

IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 52453-2024

STEPHAN L. BYRD and AMY K. BYRD,)
husband and wife,)

Plaintiffs-Counterdefendants-)
Appellants,)

v.)

STEVEN and SUSAN COFFEY, husband and)
wife; and Unknown Owners and Unknown)
Claimants; together with all Defendants' heirs,)
devisees, successors, and assigns, or any other)
person or entity claiming any title, right,)
interest or equity in the following described)
property located in the County of Bonner,)
State of Idaho, to wit:)

All real property lying upland of the Ordinary)
High Water Mark of Priest Lake and between)
the extended northern boundary (running east)
to west) and the extended southern boundary)
(running east to west) of the following)
described parcel:)

Tract No. 3-A portion of Government Lot 6,)
Section 27, Township 60 North of Range 4)
West of the Boise Meridian, Bonner County,)
Idaho, more specifically described as follows:)

Beginning at the South Quarter corner of)
Section 27, Township 60 North of Range 4)
West of the Boise Meridian, Bonner County,)
Idaho;)

Thence North 1 degree 14' East along the)
centerline of said Section 27, 660.0 feet;)

Thence North 89 degrees 48' West on a line)
parallel to the South line of said Section 27,)
1099.16 feet to an iron pin;)

Boise, June 2026 Term

Opinion filed: September 4, 2026

Melanie Gagnepain, Clerk

Thence South 25 degrees 56' East, 102.72 feet)
to an iron pin which is the true point of)
beginning for this description;)

Thence North 89 degrees 48' West, 252.98 feet)
to an iron pin on the shore of Priest Lake;)

Thence South 15 degrees 18' East, along the)
shore of Priest Lake, 50.0 feet to an iron pin;)

Thence South 89 degrees 48' East, 263.24 feet)
to an iron pin;)

Thence North 25 degrees 56' West, 53.61 feet)
to the true point of beginning.)

Thence North 1)

Defendants-Counterclaimants-)
Respondents.)

ERIKA LYNN MULLINS and ALLISON)
LINDSEY STILL, Co-Trustees of the McCray)
Living Trust,)

Plaintiffs-Counterdefendants-)
Appellants,)

v.)

STEVEN and SUSAN COFFEY, husband and)
wife; and Unknown Owners and Unknown)
Claimants; together with all Defendants' heirs,)
devisees, successors, and assigns, or any other)
person or entity claiming any title, right,)
interest or equity in the following described)
property located in the County of Bonner,)
State of Idaho, to wit:)

All real property lying upland of the Ordinary)
High Water Mark of Priest Lake and between)
the extended northern boundary (running east)
to west) and the extended southern boundary)
(running east to west) of the following)
described parcel:)

Tract No. 2--A portion of Government Lot 6,)
Section 27, Township 60 North of Range 4)
West of the Boise Meridian, Bonner County,)
Idaho, more specifically described as follows:)

Beginning at the South Quarter corner of)
Section 27, Township 60 North of Range 4)
West of the Boise Meridian, Bonner County,)
Idaho;)

Thence North 1 degree 14' East along the)
centerline of said Section 27, 660.0 feet;)

Thence North 89 degrees 48' West on a line)
parallel to the South line of said Section 27,)
1099.16 feet to an iron pin;)

Thence South 25 degrees 56' East, 51.15 feet to)
an iron pin which is the true point of beginning)
for this description;)

Thence North 89 degrees 48' West, 249.03 feet)
to an iron pin on the shore of Priest Lake;)

Thence South 21 degrees 58' East, along the)
shore of Priest Lake, 50.0 feet to an iron pin;)

Thence South 89 degrees 48' East, 252.98 feet)
to an iron pin;)

Thence North 25 degrees 56' West, 51.57 feet)
to the true point of beginning,)

Defendants-Counterclaimants-)
Respondents.)

Appeal from the District Court of the First Judicial District of the State of Idaho,
Bonner County. Lansing L. Haynes, Senior District Judge.

The judgment is vacated, the decision of the district court is reversed, and the case
is remanded.

John F. Magnuson, Attorney at Law, Coeur d'Alene, for Appellants. John F.
Magnuson argued.

Featherston Law Firm, Chtd., Sandpoint, for Respondents. Brent C. Featherston
argued.

ZAHN, Justice.

This is the second appeal concerning the littoral rights of Stephen and Amy Byrd and the McCray Living Trust along the shores of Priest Lake, Idaho. The first appeal concerned the Idaho Department of Lands' ("IDL") denial of an encroachment permit application submitted by the Byrds and the Trust. IDL denied the application after concluding that they failed to establish that they had littoral rights on the lake. The Byrds and the Trust argued that their deeds conveyed property to the lakeshore. Steven and Susan Coffey argued that they did not and claimed that they actually owned the strip of land that fronted the lake. We affirmed IDL's denial of the application because IDL did not have authority to adjudicate the parties' littoral rights in the first instance. We explained that a quiet title action was the proper method of adjudicating their littoral rights.

The Byrds and the Trust then filed quiet title actions against the Coffeys. Relevant to this appeal, they sought a declaratory judgment that they owned the real property lying upland of the ordinary high water mark of the lake and also sought a judgment quieting title to the same in their names based on a prescriptive title claim. The Coffeys filed a counterclaim, also seeking a declaratory judgment that they owned the real property. The Coffeys also pleaded a claim for civil trespass. The complaints and the counterclaim form the basis for this appeal.

