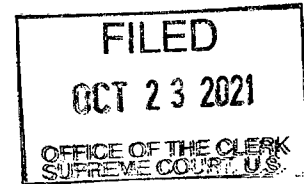


21-7098
In The

ORIGINAL

Supreme Court of the United States



Thomas G. Landreth

Petitioner

v.

United States of America et al.

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

(Sovereign Immunity of the Quinault Indian Tribe/Nation)

PETITION FOR A WRIT OF CERTIORARI

Pursuant to 28 U.S.C. @ 1254(1),

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QUESTIONS PRESENTED

Petitioner Landreth owns privately owned property within the Olympic National Park abutting navigable Lake Quinault in Grays Harbor County in the State of Washington. Landreth's privately owned property has 75 feet of shore land which fluctuates with the rise and fall of the lake. During summer months the shore land has shore land below the ordinary high water mark and in the winter months the shore land is eliminated and the water level consumes about 20 to 30 feet of deeded property above the ordinary high water mark which makes the land unusable during the winter or high water season.

The Quinault Indian Tribe/Nation claims to be the owner of the soil and water up to the ordinary high water mark contained within the lake. With the claim of ownership, the self governing Quinault Indian Tribe closed the lake to all non-Quinault Indian people on April 15, 2013 for any and all recreational purposes. The closure was enforced with armed and unarmed Quinault Indian police to ensure non-Quinault Indian people entered or used the lake under tribal law.

The closure of the lake deprived Landreth's rights and is a taking of civil/real property rights and is a taking of accreted shore land. (in rem)

The questions presented are:

1. Whether 25 U.S.C. @ 1302 preserves the sovereign immunity claimed by the Quinault Indian Tribe/Nation when citizens have or seek redress for grievances of depredations committed by the Quinault Indian Tribe.
2. Whether Article 8 of the 1856 Treaty of Olympia preserves the sovereign immunity claimed by the Quinault Indian Tribe when the treaty provides the administrative process for redress of grievances to be proven before the agent and is a part of the Supreme Law of the Land.
3. Whether the President of the Quinault Indian Tribe/Nation declaration in a 2016 interview with the Smithsonian Institute that the 1856 Treaty of Olympia is as valid today as it was in 1856 is a waiver of the 12 year limitation on Quiet Title Actions.
4. Whether a non-response to a Citizens request for redress of grievances is a default of the duties of the agent in Article 8 of the Treaty of Olympia and allows for court actions to achieve redress.

5. Whether the adoption of the 1787 Northwest Ordinance into the Constitution of the United States prohibits the ownership of navigable water to non-citizen Indian Tribes during the Territorial period or after the State hood of Washington.
6. Whether 3 Presidential Proclamations approved by the Congress of the United States supersedes, modifies or changes the 1873 Executive Order issued by President Grant enlarging the original 1862 Quinault Indian Reservation boundary.
7. Whether the Judges in the 1945 Court of Claims has the authority to change the boundary of the Quinault Indian Reservation from the ordinary low water to the ordinary high water mark of accreted private property within the boundary of the Olympic National Park.
8. Whether all Judges in the United States are bound by the text contained in the 1856 Treaty of Olympia.
9. Whether any new State can be erected or established in Washington State.
10. Whether the 1866/1872 Congressional Mining Act severed all navigable water from being considered disposable land.
11. Whether the Constitution of the United States or the Congress of the United States has adopted/enacted a law giving the Quinault Indian Tribe sovereign immunity for depredations against the Citizens.

PARTIES TO THE PROCEEDING

All parties to the proceeding are listed on the cover page.

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This Court should grant review to resolve the parameters of Indian Sovereign immunity and determine whether a 12 year statute of limitations on Quiet Title Actions is waived by the 1856 Treaty of Olympia.

This Court Should Grant Review to resolve the Quinault Indian Tribe's taking of "in rem" shore land, privately owned, within the boundaries of the Olympic National Park. Then, claiming sovereign immunity to defeat any challenge to the illegal taking within the boundaries of another sovereign.

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1891 Proclamation 402, Act of Congress approved March 3, 1891 entitled "An act to repeal timber-culture laws, and for other purposes"

"The the President of the United States may from time to time set apart and reserve in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public

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reservations; and the president shall by public proclamation declare the establishment of such reservations and the limits thereof.".....passim

1897 Whereas the Olympic Forest Reserve, in the State of Washington, was established by proclamation dated February 22, 1897, under and by virtue of section twenty-four of the act of Congress, approved March 3, 1891.

