

SUMMARY STATEMENT

Olson v. Moulton, Docket No. 44498

This is a case about whether and to what extent an uphill landowner can send irrigation wastewater across a downhill landowner's property. This case began when Lemhi County filed suit against the owners of both ranches seeking to relieve flooding along one of its roads. Phillip Moulton owns and operates a ranch that is on higher ground than the adjacent ranch that Verdell Olson operates. Surface and irrigation water that begins on Moulton's ranch makes its way to the Lemhi River through various channels. The one at issue in this case is a steep draw that sends water across a county road and through the downhill ranch that Olson operates. Lemhi County reached a settlement with Olson, and the remaining issue for the district court was whether an easement or a natural servitude permitted Moulton to send water down the draw. The district court held that both an easement and natural servitude permit Moulton to send up to 3.25 cubic feet per second of water down the draw. Olson appealed. The Court affirmed the judgment of the district court to the extent it provides for an easement and natural servitude, but remanded for specification of the location of the drainage basin on Olson's property.