joyce Livestock was not entitled to attorney fees under Idaho Code § 12-121 because the United States presented legitimate legal issues.

KEY QUOTATIONS

“Thus, an appropriator need not have exclusive access to federal lands in order to obtain a water right in waters situated on those lands.” (508)

“No diversion from a natural watercourse or diversion device is needed to establish a valid appropriative water right for stock watering.” (509)

“Because no diversion is required in order to obtain a water right for stock watering under the constitutional method, Joyce Livestock's predecessors could obtain water rights for stock watering simply by applying the water to a beneficial use, which they did by watering their stock.” (513)

“Unless they are expressly reserved in the deed or it is clearly shown that the parties intended that the grantor would reserve them, appurtenant water rights pass with the land even though they are not mentioned in the deed and the deed does not mention "appurtenances.”” (515)

“We therefore hold that 28 U.S.C. § 2412(d) does not authorize state courts to award attorney fees against the United States.” (518)

“The constitutional method of appropriation requires that the appropriator actually apply the water to a beneficial use.” (520)

FACTUAL BACKGROUND

Joyce Livestock owns approximately 10,000 acres in Owyhee County, Idaho, assembled from twenty-nine homesteads and ranches whose earliest patents dated to 1898. Its predecessors grazed livestock on adjacent federal rangeland and watered the livestock at natural springs, creeks, and rivers without diverting the water. Joyce Livestock claimed instream stockwater rights with an 1898 priority, while the United States claimed overlapping rights with a 1934 priority based on the Taylor Grazing Act and federal management of the rangeland.

PROCEDURAL HISTORY

A special master recommended denying Joyce Livestock's water-right claims and granting the United States a 1934 priority based on its management of federal rangeland. The district court rejected those recommendations in part, recognized Joyce Livestock's water rights, assigned a 1935 priority date, denied the United States' claims, and denied attorney fees. Both parties appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court's determination of the priority dates of Joyce Livestock's water rights was vacated. On remand, the district court must redetermine the priority dates consistently with the opinion, including by examining where the individual predecessors grazed their livestock and whether they thereby applied the water to a beneficial use. The recognition of Joyce Livestock's water rights, denial of the United States' claims, and denial of attorney fees were affirmed.

CASES CITED

- California Oregon Power Co. v. Beaver Portland Cement Co., 295 U.S. 142, 55 S.Ct. 725, 79 L.Ed. 1356 (1935)
- Drake v. Earhart, 2 Idaho 716, 2 Hasb. 750, 23 P. 541 (Idaho Terr. 1890)
- Ickes v. Fox, 300 U.S. 82, 95, 57 S.Ct. 412, 81 L.Ed. 525 (1937)
- Idaho Dept. of Water Resources v. U.S., 122 Idaho 116, 832 P.2d 289 (1992)
- Sanderson v. Salmon River Canal Co., 34 Idaho 145, 199 P. 999 (1921)
- Keiler v. McDonald, 37 Idaho 573, 218 P. 365 (1923)
- Short v. Praisewater, 35 Idaho 691, 208 P. 844 (1922)
- Sarret v. Hunter, 32 Idaho 536, 185 P. 1072 (1919)
- Graham v. Leek, 65 Idaho 279, 144 P.2d 475 (1943)
- State v. U.S., 134 Idaho 106, 996 P.2d 806 (2000)
- Hidden Springs Trout Ranch, Inc. v. Hagerman Water Users, Inc., 101 Idaho 677, 619 P.2d 1130 (1980)
- Stevenson v. Steele, 93 Idaho 4, 453 P.2d 819 (1969)
- Nelson v. Johnson, 106 Idaho 385, 679 P.2d 662 (1984)
- Bothwell v. Keefer, 53 Idaho 658, 27 P.2d 65 (1933)
- Silverstein v. Carlson, 118 Idaho 456, 797 P.2d 856 (1990)
- Sears v. Berryman, 101 Idaho 843, 623 P.2d 455 (1981)
- Public Lands Council v. Babbitt, 529 U.S. 728, 120 S.Ct. 1815, 146 L.Ed.2d 753 (2000)
- United States v. Idaho Dept. of Water Resources, 508 U.S. 1, 113 S.Ct. 1893, 123 L.Ed.2d 563 (1993)
- Kennecott Copper Corp. v. State Tax Comm'n, 327 U.S. 573, 66 S.Ct. 745, 90 L.Ed. 862 (1946)
- College Savings Bank v. Florida Prepaid Postsecondary Educ. Expense Bd., 527 U.S. 666, 119 S.Ct. 2219, 144 L.Ed.2d 605 (1999)
- Ardestani v. Immigration and Naturalization Service, 502 U.S. 129, 112 S.Ct. 515, 116 L.Ed.2d 496 (1991)
- First Security Bank of Blackfoot v. State, 49 Idaho 740, 291 P. 1064 (1930)
- Morgan v. Udy, 58 Idaho 670, 79 P.2d 295 (1938)
- Lemmon v. Hardy, 95 Idaho 778, 519 P.2d 1168 (1974)
- Strong v. Twin Falls Canal Co., 44 Idaho 427, 258 P. 173 (1927)
- Branson v. Miracle, 107 Idaho 221, 687 P.2d 1348 (1984)
- Gustaves v. Gustaves, 138 Idaho 64, 57 P.3d 775 (2002)
- Lamprecht v. Jordan, 139 Idaho 182, 75 P.3d 743 (2003)
- D & M Country Estates Homeowners Ass'n v. Romriell, 138 Idaho 160, 59 P.3d 965 (2002)

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