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Pioneer Irr. Dist. v. City of Caldwell, No. 37242, 2012 WL 1449597 (Idaho Apr. 27, 2012)

Pioneer Irr. Dist. v. City of Caldwell, No. 37242, 2012 WL 1449597 (Idaho Apr. 27, 2012) (holding that an irrigation district had the authority to evaluate the reasonableness of encroachments on its easements and rights-of-way and subsequently permit, refuse, or remove encroachments, though the irrigation district did not retain exclusive ownership rights over its easements and rights-of-way because Idaho law provided for reasonable community enjoyment of such property).

Prior to 2008, the City of Caldwell (“City”) authorized developers to construct a municipal stormwater discharge system to discharge into Pioneer Irrigation District’s (“Pioneer”) delivery and drainage facilities. In 2008, Pioneer sought declaratory and injunctive relief against the City on the grounds that that, by adopting a new municipal storm water management manual, the City allowed developers to install discharge pipes that Pioneer alleged “unreasonably and materially interfered” with Pioneer’s irrigation easements and rights-of-way. Both parties moved for summary judgment.

The District Court, Third Judicial District, Canyon County (“district court”) granted portions of Pioneer’s motion for summary judgment and held that, pursuant to Idaho law, Pioneer had discretion to deny a proposed encroachment as an “unreasonable or material interference.” The district court also ruled that the owner of an irrigation easement or right-of-way was entitled to itself remove or mitigate any encroachments on its property. Last, the district court ruled that the owner of an irrigation easement or right-of-way has an exclusive interest in its property. Therefore, Pioneer had the authority to unilaterally govern installation and removal projects within its facilities.

Because an irrigation district is a quasi-municipal corporation, the district court also ruled that the standard of review of an irrigation entity’s (like Pioneer’s) decisions was an arbitrary and capricious standard. The City appealed the district court’s decisions to the Supreme Court of Idaho after the Court granted the City’s motion for permissive appeal.

On appeal, the City challenged the district court’s three rulings (as described above). Applying the arbitrary and capricious standard of review, the Court first addressed Pioneer’s decision to deny the City access to build upon its easements and rights-of way. The Court reasoned that such limited review was appropriate because the plain language of certain Idaho statutes authorized Pioneer to evaluate the impact of proposed projects on its easements and rights-of-way and either allow or prohibit the projects. Moreover, because Pioneer was required to comply with other strict statutory requirements or face liability, the Court held Pioneer’s decision was entitled to judicial deference.

Applying canons of statutory construction, the Court next affirmed the district court’s ruling that Pioneer could remove the City’s conduits without a judicial order. The Court held the district court’s ruling was consistent with the common law right to “self-help” and furthered the underlying policy of Idaho laws enabling irrigation districts to restore their facilities to conditions that maximize efficiency and minimize liability. Furthermore, the Court held that the justifications for deferential judicial review of Pioneer’s decision to permit or prohibit a project on its property applied equally to Pioneer’s decision to remove the conduits without instituting judicial proceedings. Thus, the Court

applied the same deferential arbitrary and capricious standard of review to Pioneer's decisions to deny projects on, and remove projects from, its property.

Notably, the Court rejected the district court's ruling that irrigation entities retain an exclusive interest in their easements and rights-of-way. The Court reasoned that Idaho common law provides for community and individual use and enjoyment of an irrigation district's property so long as such use does not unreasonably interfere with the irrigation district's purpose. The Court held no other Idaho statutes on point indicated the legislature wished to abrogate this right.

Accordingly, the Court held that a deferential arbitrary and capricious review of Pioneer's decisions was appropriate. The Court also affirmed the district court's ruling authorizing Pioneer to provide or withhold permission for the construction of the City's drainage system on Pioneer's property, and to remove those pipes Pioneer believed interfered with its own system.

The concurring justices disagreed that Idaho law mandated such deferential review of Pioneer's decisions. The concurrence argued that applying limited review to a party's decisions simply because the party had acted in a quasi-municipal capacity would improperly extend limited review to an indefinite number of non-government parties. The concurrence argued the Court should instead review an irrigation entity's decisions over encroachments on its easements and rights-of-way by determining whether the trespass was unreasonable or materially interfered with the irrigation district's system. Under this approach, irrigation districts could challenge potentially unreasonable encroachments but not unilaterally remove systems that were rightfully in place. For these reasons, the concurrence also argued irrigation districts should not be permitted to remove encroachments prior to receiving a judicial order finding the encroachment unreasonable.

Lauren Varner

* Editor's Note: As of the date of publication, the opinion summarized above has been withdrawn and superseded by *Pioneer Irr. Dist. v. City of Caldwell*, 288 P.3d 810 (Idaho 2012). Please see Volume 16, Issue 2 of the *Water Law Review* for a summary of the amended opinion.

MONTANA

Fellows v. Office of Water Comm'r, 285 P.3d 448 (Mont. 2012) (holding a Montana district court lacked authority to adjudicate water rights but a water right holder's factual allegations related to hydrologic connectivity between two water courses and its request for a declaratory ruling were sufficient grounds upon which the water right holder could invoke the district court's declaratory judgment power).

In 1908, the Montana Eleventh Judicial District Court adjudicated the water rights on the upper portion of the Teton River and appointed a water commissioner to administer the decreed rights. Fifty to sixty years later, the water commissioner began to divert the entire flow of the upper Teton River