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Hidden Hollow Ranch v. Fields, 92 P.3d 1185 (Mont. 2004)

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Hidden Hollow Ranch v. Fields, 92 P.3d 1185 (Mont. 2004) (holding: (1) the district court did not exceed its jurisdiction when it recognized the existence of an independent source of water, determined that source's flow rate, and settled controversies between appropriators from water source; (2) the district court properly denied a party's motion to certify the issue involving controversy as to the source of water rights to the chief water judge; and (3) the district court did not deprive a party of due process of law by not permanently modifying the decree).

The dispute in this case, which concerned the appropriate distribution of water from the Confederate Creek and its tributaries, related back to the Confederate Creek Decree ("Decree"). In the Decree, the First Judicial District Court, Broadwater County, decreed the water rights of Confederate Creek and its tributaries to the predecessors in interest to Hidden Hollow Ranch ("Hidden Hollow") and Gregory W. Field ("Field") on September 24, 1940.

Pursuant to the rights established in the Decree, Field's lower diversion was prior to Hidden Hollow's points of diversion. Consequently, very little water bypassed Field's lower point of diversion and traveled toward Hidden Hollow's points of diversion. This led to a number of incidents between Field and Hidden Hollow, which included Hidden Hollow's attempt to alter Field's diversion structure, Hidden Hollow's manipulation of the Field's valve, and Field's installation of an improved diversion structure and padlock. Hidden Hollow eventually filed an action against Field, in which Hidden Hollow sought to hold Field in contempt for violating the Decree and enjoin Field from further interference with Hidden Hollow's water rights.

Following a bench trial, the First Judicial District Court, Broadwater County dismissed Hidden Hollow's petition and enjoined it from further interference with Field's diversion works and water conveyance system. Hidden Hollow appealed the district court's decision to the Montana Supreme Court. Hidden Hollow raised four primary issues on appeal.

The court first addressed Hidden Hollow's argument that the district court exceeded its jurisdiction and re-adjudicated the parties' underlying water rights as previously decreed in the Decree. According to Hidden Hollow, the district court re-adjudicated the water rights by recognizing the existence of an independent source of water and determined the source's flow rate. The court rejected Hidden Hollow's argument. The court noted district courts have the authority to supervise the distribution of previously adjudicated water, enforce an existing water decree, and fill in pre-1973 decrees with further delineations.

The district court's recognition of an independent source of water, determination of the flow rate, and referral to the water at issue as developed water fell under this authority. Thus, the district court did not exceed its jurisdiction.

Hidden Hollow also argued the district court erred in denying Hidden Hollow's motion to certify the issue involving the controversy as to the source of the respective parties' water rights to the chief water judge. The court rejected Hidden Hollow's argument, relying again on the determination that the district court did not exceed its jurisdiction in respect to the previous issue.

Next, the court addressed the argument that the district court erroneously shifted the burden of proof to Hidden Hollow to prove how much water Hidden Hollow contributed to the natural drainage from its independent source. The court stated the burden of proof rests on the party asserting he or she is entitled to use water released into a natural carrier from another water source. In the case at issue, the court noted the district court weighed the evidence presented at trial and concluded Field proved more water was imported from his water source than the water diverted at his lower point of diversion. On the other hand, Hidden Hollow's evidence was not as persuasive. Thus, the district court permissibly shifted the burden of proof to Hidden Hollow.

Finally, the court addressed the issue of whether the district court's order regarding Hidden Hollow's water right deprived Hidden Hollow of due process of law by ruling on issues not raised by the pleadings. On this issue, Hidden Hollow maintained the district court permanently modified the Decree by declaring Field was entitled to all but a 0.83 miner's inches of water at his lower point of diversion. Hidden Hollow argued that such a modification, in what was essentially an action for contempt and injunctive relief, deprived Hidden Hollow of due process of law. However, the court held the district court did not permanently modify the Decree, thus the district court did not deprive Hidden Hollow of procedural and substantive protections embodied by the due process clauses of the United States Constitution and the Montana Constitution.

In conclusion, the court rejected all of Hidden Hollow's arguments and affirmed the district court's holding.

Benjamin M. Petre

Paulson v. Flathead Conservation Dist., 91 P.3d 569 (Mont. 2004)

(holding the conservation district had statutory authority to determine property owners' rights to construct a waterfront improvement project where another state agency had concurrent jurisdiction over the project).