The competing claims turned on the property description contained in the Byrds' and the Trust's warranty deeds. Following a bench trial, the district court determined that the deeds were ambiguous. The court then found that the Byrds' and the Trust's deeds did not convey real property extending to the shoreline; therefore, the Coffeys owned the strip of land between the Byrds' and the Trust's parcels and the shoreline of Priest Lake. The court quieted title to the strip of land in the Coffeys and declared that they owned the littoral rights at issue.

The Byrds and the Trust appeal, asserting a variety of arguments attacking the district court's decision. For the reasons discussed below, we hold that the district court erred when it applied a clear and convincing evidence standard to the parties' competing declaratory judgment claims. We therefore reverse the district court's decision, vacate the judgment in favor of the Coffeys, and remand the matter for further proceedings consistent with this opinion.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Byrd, Trust, and Coffey parcels were previously part of a larger parcel owned by William and Mary Taylor. The Taylors obtained the property from the Diamond Match Co. in 1951. The property description in the deed from Diamond Match to the Taylors stated that it

included “all legal interest in the lake shore fronting on the above described [sic] property.” The Taylors later split the land into five parcels.

- In 1967, the Taylors conveyed two parcels to Steele and Metha Tanner. These are the parcels now owned by the Byrds and the Trust.
- On the same day that the Taylors conveyed the Tanner parcels, they also conveyed a parcel to Gene and Shirley Larson.
- Three weeks later, the Taylors conveyed a parcel to Donald and Sharin Chappell.
- Twelve years later, in 1979, the Taylors conveyed the remainder of the original parcel to Ziegler Lumber Co. This is the parcel now owned by the Coffeys.

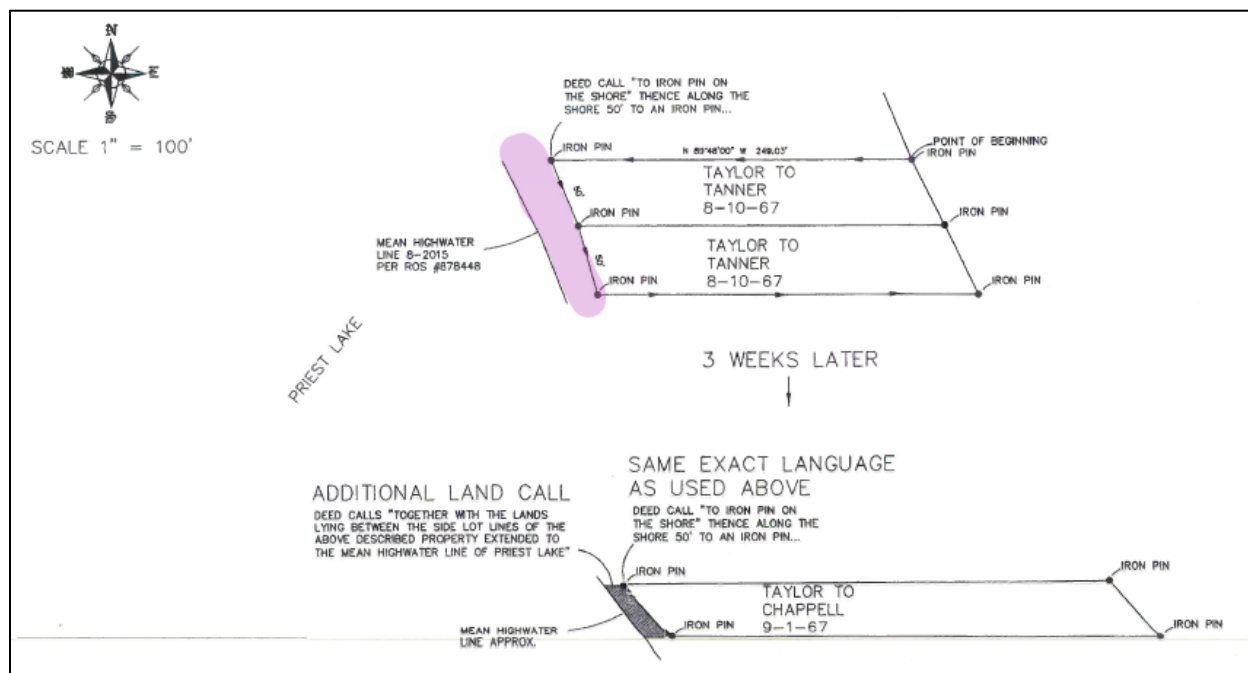
The map below provides an approximate illustration of the properties relevant to this appeal, with the Coffey’s property indicated in green, the Byrds’ and the Trust’s properties in yellow (the Trust’s property is described as the Mullins property, which is the last name of one of the trustees), and the disputed strip of land highlighted in purple. The map was an exhibit used during the bench trial; however, this Court added the purple highlighting for illustrative purposes.



