

SUMMARY STATEMENT

Roberts v. Jensen

Docket No. 46675

This is a case involving a waste ditch that drained surface water from property owned by Lora Roberts (Roberts) through property owned by Thomas and Deanna Jensen (the Jensens). The ditch also passed through a man-made culvert under a county road between the properties. Several years after the Jensens filled in the portion of the waste ditch located on their property, Roberts' property experienced significant flooding and her home was damaged.

Roberts filed an action against the Jensens alleging trespass and nuisance, and seeking a declaratory judgment to establish that she had an interest in the waste ditch on the Jensens' property because the ditch was a natural servitude. After cross-motions for summary judgment, the district court granted the Jensens' motion for summary judgment, and denied Roberts' motion for summary judgment. The district court dismissed Roberts' trespass and nuisance claims, and denied Roberts' request for a declaratory judgment. After moving unsuccessfully for reconsideration, Roberts appealed. The Idaho Supreme Court affirmed the district court's grant of summary judgment against Roberts.