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## Shasta View Irrigation Dist. v. Amoco Chems. Corp., 986 P.2d 536 (Or. 1999)

Elaine Soltis

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within the county's development plan.

The CDC defined a riparian zone as "the area, adjacent to a water area, which is characterized by moisture dependent vegetation." By definition, all riparian zones bordered other significant natural resources, including wetlands.

In rejecting the LUBA ruling, this court construed section 422-3.3A as protecting only those riparian zones that were adjacent to significant natural resources specifically identified under the Community Plan. The court found this construction to be reasonable considering the natural relationship of riparian zones to other water areas, identifiable under section 422-2. The court thus understood the intention of the section was to apply only to those riparian zones that bore some relationship to an *identified* protected area such as wetlands. Since the plot of land in dispute did not border an identified habitat and was not itself an identified habitat, it was not afforded protection under section 422-3.3A.

Although section 422-3.3A addressed developmental restrictions on riparian zones without specifically requiring that they be listed in a Community Plan, the court held that this provision was nevertheless subject to such a restriction under section 422-2. Contrary to the LUBA interpretation, the court held that other than the exception of riparian zones adjacent to identified significant natural resources, all lands that were not distinguished within the Community Plans were not subject to regulation under any provision of section 422. LUBA held that the limitations imposed by section 422-2 applied to all the subsequent provisions of that section. The parcel of land slated for development by the county, by limitation, was not subject to CDC protection. Therefore, the court found that LUBA erred in prohibiting the county's approval of the subdivision upon the land at issue.

*Jason Wells*

**Shasta View Irrigation Dist. v. Amoco Chems. Corp., 986 P.2d 536 (Or. 1999)** (holding that the irrigation district was a public corporation, which was exempt from general statutes of limitation, but not exempt from statute of ultimate repose in products liability action).

The members of the Shasta View Irrigation District ("Shasta"), organized and formed in Oregon on December 5, 1917, own irrigable land within the geographic boundaries of Shasta and farm or lease their land to others. As part of a betterment project, Shasta replaced over twenty-one miles of existing unlined canals with buried pressure pipeline. Shasta received a sixty-five year loan for the work from the United States Bureau of Reclamation, with a specification requirement that the pressure pipe used in constructing the irrigation system must last for at least sixty-five years.

Shasta used Techite, a brand of reinforced plastic mortar pipe manufactured by Amoco Reinforced Plastics Co. ("Amoco"), in the

construction of over half the pipeline. Shasta ordered the Techite from Amoco between June and September 1973. The installation of the pipe took place between February 1974 and June 1974. In July 1975, Shasta accepted the irrigation system as complete and operational.

According to Shasta, the Techite pipe failed twenty-six times since 1978, with two failures occurring before July 1, 1982. In 1989, the Shasta board of directors voted to pursue legal action against Amoco, as manufacturer of the Techite pipe.

In 1994, Shasta brought a products liability action against Amoco in state court. Amoco removed the action to federal district court on the basis of diversity. Amoco then filed a motion for summary judgment claiming Shasta's claims were statutorily time barred. The district court granted summary judgment in Amoco's favor and Shasta appealed. The United States Court of Appeals for the Ninth Circuit presented certified questions of Oregon law to the Oregon Supreme Court.

The supreme court first addressed whether an irrigation district could be considered a 'public corporation' for purposes of applying the exemption to applicable limitations set out in Or. Rev. Stat. section 12.250. This statute exempted actions brought by public corporations, as well as state and county actions, from general statutes of limitations. Since the formation of the irrigation district fostered the public's beneficial use of water and was located on public property and its officers were public officers, elected by the legal voters of the irrigation district, the irrigation district was a public corporation for the purposes of section 12.250.

Next, the court addressed whether the above-mentioned exemption applied to a statute of repose under Or. Rev. Stat. section 30.905(1). This statute provided that a products liability civil action must be commenced no later than eight years from the date on which the product was first purchased for use or consumption. The court then stated that section 12.250 unambiguously states that it has no application outside of Chapter 12. Therefore, the municipal corporation was not exempt from the eight-year statute of repose for Shasta's product liability claim by way of section 12.250.

The court added a further inquiry to the two certified questions. It looked at if a common law variation of section 12.250 existed to make Shasta's action timely. In Oregon, as a matter of public policy, general statutes of limitations did not run against the government unless the statute expressly provided otherwise. The court found this rule necessary to preserve public rights, revenues, and property from injury and loss by the negligence of public officers. Statutes of repose started to run on the date on which a product first was purchased for use or consumption, not on the date on which a purchaser knows or should have known of an injury caused by the product. The eight-year statute of ultimate repose ran despite whether a public official failed to assert a claim in a timely manner. Therefore, the court found that the public policy for exempting government from statutes of limitations did not apply to statutes of repose.

*Elaine Soltis*