Within a year after acquiring their parcels, the Byrds and the Trust filed an encroachment permit application with IDL, seeking permission to build a dock extending from their property into the lake. IDL issued the permit without a hearing. *See Byrd v. Idaho State Bd. of Land Comm'rs*, 169 Idaho 922, 926, 505 P.3d 708, 712 (2022). The Byrds and the Trust later filed another encroachment application that sought to add boat lifts and buoys to the dock. *See id.* The Larsons and Coffeys objected, claiming the Byrds and the Trust did not possess littoral rights on Priest Lake. *See id.* IDL denied the permit application after determining the Byrds and the Trust failed to establish, by a preponderance of the evidence, that they possessed littoral rights on the lake. *Id.*

The Byrds and the Trust filed a petition with the district court, seeking judicial review of the decision denying their application. *Id.* at 927, 505 P.3d at 713. The district court affirmed IDL’s decision. *Id.* They then appealed to this Court. *Id.* at 928, 505 P.3d at 714. We affirmed the denial of the permit application because IDL did not have authority to determine littoral ownership in the first instance. *Id.* at 930, 505 P.3d at 716. We concluded that IDL properly denied the application after determining that the Byrds and the Trust had failed to present sufficient evidence proving they possessed littoral rights on the lake. *Id.* at 931, 505 P.3d at 717.

We also noted that the dispute over littoral rights was inescapably tied to ownership of the real property immediately adjacent to the waterfront and “presents questions of law and fact best left for a quiet title action.” *Id.* The ownership issue concerns the strip of land between the ordinary high water mark (“OHWM”) of Priest Lake and the physical location of the pins described in the Taylor to Tanner deed. The following image is an exhibit from trial illustrating the space between the pins and the OHWM. This Court added purple shading to help illustrate the strip between the pins and the OHWM.



Following the first appeal, the Byrds and the Trust each filed a complaint to quiet title, for declaratory relief, and for prescriptive title. The Coffeys appeared in each case and the parties stipulated to consolidate the cases. The Coffeys filed an answer and counterclaim, asserting claims for declaratory relief, trespass and trespass damages, and injunctive relief.

The Byrds and the Trust later moved for summary judgment on their claims for quiet title and declaratory relief. They argued that the warranty deed from the Taylors to the Tanners unambiguously granted littoral rights due to the use of the technical term “shore” in the description of the waterward boundary of the property:

A portion of Government Lot Six (6), Section 27, Township 60 North of Range 4 West of the Boise Meridian, Bonner County, Idaho, more specifically described in two parcels as follows:

Beginning at the South quarter corner of Section 27, Township 60 North of Range 4 West of the Boise Meridian, Bonner County, Idaho; thence North 1° 14' East along the centerline of said Section 27, 660.0 feet; thence North 89° 48' West on a line parallel to the South line of said Section 27, 1099.16 feet to an iron pin; thence South 25° 56' East, 51.15 feet to an iron pin which is the true point of beginning for this description; thence North 89° 48' West, 249.03 feet to an iron pin on the shore of Priest Lake; thence South 21° 58' East, along the shore of Priest Lake, 50.0 feet to an iron pin; thence South 89° 48' East, 252.98 feet to an iron pin; thence North 25° 56' West, 51.57 feet to the true point of beginning, AND

Beginning at the South quarter corner of Section 27, Township 60 North of Range 4 West of the Boise Meridian, Bonner County, Idaho; thence North 1° 14' East along the centerline of said Section 27, 660.0 feet; thence North 89° 48' West on a line parallel to the South line of said Section 27, 1099.16 feet to an iron pin; thence South 25° 56' East, 102.72 feet to an iron pin which is the true point of beginning for this description; thence North 89° 48' West, 252.98 feet to an iron pin on the shore of Priest Lake; thence South 15° 18' East along the shore of Priest Lake, 50.0 feet to an iron pin; thence South 89° 48' East, 263.24 feet to an iron pin, thence North 25° 56' West, 53.61 feet to the true point of beginning.

(Emphasis added.) The Coffeys opposed the motion, arguing that the language of the Taylor to Tanner deed did not intend to convey littoral rights because the legal descriptions in the deed did not convey land extending to the OHWM. Following a hearing, the district court denied the Byrds' and the Trust's motion for summary judgment after determining the use of the word “shore” in the deed created an ambiguity. The district court concluded that “[t]here remain[ed] a genuine issue of material fact as to what the inclusion of the word ‘shore’ mean[t]” and resolving the issue of fact would require it to hear from the parties' experts.

The case proceeded to a bench trial. The primary issue at trial was whether the Byrds' and the Trust's deeds conveyed real property extending to the OHWM of Priest Lake. If so, then they possessed littoral rights on the lake. *See Newton v. MJK/BJK, LLC*, 167 Idaho 236, 243, 469 P.3d 23, 30 (2020) (discussing that under the Lake Protection Act, littoral owners' right to access and use the waters of the lake depend on their adjacency to that navigable lake). Both parties focused

their arguments at trial on what the Taylors intended to convey to the Tanners (the Byrds' and the Trust's predecessor in interest), because the property description in that deed was utilized in subsequent conveyances. The parties presented witnesses and exhibits supporting their positions, including expert testimony interpreting the property description in the Taylor to Tanner deed.

In support of their claim that they possessed littoral rights, the Byrds and the Trust presented the testimony of Earnest Warner, an Idaho licensed professional land surveyor. Warner opined that the Taylor to Tanner deed conveyed real property up to the OHWM. He testified that the property description in the Taylor to Tanner deed was more probably than not prepared by a licensed surveyor and that the Manual of Instructions for the Survey of the Public Lands of the United States (1947) ("the Manual") provided a precise definition for "shore," which applied to the Taylor to Tanner deed. According to Warner, because a licensed surveyor would have known the technical definition of "shore," the Taylor to Tanner deed's call to the "shore" signified that the property boundary went to the OHWM of Priest Lake. Warner also testified that, although the pins were not located on the shore, they were located approximately 25 feet away from the shoreline and that it was a normal surveying practice to set the pins away from the shore to make sure they were not damaged or lost.

