

## **SUMMARY STATEMENT**

*Burns Concrete v. Teton County*

Docket No. 46827/47496

This appeal arose from a dispute over the construction of a ready-mix concrete manufacturing facility in Teton County. In 2007, Burns Holdings entered into a development agreement with Teton County regarding property owned by Burns Concrete. The development agreement required the construction of a permanent concrete manufacturing facility on the property within 18 months of the execution of the agreement, but allowed operation of a temporary facility in the meantime. A dispute arose over the height of the facility. The County denied Burns Holdings' application for a conditional use permit and its subsequent application for a variance to exceed the height limit. The Burns Companies operated the temporary facility for several years but never constructed the permanent facility.

In 2012, the County sent written notice revoking the authority to operate the temporary facility and demanding that the temporary facility be removed. The Burns Companies subsequently filed this action, stating claims for breach of contract, declaratory judgment, and unjust enrichment. The County counterclaimed, alleging breach of contract and seeking declaratory judgment for the removal of the temporary facility. This began a multi-year period of litigation that included two appeals to this Court, each followed by a remand to the district court. This appeal resulted from the district court's grant of partial summary judgment in favor of the Burns Companies on the liability portion of their breach of contract claim, its award of \$1,049,250.90 in damages, and its award of attorney fees. The Court affirmed the district court's grant of partial summary judgment, but vacated the district court's judgment for a recalculation of damages. The Court also vacated the district court's award of attorney fees and remanded the matter for an explanation of the basis of its attorney fee award.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*