

SUMMARY STATEMENT

State v. Hudson, Docket No. 44418

In a case arising out of Bonner County, Philip Hudson (“Hudson”) appeals a district court’s grant of partial summary judgment in favor of the State of Idaho, the Idaho State Board of Land Commissioners, and the Idaho Department of Lands (collectively, the “State”). The district court found that Hudson violated the Idaho Lake Protection Act (the “LPA”) when he placed fill in the bed of Priest Lake without a permit. Specifically, the district court held that the State had jurisdiction of Priest Lake up to an elevation of approximately 2437.64 feet, and Hudson’s fill was placed within that elevation. Hudson argued that the fill was placed on his own property because he owned the land down to the Ordinary High Water Mark (the “OHWM”). Hudson claimed that the OHWM of Priest Lake was approximately 2435.64 feet, and the Artificial High Water Mark (the “AHWM”), was approximately 2437.64. Hudson argued that the dispute regarding the location of the OHWM was material, which made summary judgment improper.

In a unanimous decision, the Idaho Supreme Court affirmed the district court’s grant of partial summary judgment in favor of the State. Specifically, the Court found that whether 2437.64 feet was the OHWM or the AHWM was not an issue of material fact because the State has the authority to regulate encroachments under both marks. The Court awarded the State attorney fees on appeal as the prevailing party and remanded the case to the district court to deal with further action on any remaining issues.