"That the President is hereby authorized at any time to modify any executive order that has been or may hereafter be made establishing any forest reserve, and by such modifications may reduce the area or change the boundary lines of such reserve, or may vacate altogether any order creating such reserve,"

Olympic Forest Reserve Boundary states in part: "thence southerly to the southeast corner of said township, thence westerly along the township line to its point of intersection with the north boundary of the Quinaielt Indian Reservation; thence southeasterly along the north boundary of said Indian Reservation to the eastern point of said reservation and southwesterly along the east boundary thereof to the point of intersection with the township line between township twenty-one;.....passim

1907 By the President of the United States of America "A PROCLAMATION"

Whereas, the Olympic Forest Reserve, in the State of Washington, was established by proclamation dated February twenty-second, eighteen hundred and ninety-seven, and the boundaries thereof have been subsequently changed to exclude there from certain lands, and also to include additional lands in the State of Washington;do proclaim that the aforesaid Olympic Forest Reserve is hereby enlarged to include the said additional lands, and that the boundaries of the reserve are now as shown on the diagram forming a part hereof;".....Appendix pge 18, 19, 20

1938 Public law, No. 778, 52 Stat. 1241 (1938), An Act To establish the Olympic National Park, in the State of Washington, and for other purposes;

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The Law of Water Rights, by John Norton Pomeroy, LLD. And Henry Campbell Black, M. A. (Library Stanford University) published, 1897, Common Law Doctrine,

“The common law doctrine, in its most general form, is that the water of permanent running streams and of inland lakes is sacred to the common use alike of all the riparian proprietors upon their borders. This doctrine extends to navigable and unnavigable streams and lakes which are wholly inland and territorial.”.....

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix ~~APP A 102~~ B to the petition and is PGE 3

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished. NOT APPROPRIATE FOR PUBLICATION

The opinion of the United States district court appears at Appendix ~~APP A 94-101~~ C to the petition and is APPENDIX PGE 4

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished. UNKNOWN

For cases from state courts:

The opinion of the WASHINGTON STATE COURT OF APPEALS highest state court to review the merits appears at Appendix _____ to the petition and is ~~APP A 20~~ ~~APP A 64~~

reported at APPENDIX 9; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the THURSTON COUNTY SUPERIOR court appears at Appendix _____ to the petition and is ~~APP A 20~~

reported at APPENDIX 11; or,

has been designated for publication but is not yet reported; or,

is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was AUG 6, 2021.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: AUG 20, 2021, and a copy of the order denying rehearing appears at Appendix A.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from state courts:

The date on which the highest state court decided my case was JAN 30, 2020
A copy of that decision appears at Appendix E ~~APPRA 6/4~~
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A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT FOR JURISDICTION

Civil rights Act

The jurisdiction for this Court is invoked under 28 U.S.C. @ 1254(1)

Supreme Court Rule 10(c) Federal Question

Supreme Court Rule 11 imperative public importance ingress/egress to navigable water of the United States

28 U.S.C. 2490a "in rem" property

1787 Northwest Ordinance

Supremacy Clause of the Constitution

Treaty made with the Quinault Indian Tribe

4th, 5th, 14th amendments of the Constitution

Article IV Section 3. "but no new State shall be formed or erected within the jurisdiction of any other State;.....without the consent of the legislatures of the States as well as Congress....."

The lower Courts have failed to address the merits of the Quiet Title Action complaint by Petitioner to have civil/real property rights returned to petitioner.

The Courts have successfully determined the civil/real property rights of petitioner are non-existent.

The Quinault Indian Tribe has claimed ownership of petitioner's accreted shore land abutting navigable Lake Quinault, deprived petitioner of ingress/egress to the lake and deprived petitioner of his Constitutional Rights as a citizen of the United States.

The United States has claimed ownership of the bed of Lake Quinault, water and shore land up to the ordinary high water mark and is holding it in trust for the Indians of the Quinault Indian Reservation.

The Constitution of the State of Washington sect XVII asserts its ownership of all navigable waters within the State of Washington.

Over the past decades the Quinault Indian Tribe has claimed ownership of the lake, required all boats to pay a fee to the tribe to enter the lake, control the fishing and fishing permits, deny ingress/egress to all non-Quinault Indian people, deprived proprietor of private land the full use and enjoyment of their land, demanded removal of all docks, threatened to take private property, used armed Quinault Indian police to intimidate, harass all non Indians from attempting to use the lake and the Olympic National Park, Olympic National Forest, local police, federal law officials or the State of Washington has or did anything to prevent these activities from being repeated now or in the future.