In opposition to Warner's testimony, the Coffeys presented the testimony of Dan Provolt, also an Idaho licensed professional land surveyor. Provolt opined that the Taylor to Tanner deed did not convey real property up to the OHWM. He testified that the deed's property description called to the *iron pins on the shore*, which constituted a call to the pins rather than a call to the shore. He further testified that the pins were not located on the shore. At one point, he testified the pins were approximately 135 feet from the meander line, but on cross-examination, he made a statement that the pins were located approximately 35 feet "from the high-water." In Provolt's opinion, this was much farther back than what is recommended. Provolt testified that he believed the metes and bounds description controlled over the reference to "shore" and that the use of the word "shore" in the property description was unnecessary.

Provolt also placed great weight on the property description contained in the Taylor deed to the Chappells, which was signed three weeks after the Taylors signed the Tanner deed. While the property description in the Chappell deed included a metes and bounds description, it also included additional language not found in the Taylor to Tanner deed:

A portion of Government Lot 6, Section 27, Township 60 North, Range 4 West of the Boise meridian, Bonner County, Idaho, more specifically described as follows:

Beginning at the South $\frac{1}{4}$ corner of Section 27, T60N, R4W, B.M., Idaho; thence N76°22'W, 813.12 feet to an iron pin which is the true point of beginning for this description; thence N89°48'W, 338.48 feet to an iron pin on the shore of Priest Lake; thence N41°18'W, along the shore of Priest Lake 50.0 feet to an iron pin; thence S89°48'E, 336.35 feet to an iron pin; thence S43°95'E, 51.44 feet to the true point of beginning, TOGETHER WITH the lands lying between the side lot lines of the above described property extended to the mean high water line of Priest Lake.

(Emphasis added.) In Provolt's opinion, the additional language found in the Chappell deed expressed a clear intent to convey land up to the OHWM. He opined that, if the Taylors had intended to convey to the Tanners land up to the OHWM, they would have used language similar to that in the Chappell deed. In Provolt's opinion, the waterward boundary of the Byrds' and the Trust's parcels stopped short of the water.

The evidence established that, twelve years after conveying parcels to the Tanners, Larson, and Chappell, the Taylors conveyed the remainder of their parcel to Ziegler Lumber. The property description in the Ziegler Lumber deed conveyed the South Half of Government Lot 6, Section 27, Township 60 North, Range 4 West except for the parcels previously conveyed to the Tanners, Larson, and Chappell. On cross-examination, Warner admitted that, if the Tanners' parcels did not extend to the OHWM, the Taylors retained ownership of the strip of land left between the waterward boundary of the Tanners' parcel and the OHWM. Warner also conceded that, if the Taylors retained ownership of that strip, they later conveyed it to Ziegler Lumber, who in turn conveyed it to the Coffeys.

Following the bench trial, the district court issued its Findings of Fact, Conclusions of Law, and Verdicts. It found that the Taylor to Tanner deed was ambiguous and looked to extrinsic evidence, specifically the Taylor to Chappell deed and the location of the pins referenced in the Tanner deed, to determine that the Tanner deed's reference to "shore" was included "merely for purposes of locating the pins and the general direction of travel from one pin to the other." As a result, the district court found that the Taylors did not intend to convey to the Tanners land extending to the OHWM of the lake.

Applying the clear and convincing evidence standard for quiet title claims, the district court concluded that the Byrds and the Trust failed to carry their burden on their claims. The district court then concluded that the Coffeys had met their burden. The district court denied the Byrds' and the Trust's claims, declared that the Coffeys owned the strip of land between the Byrds' and

the Trust's waterward boundaries and the OHWM and quieted title to the strip in the Coffeys. The district court also concluded that the Byrds and the Trust had committed a civil trespass when they built the dock and used the strip of land to access the dock. It awarded the Coffeys \$5,000 in damages for the civil trespass.

The Coffeys later moved for costs and fees pursuant to Idaho Code sections 6-202, 6-402, 10-1210, 12-120, 12-121, and 12-123. The district court awarded the Coffeys their costs as a matter of right and attorney fees in the amount of \$44,494.44 for their civil trespass claim. The Byrds and the Trust appeal.

II. ISSUES ON APPEAL

1. Whether the district court erred when it denied the Byrds' and the Trust's claims and entered judgment in favor of the Coffeys.
2. Whether either party is entitled to attorney fees on appeal.

III. STANDARDS OF REVIEW

"This Court's review of a trial court's conclusions following a bench trial is limited to determining whether the evidence supports the findings of fact and whether the findings of fact support the conclusions of law." *Chester v. Wild Idaho Adventures RV Park, LLC*, 171 Idaho 212, 221, 519 P.3d 1152, 1161 (2022) (citation modified). When reviewing a district court's interpretation of a deed, the standard of review "depends on whether the instrument is ambiguous." *C & G, Inc. v. Rule*, 135 Idaho 763, 765, 25 P.3d 76, 78 (2001). Whether a deed is ambiguous is a question of law, over which we exercise free review. *Id.* "Interpretation of an ambiguous document presents a question of fact, and we will defer to the findings of the trial court so long as those findings are supported by substantial and competent evidence." *Id.* Evidence is substantial and competent if "a reasonable trier of fact could accept and rely upon [it] in making the factual finding challenged on appeal." *Latvala v. Green Enters., Inc.*, 168 Idaho 686, 695, 485 P.3d 1129, 1138 (2021).

