

SUPREME COURT OF THE STATE OF IDAHO

City of Blackfoot v. Gary Spackman

162 Idaho 302 (2017) · No. 44207 · Decided June 20, 2017

SUMMARY

The Idaho Supreme Court affirmed the denial of the City of Blackfoot’s application for a groundwater permit because the City could not use water right 01-181C for recharge or mitigation without first obtaining an approved transfer. The court held that recharge was not included in the judicially decreed purpose-of-use element and that a private settlement agreement could not alter the decree’s defining elements. The court also awarded attorney fees and costs to the intervening irrigation districts and costs to the Idaho Department of Water Resources.

CASE DETAILS

COURT	Supreme Court of the State of Idaho
WRITING FOR THE COURT	Burdick, Chief Justice; Eismann, Justice; Jones, Justice; Horton, Justice; Kidwell, Justice pro tem
JURISDICTION	Idaho
DECIDED	June 20, 2017
DOCKET	44207
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City sought judicial review under the Idaho Administrative Procedure Act of the Idaho Department of Water Resources' denial of its application for a groundwater right. The district court, acting in its appellate capacity, affirmed the agency decision, and the City appealed to the Idaho Supreme Court.
STANDARD OF REVIEW	The Supreme Court reviews the district court's decision to determine whether the district court correctly decided the issues, but independently reviews the agency record. Agency factual determinations are binding if supported by substantial competent evidence. Questions of law are reviewed de novo. Under Idaho Code section 67-5279, agency action is affirmed unless it violates constitutional or statutory provisions, exceeds agency authority, results from unlawful procedure, lacks substantial evidentiary support, or is arbitrary, capricious, or an abuse of discretion, and substantial rights of the appellant must have been prejudiced.

PRECEDENTIAL VALUE	published precedential opinion of the Idaho Supreme Court
PARTIES	City of Blackfoot v. Gary Spackman, in his capacity as Director of the Idaho Department of Water Resources, Idaho Department of Water Resources, A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, American Falls Irrigation District #2, Minidoka Irrigation District, North Side Canal Company, Twin Falls Canal Company

TOPICS

judicial review of agency action

administrative law

statutory interpretation

legislative intent

appellate procedure

PRACTICE AREAS

administrative law

water rights

municipal law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether the City could use Water Right No. 01-181C for groundwater recharge or as mitigation for Application for Permit No. 27-12261 without first obtaining an approved transfer.
2. Whether the private settlement agreement incorporated into the other-provisions element of Water Right No. 01-181C added recharge as an authorized purpose of use.
3. Whether the actual seepage from Water Right No. 01-181C could serve as mitigation notwithstanding the absence of recharge from the decreed purpose-of-use element.
4. Whether the Coalition was entitled to attorney fees on appeal.

HOLDINGS

1. Water Right No. 01-181C did not authorize groundwater recharge because recharge was not listed in its clear and unambiguous purpose-of-use element. The City therefore had to obtain an approved transfer before using the right for recharge or mitigation based on continued use of the right.
2. The private settlement agreement could not define, add, or subtract from the elements of the judicially adjudicated water right. It could only impose additional conditions and limitations on the exercise of the right between the private parties.
3. The seepage from Water Right No. 01-181C was incidental groundwater recharge and could not be used as the basis for a separate or expanded water right or as mitigation while the City continued using 181C without an approved transfer adding recharge.
4. The Coalition was entitled to attorney fees under Idaho Code section 12-117(1) because the City continued to pursue arguments that lacked a reasonable basis in law after the agency and district court had clearly rejected them.