The Supreme Court should grant this Writ to determine who actually has ownership and jurisdiction over the lake, water and shore land. Under federal law and common law the purchaser of government lots abutting navigable water has ownership of all land to the water edge and use of the water in the amount needed to support the purpose of the ownership of the land.

Lake Quinault is 5 miles long and 2 miles wide with water depths over 100 feet and is surrounded by 2,000 to 4,000 foot, non-agricultural, high mountains on the south, east and north shores of the lake. The west boundary of the Lake is the Quinault Indian Reservation.

The entire land area surrounding navigable Lake Quinault, less the Western shore, was declared as the Lake Quinault Recreational Area in 1924 for the purpose of recreational cabins and general recreation purposes by the United States Forest Service.

CONSTITUTIONAL PROVISIONS

The Congressional Act approved March 3, 1891, entitled

“An act to repeal timber-culture laws, and for other purposes.” Provides, “That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public lands bearing forests, in any part of the public lands wholly or in part covered with timber or

undergrowth, whether of commercial value or not, as public reservations, and the President shall, by proclamation, declare the establishment of such reservations and the limits thereof.”

1787 NORTHWEST ORDINANCE

Friday, July 13, 1787 the United States Congress met and passed the Ordinance for the government of the territory of the United States North West of the river Ohio as a part of the United States Constitution.

Article the Second. The Inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury;.....and of judicial proceedings according to the course of the common law;.....no man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation to take any persons property, or to demand his particular services, full compensation shall be made for the same;

Article the Third.....The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress;

Article the Fourth.....The navigable Waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways, and forever free, as well to the Inhabitants of the said territory, as to the Citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost or duty therefor.

The Quinault Indian Tribe has been charging a fee to place or use boats in Lake Quinault for decades in violation of the Constitution of the United States.

CONSTITUTION OF THE UNITED STATES

Navigable servitude is a doctrine in United States constitutional law that gives the federal government the right to regulate navigable waterways as an extension of the Commerce Clause in Article 1, Section 8 of the Constitution.

Treaties do not supersede the Constitution

The clear irrefutable facts: The U.S. Supreme Court had made it very clear that 1) Treaties do not override the U.S. Constitution. 2) Treaties cannot amend the Constitution. And last, 3) A treaty can be nullified by a statute passed by the U.S. Congress (or by a sovereign State or States if Congress refuses to do so)

What are navigable waters?

A body of water, such as a river, canal or lake, is navigable if it is deep, wide and slow enough for a vessel to pass or walk.

Who owns navigable waters?

As new lands were acquired by the United States, either by purchase or treaty, title to the highways and the beds of all navigable, or tidal, water bodies became vested in the United States unless they had been validly conveyed into private ownership by the former sovereign.

In the case of the Northwest Coast of America, the prior sovereign (England) did not give ownership or citizenship to the Indian tribes residing on the northwest coast. The prior sovereign only gave occupancy of land.

United States Supreme Court in 1979 held:

Four tests; (1) is subject to the ebb and flow of the tide, (2) connects with a continuous interstate waterway, (3) has navigable capacity, and (4) is actually navigable.

The Quinault River and Lake Quinault are navigable from the Pacific Ocean to about 8 miles above the lake. A total distance of about 36 miles.

The Quinault River was the only highway to reach Lake Quinault area until about 1915. Settlers hired Quinault Indians to transport settlers and their goods to the lake from the Pacific Ocean.

XIV Amendment of the Constitution

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or

immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Supremacy Clause Constitution

This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the contrary notwithstanding.

Presidential Authority

Under our system of government, the president's authority to issue orders must come from the Constitution or federal law. Presidential Proclamations approved by Congress are considered to be acts of Congress and become law.

Congressional Act of May 18, 1796

Public Land Laws

Section 9. *And be it further enacted*, That all navigable rivers, within the territory to be disposed of by virtue of this act, shall be deemed to be, and remain public highways:

And that in all cases, where the opposite banks of any stream, not navigable, shall belong to different persons, the stream and the bed thereof shall become common to both.