IV. ANALYSIS

A. The district court erred when it denied the Byrds' and the Trust's claims and entered judgment in favor of the Coffeys because it erroneously applied a clear and convincing evidence standard to their declaratory judgment claims.

In *Byrd*, we recognized that, "[w]hile the parties have not filed a complaint praying for a declaratory judgment, they are ultimately seeking an adjudication of their littoral rights, which is an issue inherently tied to the ownership of the land." *Byrd v. Idaho State Bd. of Land Comm'rs*,

169 Idaho 922, 930, 505 P.3d 708, 716 (2022). This appeal concerns the subsequent declaratory judgment actions they filed to determine the ownership of land extending to the OHWM of Priest Lake, which in turn determines whether they possess littoral rights on the lake.

“[A] littoral owner’s rights to access and use the waters of the lake depend on his adjacency to that navigable lake.” *Id.* at 928–29, 505 P.3d at 714–15 (first citing *Newton v. MJK/BJK, LLC*, 167 Idaho 236, 243, 469 P.3d 23, 30 (2020); then citing *Lovitt v. Robideaux*, 139 Idaho 322, 326, 78 P.3d 389, 393 (2003); and then citing I.C. § 58-1302(f)). “The State’s ownership of the lakebed extends up to the high water mark, while a littoral (lakeside) owner on a navigable lake takes title down to the high water mark as it existed in 1890 when Idaho was admitted to the Union.” *Id.* at 928, 505 P.3d at 714 (first citing *Lake CDA Invs., LLC v. Idaho Dep’t of Lands*, 149 Idaho 274, 278, 233 P.3d 721, 725 (2010); and then citing *Erickson v. State*, 132 Idaho 208, 210, 970 P.2d 1, 3 (1998)). These rules apply to Priest Lake, which has been a navigable lake since Idaho’s admission to the Union in 1890. *Id.* at 929, 505 P.3d at 715.

On appeal, the Byrds and the Trust argue that the district court erred because: (1) the Taylor to Tanner deed is unambiguous; (2) a preponderance of the evidence burden applied to their claims rather than a clear and convincing burden; and (3) the district court’s findings of fact concerning the Taylor to Tanner deed are not supported by substantial and competent evidence. For the reasons discussed below, we hold that the district court properly found the deed to be ambiguous but applied the wrong burden of proof when construing the deed. As such, we reverse and remand for the case to be reviewed under the proper burden of proof and need not consider the appellants’ substantial and competent evidence argument.

1. The district court did not err when it concluded that the Taylor to Tanner deed is ambiguous.

The district court concluded that the Taylor to Tanner deed was ambiguous because there are two reasonable interpretations of the term “shore” as used in the property description. One reasonable interpretation is that shore is used as a surveying term of art, which the Manual defines as:

Low-water mark is the point to which a river or other body of water recedes, under ordinary conditions, at its lowest stage. High-water mark is the line which the water impresses on the soil by covering it for sufficient periods to deprive it of vegetation. The shore is the space between the margin of the water at its lowest stage and the banks at the high-water mark.

U.S. Dep't of the Interior, Bureau of Land Mgmt., *Manual of Instructions for the Survey of the Public Lands of the United States* § 226 (1947) (citations omitted). The district court explained the other reasonable interpretation is that the references to shore were “for the purpose of locating the pins and the general direction of travel from pin to pin.”

The Byrds and the Trust argue that the deed is unambiguous because “shore” is a term of art according to the Manual and Idaho law requires that surveys conform to the Manual. They point to testimony by both expert surveyors that it was more probable than not that a licensed surveyor prepared the property description contained in the Taylor to Tanner deed. As a result, the Manual’s definition of shore must be applied in interpreting the deed. They argue that when the Manual’s definition is used to interpret the property description, the description unambiguously conveys real property extending to the OHWM because the shore is bounded by the OHWM.

They also argue that the Manual and Idaho caselaw require that, when interpreting conflicting calls in a property description, priority must be given to calls to natural monuments over calls to artificial monuments. They assert that the deed’s reference to the “shore” and the “shoreline” constitute references to natural monuments and that the district court erred when it declined to give priority to those calls over the calls to iron pins, which constitute artificial monuments.

In response, the Coffeys argue that the Byrds’ and the Trust’s arguments on this issue were waived because they admitted the deed was ambiguous during trial and therefore are judicially estopped from changing their position on appeal. The Byrds and the Trust respond that their statements at trial did not constitute judicial admissions but instead acknowledged the district court’s summary judgment decision, which concluded that a genuine issue of material fact existed because the word “shore” was susceptible to multiple reasonable meanings.

