

BOISE, FRIDAY, MAY 9, 2025, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

GREGORY M. WILSON,

Petitioner-Appellant,

v.

**IDAHO STATE BOARD OF LAND)
COMMISSIONERS; IDAHO)
DEPARTMENT OF LANDS; and WILLIAM)
FALOON,**

Respondents.

Docket No. 51376

Appeal from the District Court of the First Judicial District of the State of Idaho,
Bonner County. Susie Jensen, District Judge.

Gregory M. Wilson, Post Falls, Appellant pro se

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondents Idaho State
Board of Land Commissioners and Idaho Department of Lands

Fulgham Law, PLLC, Spokane, WA, for Respondent William Faloon

This is a littoral rights case. In 1975 the Idaho legislature enacted the Lake Protection Act (“LPA”) to regulate encroachments in, on, or above navigable lakes in the State of Idaho. Gregory M. Wilson is a littoral owner on Priest Lake in Bonner County, Idaho. On Wilson’s property is a log crib encroachment which has allegedly been there since the 1960’s. In 2020, Wilson applied for a “rip rap” permit via the Idaho Department of Lands (“IDL”). Wilson’s southern neighbor, William Faloon, objected, maintaining the encroachment caused erosion on his lakebed property. The IDL denied Wilson’s application and ordered him to remove the cobblestone.

In 2021, Wilson applied for another encroachment permit, this time for his “pre-LPA log crib.” In support of his application, Wilson submitted several letters indicating the log crib structure had been there prior to 1974, the operative year for a pre-LPA encroachment permit under Idaho Code section 58-1312. After a contested case hearing, the hearing coordinator issued a Preliminary Order denying Wilson’s application. This Preliminary Order was largely affirmed by the IDL Director in a Final Order. The Final Order concluded that Wilson’s log crib structure was constructed before 1974 as required by section 58-1312 but concluded that Wilson had failed to demonstrate that the structure had not been modified since then.

Wilson petitioned for judicial review. Wilson argued that IDL had not complied with Idaho Code section 58-1306's permit application procedures and this failure had violated his Fourteenth Amendment rights to procedural due process of law. Wilson also maintained that his application was processed under unlawful procedures and the IDL Director's findings of fact and conclusions of law were erroneous. On review, the district court affirmed IDL's final order. The district court held that Wilson's due process rights were not violated because a permit for an existing structure is processed pursuant to Idaho Code section 58-1312, therefore IDL did not have to comply with Idaho Code section 58-1306(b). The district court further held that there was substantial and competent evidence supporting the Director's findings of fact and conclusions of law on the modifications to the encroachment. Thus, the district court affirmed IDL's Final Order denying Wilson's pre-LPA encroachment permit.

Wilson appeals to the Idaho Supreme Court. Wilson argues the district court erred by: (1) failing to apply Idaho's two-step constitutional due process analysis; and (2) holding that the State was not required to follow the contested case procedure set forth in the Idaho Administrative Procedures Act. Additionally, Wilson argues that his pre-LPA log encroachment is exempt from the LPA permitting demands of the IDL and the Board and that the Board erred in finding that his encroachment was located below Priest Lake's ordinary high water mark.