THIRTIETH CONGRESS, Sess. I. Ch. 177. 1848

1787 Northwest Ordinance extended over the Oregon Territory

Sec. 14. *And be it further enacted*, That the inhabitants of said Territory shall be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States north-west of the River Ohio, by the articles of compact contained in the ordinance for the government of said territory, on the thirteenth day of July, seventeen hundred and eighty seven; and shall be subject to all the conditions, and restrictions, and prohibitions in said article of compact imposed upon the people of said territory; and the existing laws now in force in the territory of Oregon, under the authority of the provisional government established by the people thereof, shall continue to be valid and operative therein,

Congressional Act Establishing the Washington Territorial Government

1853

Sec. 12. *And be it further enacted*, That the laws now in force in said Territory of [Washington,] by virtue of the legislation of Congress in reference to the Territory of Oregon, which have been enacted and passed subsequent to the first day of September, eighteen hundred and forty-eight, applicable to the said Territory of Washington, together with the legislative enactments of the Territory of Oregon, enacted and passed prior to the passage of, and not inconsistent and with, the provisions of this act, and applicable to the said

Territory of Washington, be, and they are hereby, continued in force in said Territory of Washington until they shall be repealed or amended by future legislation.

25 United States Code Indians @1302

§ 1302.

Constitutional rights

(a) In general No Indian tribe in exercising powers of self-government shall—

(1)

make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(2)

violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(5)

take any private property for a public use without just compensation;

(8)

deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;

16 Title U.S.C. 255. Effect on existing homestead, mineral, etc., entries;
revision of boundaries

Nothing contained herein shall affect any valid existing claim, location, or entry made under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purpose whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land, nor the rights reserved by treaty to the Indians of any tribes. The boundaries of Olympic National Park may be revised only by Act of Congress.

(June 29, 1938, ch. 812, §5, 52 Stat. 1242; Pub. L. 94-578, title III, §320(c), Oct. 21, 1976, 90 Stat. 2739.)

1856 Treaty of Olympia

Sovereign Immunity

Article 8 of the Treaty of Olympia allows for redress of grievances when the Indians signatory to the agreed upon Treaty of Olympia commit depredations upon such citizens.

“The said tribes and bands acknowledge their dependence on the Government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations on the property of such citizens; and should any one or more of them violate this pledge, and the fact be satisfactorily proven before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the Government out of their annuities.”

Article 8 of the Treaty of Olympia is a waiver of sovereign immunity when the signatory to the treaty commit depredations upon such citizens.

Article 6 of the Treaty of Olympia gives the President of the United States the authority to make adjustments to the land boundaries of the Quinault Indian Reservation.

1815 & 1818 Treaties with England

The 1815 Commerce Treaty with England gave England's citizens the right to use all navigable water within the United States for commerce the same as all citizens and inhabitants of the United States.

The 1818 Joint Occupancy Treaty with England dealt only with the navigable water on the northwest coast of America and states;

Article 3 concerns the Pacific Northwest and reads:

"It is agreed, that any Country that may be claimed by either Party on the North West Coast of America, Westward of the Stony Mountains, shall, together with its Harbours, Bays, and Creeks, and the Navigation of all Rivers within the same, be free and open, for the term of ten Years from the date of the Signature of the present Convention, to the Vessels, Citizens, and Subjects of the Two Powers: it being well understood, that this Agreement is not to be construed to the Prejudice of any Claim, which either of the Two High Contracting Parties may have to any part of the said Country, nor shall it be taken to affect the Claims of any other Power or State to any part of the said Country; the only Object of The High Contracting Parties, in that respect, being to prevent disputes and differences amongst Themselves."

STATEMENT OF THE CASE

This case arises from the Constitution and concerns the civil/real property rights of petitioner and the general public.

Petitioner was denied egress/ingress to navigable Lake Quinault by the armed and unarmed Quinault Indian Police patrol boats from April 2013 to April 2014 for any and all recreational purposes. Secondly is the illegal taking of accreted shore land claimed to be owned by the Quinault Indian Tribe. Petitioner is a riparian proprietor of privately owned land abutting navigable Lake Quinault within the boundaries of the Olympic National Park a federal enclave.

All Judges in the several Courts have dismissed, one citizen, petitioner's complaint in favor of Indian sovereign immunity. All Judges did not consider the merits of the complaint, context of the Constitution, Treaty of Olympia or the denial of one citizen's civil/real property rights.

The United States claims it has done nothing wrong and to sue the United States is fruitless because the United States has sovereign immunity under the Supremacy Clause of the Constitution.

The United States claims it is the owner of the bed, water and shore land up to the ordinary high water mark and is holding it in trust for the Indians of the reservation as Indian land. This claim says the United States has or holds water rights to the entire water contained in the lake, thereby denying petitioner his water rights.

The McCarren Amendment allows the United States to be sued when water rights are in question. Petitioner is a riparian proprietor on the north shore of navigable Lake Quinault and has water rights to all water appurtenant to his private land. The 1862 Homestead Land Patent gives water rights to all appurtenances to the land.