We conclude that the Byrds and the Trust did not waive their argument that the deed is unambiguous. The record on appeal does contain several instances when counsel for the Byrds and the Trust referred to the deed as ambiguous: “[W]e are dealing with a deed that is certainly subject to interpretation as being ambiguous”; and “[t]hat’s because [the Taylor to Tanner deed is] ambiguous because he put [the word “shore”] in there.” However, we agree with the Byrds and the Trust that the statements simply acknowledged the district court’s decision denying summary judgment. The Byrds and the Trust had moved for summary judgment on the basis that the deed was unambiguous, but the district court denied the motion. The primary purpose of the bench trial

was to allow the parties to present evidence that would permit the district court to resolve the meaning of the word “shore” as used in the deed. We agree with the Byrds and the Trust that, when taken in context, their statements reflected a recognition of the district court’s prior summary judgment ruling. We now turn to the merits of their argument.

Whether a deed is ambiguous is a question of law, over which we exercise free review. *C & G, Inc. v. Rule*, 135 Idaho 763, 765, 25 P.3d 76, 78 (2001). “To determine whether a deed is ambiguous, it must be reviewed as a whole.” *Baker v. KAL, LLC*, 163 Idaho 530, 534, 415 P.3d 939, 943 (2018). “A deed is ambiguous when its language is reasonably subject to conflicting interpretations.” *Camp Easton Forever, Inc. v. Inland Nw. Council Boy Scouts of Am.*, 156 Idaho 893, 900, 332 P.3d 805, 812 (2014). Conflicting interpretations arise when a phrase in the deed can have multiple inconsistent meanings. *Id.*

We hold that the district court did not err when it concluded that the Taylor to Tanner deed was ambiguous. We agree with the district court that the word “shore” is subject to two reasonable interpretations in this case. One is that the word was used according to its definition in the Manual. Both Warner and Provolt testified that a surveyor likely wrote the property description in the deed, that it was likely the surveyor was licensed and that a licensed surveyor would have been familiar with the Manual. Warner testified that Idaho law required surveys to conform to the Manual. Warner and Provolt testified that surveyors can set the pins back from the OHWM to prevent them from being damaged or lost, although they disagreed on what would constitute a reasonable setback distance. Finally, Warner testified that the pins were set back a reasonable distance from the OHWM and therefore he believed that inclusion of the term “shore” conveyed land extending to the OHWM. This evidence supports the reasonable interpretation that a surveyor used the word according to its definition in the Manual.

Another reasonable interpretation noted by the district court was that the references to “shore” could “be for the purpose of locating the pins and the general direction of travel from pin to pin.” The record demonstrates that this interpretation is reasonable because the deed calls first to the pins and then to the shore. However, Warner and Provolt testified that the pins are not located on the shore as that term is defined by the Manual. Moreover, Provolt testified that the pins are located farther away from the OHWM than where a reasonable surveyor would place them if the surveyor placed them away from the OHWM to protect them. For this reason, Provolt did not believe the pins were intended to mark the shore as that term is defined by the Manual. And

because the pins were not located on the shore or within what Provolt considered to be a reasonable distance from the shore, he did not believe that the deed's reference to the shore was intended to describe the OHWM. Because there was evidence at trial supporting both interpretations, the district court did not err by concluding that both interpretations were reasonable and therefore the deed is ambiguous.

We are not persuaded by the Byrds' or the Trust's argument that the deed was unambiguous. When determining whether a deed is unambiguous, the parties' intent must be ascertained from the language of the deed alone, not from extrinsic evidence. *C & G, Inc.*, 135 Idaho at 766, 25 P.3d at 79. The Manual's definition of "shore" is extrinsic evidence. The argument that natural monuments are given priority over artificial monuments is a rule of construction. *See Nielson v. Talbot*, 163 Idaho 480, 485–86, 415 P.3d 348, 353–54 (2018). These rules of interpretation go beyond the language of the deed and are applied when construing an ambiguous deed. Put differently, we only reach the rules of interpretation if we determine that the plain language of the deed is ambiguous. The district court did not err when it concluded that the property description in the Taylor to Tanner deed was ambiguous.

2. *The district court erred when it applied the wrong burden of proof to decide the parties' declaratory judgment claims.*

After concluding that the Taylor to Tanner deed was ambiguous, the district court weighed the extrinsic evidence presented at trial under the clear and convincing standard applicable to quiet title claims:

In order to prove [the Byrds' and the Trust's] claims for Quiet Title and Declaratory Relief, [the Byrds and the Trust] must provide clear and convincing evidence that Taylor's intent was to deed to Tanner a property description that conveyed to Tanner littoral rights. [The Byrds and the Trust] are the parties claiming ownership of property of which the legal title stands or is of record in another person. *Luce v. Marble*, 142 Idaho 264, 270 (2005).

The district court noted several times that the Byrds and the Trust had failed to put forth clear and convincing evidence establishing that the Taylors intended to convey to the Tanners land extending to the OHWM.

However, the Byrds and the Trust had argued that the district court should apply a preponderance of the evidence standard. After concluding that the Byrds and the Trust failed to satisfy the clear and convincing evidence standard, the district court briefly acknowledged their argument for the preponderance standard, rejected it and summarily concluded that, "even if [the

Byrds and the Trust] are correct as to their burden of proof, . . . they did not meet that burden based on the analysis and reasons articulated” in its decision. The district court then concluded that the Coffeys “met their burden of proof on their counterclaim for Quiet Title. This conclusion remains the same whether their burden of proof is clear and convincing evidence or a preponderance of the evidence.”

The Byrds and the Trust argue that the district court erred by imposing the wrong burden of proof at trial. They argue that there was no presumption that the Coffeys held title to the property at issue, so the burden should have been a preponderance rather than clear and convincing evidence. The Coffeys respond that the district court did not err because it analyzed the case under both a clear and convincing standard and a preponderance of the evidence standard.

