

BOISE, MONDAY, DECEMBER 11, 2017 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**LEMHI COUNTY, a political subdivision of)
the State of Idaho, by the Board of County)
Commissioners, Robert Cope, Richard)
Snyder, and John Jakovac,)**

Plaintiff-Counterdefendant,)

and)

**VERDELL OLSON; SCOTT HARTVIGSON)
as trustee of the ZENAS R. HARTVIGSON)
LIVING TRUST,)**

**Defendants-Counterclaimants-)
Cross Defendants-Appellants,)**

Docket No. 44498

v.)

**PHILLIP F. MOULTON; JAMES)
SKINNER; PRATT CREEK RANCH)
LIMITED PARTNERSHIP; LYLE)
SKINNER as trustee of the ELLIS RAY)
SKINNER FAMILY LIVING TRUST,)**

**Cross Defendants-Cross Claimants-)
Respondents.)**

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Lemhi County. Hon. Alan C. Stephens, District Judge.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Pocatello, for appellants.

Frederick H. Snook, Salmon, and Giles & Thompson Law, PLLC, Boise, for respondents.

This appeal addresses whether an easement or natural servitude permits the flow of water from an uphill landowner's ranch onto the adjoining ranch below. This case began when Lemhi County filed suit against parties associated with both ranches seeking to relieve flooding along one of its roads. Phillip Moulton owns and operates a ranch in Lemhi County which is on higher ground than the adjacent ranch that Verdell Olson

operates. Surface and irrigation water that begins on Moulton's ranch makes its way to the Lemhi River through various channels. The one at issue in this case is a steep draw that sends water across a county road and through the ranch that Olson operates. Lemhi County reached a settlement, and the remaining issue for the district court was whether an easement or a natural servitude permitted Moulton to send water down the draw. The district court held that both an easement and natural servitude permit Moulton to send up to 3.25 cubic feet per second of water down the draw. Olson appeals the district court's factual and legal findings that led to its conclusion.