The Constitution of the United States provides that all citizens are created equal and are entitled to all privileges and immunities of Citizens in the several States.

No new State shall be formed or erected within the Jurisdiction of any other State.

This Constitution, treaties, and the laws of the United States which shall be made, under the authority of the United States, shall be the supreme law of the Land; and the judges in every State shall be bound thereby.

The right of the people to be secure in their persons, houses, papers, and effects.

All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Petitioner is being denied due process of law, equal protections of the law, and denied access to the Congressional Act to equal justice by the claim of sovereign immunity of the Quinault Indian Tribe. The Quinault Indian Tribe has claimed ownership of petitioner's shore land, deprived egress/ingress to navigable water, deprived civil and real tangible/intangible property rights of petitioner. Petitioner has been harassed, intimidated, threatened with taking of property, color of the law violations by Quinault Indian Police, deprived the full enjoyment of his property.

The United States entered into the 1856 Treaty of Olympia with the Quinault, Quileute Indian Tribes and the two bands of those tribes, the Queets and the Hoh. The Federal Government recognizes the Quinault Indian Tribe as the Governing tribe over the Indians residing within the boundaries of the Quinault Indian

Reservation. The Congress of the United States enacted 25 U.S.C. Indians @ 1302 relating to self governing Indian Tribes. 25 U.S.C. sets the requirements for self governing Indian Tribes to use to be self governing.

The 1856 Treaty of Olympia is a part of the supreme law of the land and continues to be in 2022. As a law of the land, the Articles agreed to in the treaty are as valid today as the treaty was in 1856. The 12 year statute of limitations for Quiet Title Action does not apply to the signatory to the treaty of Olympia. The signatory to the treaty are bound by the language in the treaty as is the federal government.

Article 8 of the Treaty of Olympia describes the administrative process to follow when the signatory Indians to the treaty commit depredations upon the citizens. The signatory to the treaty promised and pledged themselves to commit no depredations upon the citizens and if any one or more of them violated that pledge or promise and it is proven before the agent, the United States can make redress out of their annuities. Indian agent did not respond and defaulted on his fiduciary duty.

25 U.S.C. @ 1302a, allows for redress of grievances against self governing Indian Tribes. Petitioner alleges Article 8 of the treaty and 25 U.S.C. is a waiver of sovereign immunity when the signatory to the treaty commit depredations upon such citizens and the Indian agent defaults on his/her fiduciary duty.

The United States is required to defend the dependent Indian tribes and claims the United States owns the bed, shore land and water contained within Navigable Lake Quinault and is holding such for the benefit of the Indians of the Quinault Indian Reservation as Indian land.

To determine the actual ownership of the bed, shore land and water within navigable Lake Quinault one must start at the beginning of the United States and its settlement of the western United States.

The 1787 Northwest Ordinance is the beginning and states:

- (1) "no man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land;"
- (2) "The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent;"
- (3) "The navigable Waters leading into the Mississippi and St. Lawrence, and the carrying places between them shall be common highways, and forever free, as well to the Inhabitants of the said territory, as to the Citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost or duty therefor."

The Congressional Act of May 18, 1796, An Act providing for the sale of the lands of the United States, in the territory northwest of the river Ohio, states:

"That all navigable rivers, within the territory to be disposed of by virtue of this act, shall be deemed to be, and remain public highways;

The 1815 and 1818 Treaties with England/Great Britain gave the citizens of England the freedom to use all navigable waters within the United States.

The 1846 Oregon Territory Treaty gave the United States 100% ownership of all things below the 49th parallel, including jurisdiction and ownership of all navigable waters, citizens and Inhabitants.

The 1848 Congressional Act to establish the territorial government of Oregon included the 1787 Northwest Ordinance as a part of the laws of the territory.

The 1853 Congressional Act to establish the territorial government of Washington included all the same laws applicable in the Oregon Territory to be applicable in the laws of the Washington Territory.

The Indian policy in the 1850's was to give the Indians occupancy of reserved agricultural land.

The United States entered into the 1856 Treaty of Olympia with the Quinault, Quileute Indian Tribes and the two bands of the tribes, Queets and Hoh. The Treaty of Olympia nor the 1873 Executive Order, reserved sovereign immunity to the signatory, to that treaty. The treaty does not include the tribes to be considered Nations.

The treaty did reserve a tract or tracts of land to be reserved for their use and occupancy to be selected by the President, surveyed and located on a map. (*Ownership of land, immunity or water was not included in the treaty nor the following 1873 Presidential Proclamation enlarging the original Quinault Reservation*)

The treaty of Olympia did not reserve self governance to the signatory to the treaty. The Federal Bureau of Indian Affairs was in control of the Indian Tribes until the Congress of the United States adopted 25 U.S.C Indians and section 1302 giving the Indian tribes self governance.