KEY QUOTATIONS

“It clearly lists five uses and recharge is not one of them.” (162 Idaho at 305)

“A private settlement agreement cannot define, add, or subtract from the elements of a validly adjudicated water right; it can only limit, condition, or clarify the administration of the right as between the private parties to the agreement.” (162 Idaho at 308-309)

“To allow the Settlement Agreement to enlarge or otherwise alter the clearly decreed elements of 181C, would allow private parties to alter a judicial decree.” (162 Idaho at 309)

“Accordingly, if the City wishes to use 181C for recharge it must file for a transfer.” (162 Idaho at 310)

FACTUAL BACKGROUND

The City of Blackfoot pumped water from the Blackfoot River to deliver to irrigators east of Interstate 15 and sought a groundwater appropriation to reduce pumping costs. To mitigate injury from the proposed appropriation, the City proposed using seepage associated with Water Right No. 01-181C, whose decreed purposes of use were irrigation storage, irrigation from storage, diversion to storage, recreation storage, and irrigation. Recharge was not included in the water right's approved transfer or partial decree, although the City argued that seepage into the aquifer could be used as mitigation.

PROCEDURAL HISTORY

The City applied for Permit No. 27-12261 to appropriate groundwater and proposed using seepage and mitigation credit associated with Water Right No. 01-181C. After an administrative hearing, the hearing officer concluded that the proposed appropriation would injure existing rights without mitigation and that 181C did not authorize recharge, but conditionally approved the application if the City obtained a transfer. The IDWR Director rejected the conditional approval and denied the application without prejudice. The district court affirmed, and the Idaho Supreme Court affirmed the district court and awarded attorney fees to the Coalition.

DISPOSITION

affirmed

CASES CITED

- Rangen, Inc. v. Idaho Department of Water Resources, 160 Idaho 251, 371 P.3d 305 (2016)
- Clear Springs Foods v. Spackman, 150 Idaho 790, 252 P.3d 71 (2011)
- A & B Irrigation District v. Idaho Department of Water Resources, 153 Idaho 500, 284 P.3d 225 (2012)
- Vickers v. Lowe, 150 Idaho 439, 247 P.3d 666 (2011)
- Sky Canyon Properties, LLC v. Golf Club at Black Rock, LLC, 155 Idaho 604, 315 P.3d 792 (2013)
- Huber v. Lightforce USA, Inc., 159 Idaho 833, 367 P.3d 228 (2016)
- Clark v. Prudential Property and Casualty Insurance Co., 138 Idaho 538, 66 P.3d 242 (2003)
- Rangen, Inc. v. Idaho Department of Water Resources, 159 Idaho 798, 367 P.3d 193 (2016)
- Knipe Land Co. v. Robertson, 151 Idaho 449, 259 P.3d 595 (2011)

- City of Pocatello v. Idaho, 152 Idaho 830, 275 P.3d 845 (2012)
- Olson v. Idaho Department of Water Resources, 105 Idaho 98, 666 P.2d 188 (1983)
- Markel International Insurance Co., Ltd. v. Erekson, 153 Idaho 107, 279 P.3d 93 (2012)
- In re Snook, 94 Idaho 904, 499 P.2d 1260 (1972)
- State v. Nelson, 131 Idaho 12, 951 P.2d 943 (1998)
- Idaho Ground Water Association v. Idaho Department of Water Resources, 160 Idaho 119, 369 P.3d 897 (2016)
- Clear Springs Foods, Inc. v. Spackman, 150 Idaho 790, 252 P.3d 71 (2011)
- Bennett v. Twin Falls North Side Land & Water Co., 27 Idaho 643, 150 P. 336 (1915)
- In re SRBA, 157 Idaho 385, 336 P.3d 792 (2014)
- Musser v. Higginson, 125 Idaho 392, 871 P.2d 809 (1994)
- Rincover v. State, Department of Finance, Securities Bureau, 132 Idaho 547, 976 P.2d 473 (1999)
- Borley v. Smith, 149 Idaho 171, 233 P.3d 102 (2010)
- Rangen, Inc. v. Idaho Department of Water Resources, 159 Idaho 798, 367 P.3d 193 (2016)
- Castrigno v. McQuade, 141 Idaho 93, 106 P.3d 419 (2005)