

BOISE, WEDNESDAY, FEBRUARY 14, 2024, AT 10:00A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

JOHN HASTINGS, JR.,

Plaintiff-Counterdefendant-Appellant,

V.

Docket No. 50273

**IDAHO DEPARTMENT OF WATER
RESOURCES, a political subdivision
of the STATE OF IDAHO,**

Defendant-Counterclaimant-Respondent.

Appeal from the District Court of the Fourth Judicial District of the State of Idaho.
Ada County. Lynn G. Norton, District Judge.

Kahle Becker Attorney at Law, Boise, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

This appeal arises from an award of summary judgment to the Idaho Department of Water Resources (the “Department”) and involves an enforcement action against John Hastings after he made unauthorized alterations to the Big Wood River in Blaine County, Idaho. The Department first issued a notice of violation to Hastings in 2017 for the removal of riparian vegetation and placement of rock armoring along the bank of the Big Wood River. The parties thereafter entered a consent order and agreement for Hastings to complete restoration work on the streambank. After Hastings submitted a revised restoration plan and application for a stream channel alteration permit, the Department issued its conditional approval. Hastings objected to the conditions. He requested a hearing pursuant to Rule 70 of the Idaho Administrative Procedure Act (“IDAPA”), arguing that the conditions were inconsistent with the consent order.

Over two years later, in 2021, Hastings filed an action for declaratory relief before the district court, arguing that the Department is time barred from seeking an enforcement action against him. Hastings contended that the two-year statute of limitations began to run either (1) when he failed to complete construction by the extended deadline of March 19, 2019, or (2) when he filed a petition for hearing on May 21, 2019, to express his disagreement with the terms of the conditional stream channel alteration permit. Because the Department did not file an enforcement action until it lodged its counterclaim on December 21, 2021, Hastings argued that the action was untimely and barred by the two-year statute of limitations. The district court disagreed. It found that “the earliest possible date that the Department ‘ought to have reasonably known’ that Hastings violated the [consent order] was December 31, 2019,” which was the “proposed completion date” Hastings listed in his permit application. Thus, the district court concluded that the enforcement action was timely and awarded summary judgment to the Department. Hastings appeals this

decision, arguing that the court misinterpreted Idaho Code section 42-3809. He also argues that the district court erred in taking judicial notice of the stream channel alteration permit and in denying his motion to continue proceedings for additional discovery.