The Quinault Indian Tribe was authorized to be self governing in 1990.

Article 6 of the Treaty of Olympia allows the President to change or modify the boundaries of any Indian reservations at any time.

Article 8 of the Treaty of Olympia provides the administrative process for depredations committed upon the citizens if proven before the Indian agent. The Northwest Ordinance does not allow for the taking of the Indians property, but does

the Ordinance allow for the taking of property of the citizens of the United States by the Indians under the claim of sovereign immunity?

Article 13 of the treaty says the treaty is obligatory upon the signatory to the treaty, making the treaty a contract.

The 1866 and 1872 Congressional Mining Act severed navigable water from being considered disposable public lands. All navigable water was reserved to the States or any future States to join the Union.

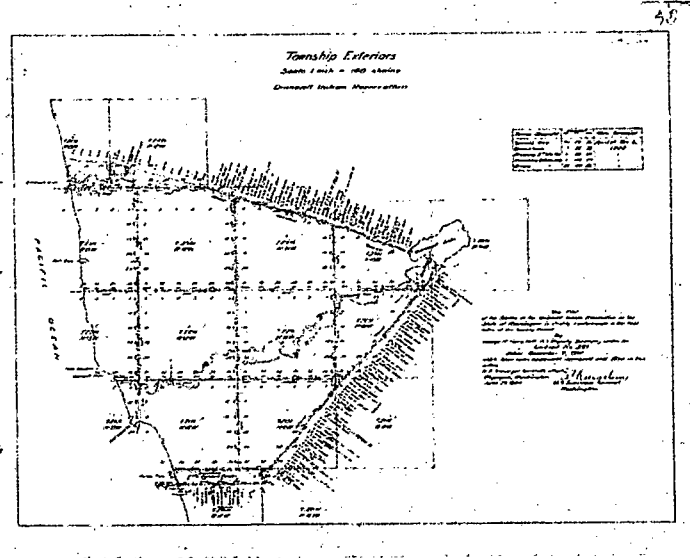
The Constitution of the United States is the obligatory document between the elected representatives of the people and the citizens of the United States.

The 1887 Dawes Act approved by Congress gave the government the authority to survey Indian reservations and give allotments to all the Indians within the Quinault Indian Reservation. All surplus land within the reservation was to be sold to the settlers.

The State of Washington entered the Union in 1889 under the enabling act admitting South Dakota, North Dakota and Montana into the Union on an equal footing with all the original States in all regards. The laws of the Territorial Period ended at the time of statehood, however, the Washington State Constitution, Article XVII asserts the States ownership of all navigable waters within the State and are owned by the State.

The Quinault Indian Reservation could not be allotted until the reservation was surveyed by the General Land Office and the first complete survey of the Quinault Reservation was completed in 1902 and accepted by the Surveyor General in 1904.

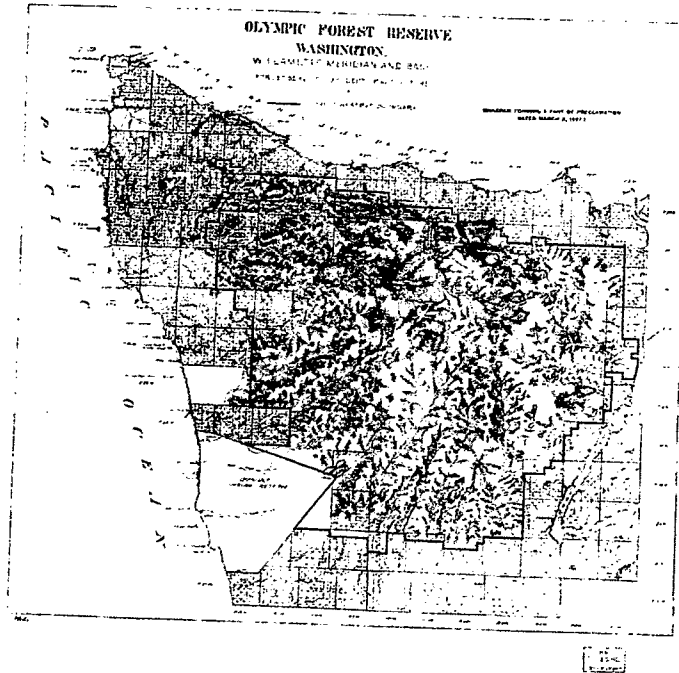
The first 1904 accepted survey of the Quinault Indian Reservation, reprinted here.



