

SUMMARY STATEMENT

Citizens Against Linscott/Interstate Asphalt Plant v. Bonner County Board of Commissioners
Docket No. 47909

This administrative appeal concerned whether a conditional use permit issued pursuant to an amendment to county code was valid when the amendment was subsequently found void in a different action.

Citizens Against Linscott/Interstate Asphalt Plant (“CAL”) challenged a conditional use permit (“CUP”) issued by the Bonner County Board of Commissioners (“the County”). The CUP was based on a recent amendment to Bonner County zoning ordinances (“the Amendment”) and authorized Interstate Concrete and Asphalt Company (“Interstate”) to operate an asphalt batch plant within Frank and Carol Linscott’s gravel mine in Sagle, Idaho. In its petition for judicial review by the Bonner County district court, CAL challenged both the validity of the Amendment and the County’s decision to issue the CUP. The district court determined that CAL had standing to file its petition for judicial review of the CUP and that CAL had timely filed its petition. However, the district court concluded that it could not declare the Amendment invalid in a proceeding for judicial review under LLUPA and IDAPA. Accordingly, the district court upheld the County’s decision to grant the CUP, giving the County deference in applying its own land-use ordinances.

During the pendency of this appeal, CAL filed an action for declaratory relief before another district court judge to have the Amendment declared void. In that proceeding, the County admitted that the Amendment had been adopted without proper public notice and stipulated to a judgment and order declaring the Amendment void. On appeal of the administrative decision to this Court, CAL argued, *inter alia*, that the subsequent voiding of the Amendment also invalidated the CUP or that the CUP was not issued in conformity with Bonner County zoning laws.

The Idaho Supreme Court affirmed in part and reversed in part the decision of the district court. The Court held that CAL had associational standing to pursue this matter. The Court also held that CAL’s petition for judicial review was timely filed because its first petition was erroneously rejected. As to the merits, the Court took judicial notice of the judgment declaring the Amendment void and held that the CUP was also void because the Amendment was void *ab initio*. Finally, the Court held that the County had acted arbitrarily and capriciously in approving the CUP because it failed to consider whether the Linscotts’ gravel pit was in compliance with nonconforming use provisions of Bonner County Code.

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