

## SUMMARY STATEMENT

*Chester v. Wild Idaho Adventures RV Park, LLC*  
Docket No. 48363-2020

The Idaho Supreme Court affirmed in part and reversed in part the district court's decision defining the scope of the Plaintiffs' ditch easement, denying Plaintiffs' request to order the Defendant to remove certain encroachments from the easement, declaring the Plaintiffs' irrigation overspray to be a nuisance and to constitute a trespass, and ordering the removal of a license agreement from Defendant's chain of title.

This case primarily involved an irrigation ditch that provided water to property owned by Joe and Nancy Chester. From the point of diversion, the irrigation ditch branched into two ditches that crossed Wild Idaho's property before reaching the Chesters' property. Shortly after Wild Idaho purchased its property in 2016, its relationship with the Chesters soured. The Chesters eventually filed suit against Wild Idaho. Wild Idaho filed a counterclaim. Pertinent to this appeal, the Chesters asked the district court to quiet title to the ditch easement and require Wild Idaho to remove a shop and sewage pipe because they encroached on the ditch easement. Wild Idaho asked the district court to find that the Chesters' irrigation pivot overspray onto its property constituted a nuisance and a trespass, and also to order the removal of a license agreement from the title to its real property.

Following a two-day court trial, the district court determined that: (1) the ditch easement would be twenty feet wide, extending ten feet on either side of the ditches' centerlines; (2) absent an emergency blockage, the Chesters could use a backhoe to clean the ditches on a triennial schedule beginning in 2020; (3) the Chesters were required to provide ten days' written notice to Wild Idaho prior to conducting ditch maintenance on the property, unless there was an emergency; (4) Wild Idaho was not required to remove preexisting encroachments, but the Chesters could remove encroachments in the future if they unreasonably interfered with ditch maintenance; and (5) the Chesters could temporarily place spoils<sup>1</sup> within the ditch easement but they must remove them within a reasonable period of time. It also concluded that overspray from the Chesters' irrigation pivot onto Wild Idaho's property was both a private nuisance and a trespass. In reaching these conclusions, the district court rejected the Chesters' affirmative defense that they had obtained a prescriptive easement for the overspray, concluding that overspray of water from an irrigation pivot is not a use of land for which a prescriptive easement could be obtained. Finally, as to Wild Idaho's quiet title counterclaim, the district court concluded that the license agreement between the Chesters and Smith was an unreasonable cloud on Wild Idaho's title and ordered it to be removed because it was not supported by additional consideration, as a license agreement it did not pass with the title to real property, and the agreement was freely revocable by the Chesters and therefore was not an interest in property. The district court later awarded Wild Idaho costs and attorneys fees on its trespass claims pursuant to Idaho Code section 6-202.

The Idaho Supreme Court affirmed in part, reversed in part and remanded the case for further proceedings. The Court explained that while Idaho Code section 42-1102 grants users of irrigation ditches certain rights, the statute also limits the users to the reasonable exercise of those rights. The Court concluded that the district court erred by not making any findings that the

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<sup>1</sup> The term "spoils" describes debris, soil, vegetation, or other material removed from a ditch as part of the maintenance process.

Chesters acted unreasonably before imposing limitations on the exercise of their secondary easement rights. The Court also explained that before the district court could impose relief limiting the Chesters' exercise of their secondary easement rights it also had to apply the permanent injunction standard and determine that Wild Idaho had shown threatened or actual irreparable injury would result if the Chesters were not limited in the exercise of their statutory rights. The Court therefore reversed that part of the district court's order imposing limitations on the Hoods' exercise of their secondary easement rights.

The Court also determined that the district court erred when it rejected the Chesters' prescriptive easement defense to Wild Idaho's nuisance and trespass claims and therefore reversed the district court's decision in favor of Wild Idaho on those claims. The Court remanded the case for further proceedings so the district court could consider the Chesters' prescriptive easement defense. The Court affirmed the district court's order requiring removal of the license agreement from Wild Idaho's title because it was not supported by consideration and therefore unenforceable. Finally, the Court reversed the award of attorney fees to Wild Idaho under Idaho Code section 6-202 in light of its reversal of the district court's decision in favor of Wild Idaho on its trespass claim.

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