In 1897 the President of the United States established the boundaries of the Olympic Forest Reserve, by Proclamation, to include navigable Lake Quinault to be within the forest reserve.

In 1907 President Roosevelt enlarged the Olympic Forest Reserve with the third Proclamation, with the approval of the Congress, which included the lake to be within the forest reserve.

The 1907 proclamation map, approved by Congress



The three Presidential Proclamations approved by Congress have not been presented before a Court to determine the true boundary of the Olympic Forest Reserve. Instead the courts have been given the 1873 Executive Order as being the legal document giving ownership of the lake bed, shore land and water to the Quinault Indian Tribe.

The President of the United States has the legal power to alter, modify or change any previous executive order with another executive order or proclamation with the stroke of his pen. The three presidential proclamations in 1897, 1902 and 1907 modified the 1873 Executive Order issued by President Grant in 1873.

Petitioner's privately owned land on the north shore of navigable Lake Quinault was first settled in 1888/89 prior to any surveys by the federal government. When the Olympic Forest Reserve was established in 1897 the entire land surrounding the lake was included in the forest reserve.

The Historical Index of land ownership maintained by the Federal Bureau of Land Management validates the north, east and south shores of Lake Quinault are within the Olympic Forest Reserve as is the lake itself. However, on August 26, 2013, Land Surveyor of the Oregon State Office, BLM sends email stating the 1873 Executive Order issued in 1873 by President Grant is the document giving the Quinault Indian Tribe ownership of the lake bed, water and shore land up to the ordinary high water and declares the ordinary high water mark is ambulatory.

On March 25, 2019, sends an email with instructions on how to read the Historical Index of land ownership maintained by the BLM along with what Townships are within the Olympic Forest Reserve and the Quinault Indian Reservation. Lake Quinault is not within the Quinault Indian Reservation.

Under the Supremacy Clause of the Constitution the ownership of those government lots include all the exposed land to the ordinary low water mark and that included shore land.

When the President of the United States established the Olympic Forest Reserve in 1897, those government lots now belonged to the United States. When Mr. Higley purchased the several government lots on the north shore of the lake the ownership of the shore land to the ordinary low water mark came with the Homestead Land Patent issued in 1906.

The settlers used the Quinault River as the only highway to reach Lake Quinault, which is located some 30 miles inland from the Pacific Ocean using hired Quinault Indians and their canoes to reach the lake.

The western shore of navigable Lake Quinault is the east boundary of the Quinault Indian Reservation. The first accepted survey of the Quinault Indian

Reservation was accepted in 1904. The survey does not include the lake. The Dawes Act does not allow for the allotting of navigable water.

In 1924 the entire land area surrounding navigable Lake Quinault was designated as the Lake Quinault Recreational Area for the purpose of recreation for all people and for summer cabins. Government lots on the north shore of the lake were surveyed in 1924 into individual recreational lots.

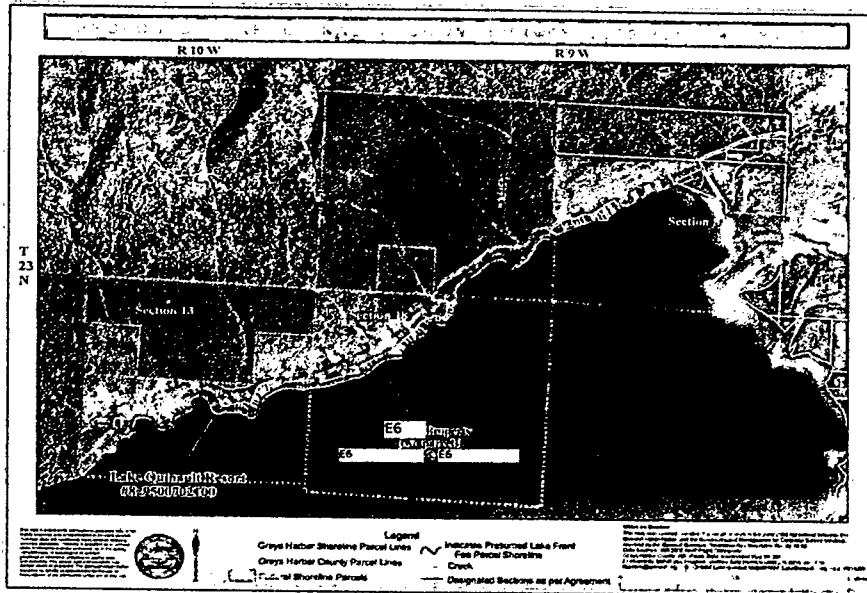
It is established law that all federally reserved land for a public purpose has the implied water rights to water adjacent to the reserved land in the amount needed to support the purpose of the reservation. The purpose of the Lake Quinault Recreational Area was for recreation for all people. Congressionally reserved Wilderness areas include water rights to any water appurtenant to the reserved land within one quarter of a mile of the reservation. Congress established the Daniel Evans Wilderness area on the north shore of the lake which is about 400 feet from the lake. Wilderness areas are for recreational opportunities for all people.