We hold that the district court erred by applying a clear and convincing evidence standard to decide the parties’ competing declaratory judgment claims. The district court had not yet interpreted the Taylor to Tanner deed and therefore had not yet decided who owned the land adjacent to the OHWM. Both sides pleaded claims for declaratory judgment to resolve the ambiguities in the Taylors’ conveyance of the littoral rights. The Byrds and the Trust also asserted quiet title claims premised on prescriptive title. As previously discussed, the Taylor to Tanner deed was ambiguous concerning whether the Taylors intended to convey to the Tanners land extending to the OHWM of Priest Lake.

The clear and convincing evidence standard applied to the quiet title claim. However, the district court first needed to issue a declaratory judgment concerning ownership of the property in question before it could determine which of the parties was claiming “ownership of property of which the legal title stands” or is of “record in another.” *See Luce v. Marble*, 142 Idaho 264, 270, 127 P.3d 167, 173 (2005) (citation omitted). Only after resolving the deed’s ambiguity and determining the chain of title could the court adjudicate the Byrds’ and the Trust’s quiet title claims. Thus, while the clear and convincing evidence standard applied to the quiet title claims, it did not apply to the competing declaratory judgment claims regarding the ambiguity in the Taylor to Tanner deed.

A party claiming ownership of property titled in another’s name must establish that claim by clear and convincing evidence. *Id.* Here, however, it had not yet been established which of the parties held title to the property in question because the deeds were ambiguous. The district court first had to issue a declaratory judgment concerning who owned the property before it could apply

the clear and convincing evidence standard to the quiet title claims. By applying a clear and convincing evidence standard to both the declaratory judgment and the quiet title claims, the district court conflated the burden of proof applicable to quiet title claims with the burden of proof applied to declaratory judgment claims seeking to interpret deeds and declare parties' property rights.

Interpretation of an ambiguous deed is a question of fact that focuses on the intent of the parties. *C & G, Inc.*, 135 Idaho at 766, 25 P.3d at 79. "Issues of fact in civil cases are to be determined in accordance with the preponderance of the evidence[.]" *Watkins v. Fed. Life Ins. Co.*, 54 Idaho 174, 178, 29 P.2d 1007, 1009 (1934). Further, principles of contract interpretation apply to the interpretation of deeds. *See Bear Crest Ltd. LLC v. State ex rel. Idaho Transp. Dep't*, 176 Idaho 262, ___, 575 P.3d 846, 858 (2025). We apply a preponderance of the evidence standard to the interpretation of a contract. *See A&B Irrigation Dist. v. Idaho Dep't of Water Res.*, 153 Idaho 500, 523, 284 P.3d 225, 248 (2012).

Although the district court claimed its conclusion would be the same under a preponderance standard, its failure to provide any reasoning for that conclusion prevents us from determining whether it properly applied the facts to the law to conclude that the Byrds and the Trust failed to establish, by a preponderance of the evidence, that the Taylors intended to convey to the Tanners land extending to the OHWM. The district court only provided reasoning for its conclusion that the Byrds and the Trust failed to establish their claims by clear and convincing evidence. Further, its findings of fact and conclusions of law on this point are sparse, consisting of just under two pages. The parties presented extensive evidence at trial in support of their respective positions. The district court's decision only addresses a fraction of that evidence. In the absence of any analysis weighing the trial evidence under the preponderance standard, we cannot determine why the district court concluded the Byrds and the Trust failed to satisfy that standard.

The district court's clear and convincing evidence analysis focused on two pieces of evidence: (1) that the pins mentioned in the Taylor to Tanner deed were not located on the shore, as defined by the Manual, and (2) that the Taylor to Chappell deed included additional language that clearly indicated their intent to convey land extending to the OHWM. The parties, however, presented more evidence in support of their respective positions. For example, the Byrds and the Trust presented evidence that:

- The description in the Taylor to Tanner deed was more likely than not prepared by a licensed surveyor, who would have been aware of the Manual, and that Idaho law requires any survey to conform to the Manual.
- Warner testified that iron pins are typically set back from a lake to avoid its erosive effects and ensure permanency. Warner testified that the pins referenced in the Tanner deed were approximately eighteen and twenty-five feet upland of the OHWM, which was a reasonable distance for placement if a surveyor was trying to protect the pins.
- The Taylors included the term “shore” in addition to a metes and bounds description and therefore the word must have some independent meaning.
- Natural monuments are given priority over artificial monuments. Warner testified that a lake shore is a natural monument, while pins are artificial monuments.
- The Taylor to Tanner deed contains an exception not found in the Taylor to Chappell deed, which the Byrds and the Trust noted would be unnecessary if the Taylors had not intended to convey land extending to the OHWM:

EXCEPT general taxes for the year 1967, and any claims arising from the difference in the mean high water line of Priest Lake and the meander line as shown by Government Survey, and that they will warrant and defend the same from all lawful claims whatsoever, except as noted above.

(Emphasis added.) The Byrds and the Trust asserted it would be unnecessary to exempt such claims if the Taylors did not intend to convey land extending to the OHWM.

