

Bauermeister v. Waste Management of Nebraska

Date:

Friday, March 6, 2015

S-14-553 Bauermeister Deaver Ecology Land Use Development, LLC. [appellant] v. Waste Management Co. of Nebraska, Inc.

Douglas County, Honorable Gary B. Randall

Attorneys: David A. Domina and Christopher A. Mihalo (DominaLaw Group) for appellant; Thomas A. Grennan, Adam J. Wachal, and Abbie M. Schurman (Gross & Welch) for appellee

Civil: Action for accounting and award of profits from the use of real estate

Proceedings below: The district court found Waste Management Co. owned the gas produced by a landfill it formerly operated but owed the landowners \$88, 499.80 for using the property.

Issues: The trial court erred in (1) finding that Appellee, not Appellant owns landfill gases and equipment associated with collecting and transporting landfill gasses to the edge of the real estate and denied Appellant a recovery; (2) finding Appellant is not entitled to revenues from sale of landfill gases, and allowed Appellee to relitigate ownership of the landfill gas, which is a mineral and part of the real estate awarded to Appellant in Bauermeister v. Waste Management, 280 Neb. 1 (2010); (3) finding Appellant is not entitled to past or future revenues for use of the gypsum monofill and relitigated the facts to do so; (4) finding the parties made a partial settlement of differences and denied recovery to Appellant for gypsum monofill revenues as a result; (5) denied Appellant sufficient recovery by refusing to award judgment for gypsum monofill revenues, natural gas sales revenues, all rights to future revenues from gypsum monofill operations and use of the surface of the land; (6) allowing Appellee to relitigate title issues to landfill gas, a mineral, and fixtures, as title issues were decided in Bauermeister v. Waste Management, 280 Neb. 1 (2010).