

Sagewillow, Inc. v. Idaho Department of Water Resources, 138 Idaho
831

SUMMARY

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Eismann, Justice; Eismann; Trout, Chief Justice; Kidwell; Walters
JURISDICTION	Idaho
DECIDED	April 10, 2003
DOCKET	No. 27534
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from an Idaho Department of Water Resources order finding that Sagewillow's water rights had been wholly or partially forfeited for nonuse, conditionally approving requested transfers, and voiding an earlier transfer approval. The district court affirmed; the Idaho Supreme Court previously vacated that decision for lack of jurisdiction and remanded. After legislative changes, the case returned to the district court, which reissued its prior decision, and Sagewillow again appealed.

STANDARD OF REVIEW	The Supreme Court independently reviews the agency record and does not substitute its judgment for the agency's weighing of evidence. It defers to agency factual findings unless clearly erroneous and may set aside an order that violates statutory or constitutional provisions, exceeds statutory authority, results from unlawful procedure, lacks substantial evidence, or is arbitrary, capricious, or an abuse of discretion; the order must otherwise be upheld absent prejudice to substantial rights.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion
PARTIES	Sagewillow, Inc. v. Idaho Department of Water Resources, James Mays, Mays Land and Livestock, Blaine County Canal Company

TOPICS

judicial review of agency action

administrative law

statutory interpretation

plain meaning rule

appellate procedure

PRACTICE AREAS

administrative law

water law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Department correctly applied Idaho's resumption-of-use doctrine.
2. Whether substantial and competent evidence supported the Department's findings that Sagewillow's water rights had been forfeited.
3. Whether the Department erred in voiding a water-right transfer previously approved in 1992 under res judicata, collateral estoppel, or estoppel principles.
4. Whether the Department was authorized to participate as a party in judicial review of its own contested-case decision.

HOLDINGS

1. The mere existence of junior appropriators does not establish a claim of right sufficient to defeat the resumption-of-use defense. After a five-year period of nonuse, resumption of use prevents forfeiture if it occurs before a third party claims the water through proceedings to declare forfeiture, a valid water right with an earlier priority date, or beneficial use under an existing water right.
2. The party asserting forfeiture bears the burden of proving it by clear and convincing evidence, and the agency must make findings addressing that standard and any properly raised defense, including whether water was available for use.
3. A final order approving a water-right transfer is not res judicata on forfeiture or abandonment if those issues were not actually raised in the transfer proceeding. Collateral estoppel likewise does not apply to

forfeiture or abandonment issues that were not actually litigated and decided.

4. Neither equitable estoppel nor quasi-estoppel prevented the Department from later reviewing the validity of the water right and declaring forfeiture.
5. The Department was properly a party to the judicial-review proceeding because Idaho's Administrative Procedure Act defines party to include an agency named as a party.

KEY QUOTATIONS

“The mere existence of a junior appropriator, however, is not sufficient to show that the junior appropriator has made a claim of right to the water not used by the senior appropriator.” (at 674)

“Under the resumption-of-use doctrine, statutory forfeiture is not effective if, after the five-year period of nonuse, use of the water is resumed prior to the claim of right by a third party.” (at 680)

“Therefore, we hold that if forfeiture or abandonment is not actually raised as an issue in a proceeding to transfer the point of diversion or place of use of a water right, the final order in the transfer proceeding is not res judicata on the issue of whether the water right at issue had been forfeited or abandoned.” (at 682-683)

FACTUAL BACKGROUND

Sagewillow purchased several Butte County properties and their appurtenant surface- and groundwater rights in 1989 and 1993. The properties historically irrigated approximately 1,412 acres, but Sagewillow increased irrigation to approximately 2,000 acres in 1991, 2,100 acres in 1992, and 2,390 acres in 1993. After Sagewillow filed transfer applications, protests led the Department to adjudicate whether the rights had been forfeited through nonuse. The Department limited Sagewillow's authorized irrigation to 1,412 acres, conditionally approved transfers, and voided a transfer previously approved in 1992.

PROCEDURAL HISTORY

The Department conducted a contested proceeding after protests to Sagewillow's transfer applications and found that some water rights were forfeited and others partially forfeited. The Seventh Judicial District Court initially affirmed. The Idaho Supreme Court held in an earlier appeal that the district court lacked jurisdiction and remanded to the Snake River Basin Adjudication district court. Following enactment of Idaho Code section 42-1401D, the case was transferred back, and the district court reissued its prior decision without further briefing or hearing. The Supreme Court vacated the Department's order and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the Department's order and remand for further proceedings consistent with the opinion, including findings on whether a third party claimed or beneficially used water after the five-year nonuse period and before

resumption, whether water was available for Sagewillow's later-priority surface rights, and whether any forfeiture was proven by clear and convincing evidence.

CASES CITED

- Sagewillow, Inc. v. Idaho Department of Water Resources, 135 Idaho 24, 13 P.3d 855 (2000)
- Sanders Orchard v. Gem County, Idaho, 137 Idaho 695, 52 P.3d 840 (2002)
- Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937)
- Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944)
- Jenkins v. State, Department of Water Resources, 103 Idaho 384, 647 P.2d 1256 (1982)
- Albrethsen v. Wood River Land Company, 40 Idaho 49, 231 P. 418 (1924)
- Wagoner v. Jeffery, 66 Idaho 455, 162 P.2d 400 (1945)
- In re Boyer, 73 Idaho 152, 248 P.2d 540 (1952)
- State v. Hagerman Water Right Owners, Inc., 130 Idaho 727, 947 P.2d 400 (1997)
- McCray v. Rosenkrance, 135 Idaho 509, 20 P.3d 693 (2001)
- Sowards v. Rathbun, 134 Idaho 702, 8 P.3d 1245 (2000)
- Silkey v. Tiegs, 51 Idaho 344, 5 P.2d 1049 (1931)
- Nielson v. Parker, 19 Idaho 727, 115 P. 488 (1911)
- Hansen v. Estate of Harvey, 119 Idaho 333, 806 P.2d 426 (1991)
- J & J Contractors/O.T. Davis Constr. v. State by Idaho Transportation Board, 118 Idaho 535, 797 P.2d 1383 (1990)
- Joyce v. Murphy Land & Irrigation Company, 35 Idaho 549, 208 P. 241 (1922)
- Houser v. Southern Idaho Pipe & Steel, Inc., 103 Idaho 441, 649 P.2d 1197 (1982)
- Heaney v. Board of Trustees of Garden Valley School District No. 71, 98 Idaho 900, 575 P.2d 498 (1978)
- Duthie v. Lewiston Gun Club, 104 Idaho 751, 663 P.2d 287 (1983)
- Nash v. Overholser, 114 Idaho 461, 757 P.2d 1180 (1988)
- Magic Valley Radiology, P.A. v. Kolouch, 123 Idaho 434, 849 P.2d 107 (1993)
- Young Electric Sign Co. v. State ex rel. Winder, 135 Idaho 804, 25 P.3d 117 (2001)
- Willig v. State, Department of Health and Welfare, 127 Idaho 259, 899 P.2d 969 (1995)