- The Taylor to Larson deed contained a similar legal description to that contained in the Taylor to Tanner deed. And similar to the Tanner deed, the Larson deed did not include the additional language found in the Taylor to Chappell deed stating the property conveyed included “the lands lying between the side lot lines of the above described property extended to the mean high water line of Priest Lake.” Thus, the Tanner and the Larson deeds reflected similar intent concerning the extent of land conveyed. Larson constructed a dock from his property, extending out into the lake. At the time Larson constructed his dock and for several years thereafter, the Taylors owned the Coffey property but never voiced objections about the Larson dock.
- Provolt conceded that a licensed surveyor likely prepared the description in the Tanner deed but also testified that the deed’s reference to the shore was unnecessary to the legal description and was incorrect, inaccurate, and surplus. The Byrds and the Trust argued that

Provolt's opinion failed to give effect to all words used in the deed and thus failed to follow the standards of contract interpretation, which are applicable to the interpretation of deeds.

- The Bonner County assessor testified that it had assessed the Byrd and the Trust parcels as waterfront properties.

The opposing evidence presented by the Coffeys included:

- Provolt mapped the meander line of Section 27 and concluded that the meander line was close to the OHWM. Provolt testified that the pins referenced in the Tanner deed were approximately 135 feet away from the meander line and 160 feet from "the original high-water."
- Provolt testified that, while surveyors may place pins upland of the shore, a reasonable surveyor would place the pins within ten to fifteen feet of the shore. Provolt testified that the distance of the pins from the shore in this case suggested to him that the surveyor intended to call to the pins rather than the shore because the pins he called to were too far away from the shore.
- Provolt testified that Warner's estimate of the distance between the pins and the shore was based upon the artificial high water mark rather than the OHWM, so his estimate was erroneous.
- The Taylor to Chappel deed was conveyed three weeks after the Taylor to Tanner deed but included additional language that explicitly conveyed land extending to the OHWM. Provolt testified the Chappel deed was significant to his opinion because it established that the Taylors knew how to convey land extending to the water if they wished to do so.
- Provolt testified that the shore is not a natural monument because it lacks permanence.
- Provolt testified that the deed's reference to "shore" does not take priority over its call to the pins because the description calls "*to the iron pin* on the shore" and then calls to another iron pin, indicating that the surveyor actually intended for the pins to form the boundary of the legal description rather than the shore. (Emphasis added.)

Despite this, and other evidence presented by the parties, the district court relied wholly on two pieces of evidence to conclude that the Byrds and the Trust had failed to establish their claims by clear and convincing evidence: (1) the language in the Chappel deed and (2) the fact that the pins were not located on the shore as that term is defined in the Manual. We are unable to conclude that these same two pieces of evidence also establish that the Byrds and the Trust cannot satisfy a

preponderance of the evidence standard, especially considering the additional evidence that both sides presented at trial, which the district court failed to address.

Therefore, we reverse the district court's decision declaring that: (1) the Byrds and the Trust do not own land extending to the OHWM, and (2) the Coffeys own a strip of land between the Byrds' and the Trust's waterward boundary and the OHWM. We remand this matter to the district court so it may consider the evidence under a preponderance of the evidence standard to decide the competing declaratory judgment claims. We leave it to the district court's discretion whether to conduct its inquiry based on the evidence previously presented or to conduct additional proceedings on remand.

Given our decision reversing the district court's declaratory judgment rulings, we also reverse the remainder of the district court's decision on the parties' other claims, including that the Coffeys had committed a civil trespass, its award of damages for civil trespass, and its decision awarding the Coffeys attorney fees. The district court's decision on those claims followed from its flawed decision on the declaratory judgment claims.

B. We decline to award attorney fees on appeal.

The Byrds and the Trust seek attorney fees on appeal under Idaho Code section 6-202(3)(c). Section 6-202(3)(c) allows a defendant to be awarded reasonable attorney fees where "an action for civil trespass or civil trespass with damage is brought without foundation and the defendant prevails" I.C. § 6-202(3)(c). Because we remand the case to the district court for further proceedings, there has been no final determination on the merits of the Coffeys' trespass claim. As a result, the Byrds and the Trust have not established a right to attorney fees under this statute.

The Coffeys claim they are entitled to fees on appeal for the trespass claim "in the same analysis" as the district court performed below and also under Idaho Code section 12-121 because the Byrds and the Trust merely ask this Court to second guess the district court's decision. We decline to award fees on either basis.

To be awarded attorney fees on appeal, the party requesting fees must cite either statutory or contractual authority in support of their request. *Mortensen v. Stewart Title Guar. Co.*, 149 Idaho 437, 447–48, 235 P.3d 387, 397–98 (2010). The Coffeys' reference to "the same analysis" as the district court does not constitute a citation to statutory authority. Given their failure to cite statutory authority for their request, we decline to award fees on this basis.

We also decline to grant attorney fees to the Coffeys under Idaho Code section 12-121. Section 12-121 allows the prevailing party to be awarded their attorney fees when the appeal is brought “frivolously, unreasonably or without foundation.” I.C. § 12-121. The Coffeys are not the prevailing party on appeal and therefore they are not entitled to fees under this section.

V. CONCLUSION

For the reasons discussed above, we reverse the district court’s decision, vacate its judgment, and remand for further proceedings consistent with this opinion. As the prevailing parties on appeal, the Byrds and the Trust are entitled to their costs as a matter of right, pursuant to Idaho Appellate Rule 40.

Chief Justice BEVAN, and Justices BRODY, MOELLER, and MEYER CONCUR.