

SUMMARY STATEMENT

Hastings v. IDWR

Docket No. 50273

Following flooding from runoff during the summer of 2017, John Hastings, a landowner in Blaine County, made unauthorized alterations to the Big Wood River. Hastings received a notice of a violation from the Idaho Department of Water Resources (“the Department”). He subsequently entered into a consent order and agreement with the Department to begin restoration work, and the Department issued a conditional permit for that purpose. Hastings later petitioned for a hearing to challenge the conditions listed in his permit and informal negotiations ensued.

In 2021, Hastings filed an action against the Department for declaratory judgment, arguing the Department could no longer pursue an enforcement action against him because the two-year statute of limitations set forth in Idaho Code section 42-3809 had run. The Department filed a counterclaim and the parties proceeded to summary judgment on just the statute of limitations issue. The Department maintained that Hastings was still in compliance with the Consent Order before he filed his action, arguing that (1) the filing of his earlier petition for reconsideration of the conditions imposed in the Conditional Permit did not constitute a breach, (2) the Department had no reason to believe that Hastings would not complete the restoration, (3) the conditional permit was not final and did not authorize Hastings to commence alterations on the Big Wood River, and (4) the Consent Order did not impose a performance deadline for the restoration work on the streambank. The district court awarded summary judgment to the Department and issued a partial judgment in its favor. Hastings appealed.

The Idaho Supreme Court affirmed. The Court agreed that the Department’s enforcement action against Hastings was not barred by the statute of limitations. The Court concluded that the earliest possible date that the Department “ought to have reasonably known” that Hastings was in violation of his consent order was when he filed the underlying declaratory judgment action on November 15, 2021. The Court also affirmed the district court’s decision to take judicial notice of the conditional permit issued by the Department.

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