In 1938 the United States Congress established the Olympic National Park which included the north shore of navigable Lake Quinault and the privately owned land on the north shore of the lake. The private property owners objected to being included in the park and the north shore of the lake was excluded from the ownership of the park, but now became, In-holders, and now fell under federal law instead of state law.

Under Federal Law, the privately owned land was now within another sovereign government, the United States.

Next is the proposed map submitted to the BLM for the public land to be surveyed to be included within the Quinault Indian Reservation.

Red line indicates the private land to be surveyed by the BLM. Note; Non red line shore line is the Olympic National Park lands.



The Olympic National Park declares they do not have any rights in or upon the lake. (Winters Doctrine says they do) the Olympic National Park failed to protect the rights of the government and its citizens.

The United States claims it has done nothing wrong and petitioner has no vested interest in the lake. The United States has not held the Quinault Indian Tribe to the 1856 Treaty of Olympia. The United States has allowed the erosion of the Treaty of Olympia to the point of no return. Abrogation of the Treaty of Olympia has taken place. Which parts of the treaty are valid?

The United States did not enforce the re-location of the signatory to the treaty within one year after ratification of the treaty as stated in Article 2.

The United States has allowed the Quinault Indian Tribe exclusive fishing rights in the navigable Quinault River from the lake to the Pacific Ocean, eliminating the fishing in common with all the citizens as stated in Article 3. From 1862 to 1873 all citizens and Indians would have been able to fish in the water.

“The river is the table where all people come to eat.”

The United States paid the signatory to the Treaty of Olympia for all the land ceded to the United States as described in Article 4.

The United States reserved reservation land at the mouth of the Hoh and Quileute Indian Tribes on the rivers with their names as stated in Article 2.

The United States has now given the Quinault Indian Tribe its permission to totally ignore the depredations described in Article 8 of the Treaty by claiming sovereign immunity.

The United States gave the Quinault Indian Tribe the control of selling ardent spirits within the reservation which is in conflict with the Article 9 of the Treaty.

The United States allows the Quinault Indian Tribe the authority to sell products outside the United States, in conflict with Article 12 of the treaty.

The United States has made the Treaty of Olympia non-obligatory on the contracting parties in conflict with Article 13 of the treaty.

REASONS FOR GRANTING THE WRIT

THE COURT'S REVIEW WOULD CLARIFY RELATED AREAS OF LAW

Declaring navigable water is a federal question.

The United States did not retain ownership of water or navigable water, but held it in trust for any future State that was admitted to the Union.

The Quinault Indian Tribe is not the exclusive owner of the land or water within the boundaries of the Quinault Indian Reservation

Cooley V. United States, Generally, Tribal laws are not applicable to non Indians.

At statehood of Washington State and the adoption of its Constitution which declares the State is the owner of all navigable water within the State of Washington, up until the 1945 Court of Claims case "Quinaielt Tribe of Indians vs. United States No. 102 Ct.Cl. 822 (1945), which is relied upon by the United States as the Court case that gives ownership of the lake bed, water, and shore land up to the ordinary high water mark.

The reliance upon this case and the 1873 Executive Order are in direct conflict with the Historical Index of land ownership held and maintained by the General Land Office, now the Federal Bureau of Land Management.

On August 25, 2013, John D. McCauley, Land Surveyor, Oregon State Office, BLM, writes in an email to Guy Boudia stating the 1873 Executive Order enlarging the Quinault Indian Reservation is the legal document giving the Quinault Indian Tribe ownership of the lake to the tribe. The location of the Tribes boundary line at the lake is the ordinary high water mark; The tribe owns the land below the OHWM. The boundary is ambulatory which means the OHWM can change its location dependent on the normal elevation of the water in the lake. Our office has been dealing with the land status of the private and Federal properties along the north shore of the lake for the National Park Service and the Tribe for some time now. I was even sent by my office to the National Archives in Seattle to research the instructions for the original General Land Office Survey of the lake so I think we have a good handle on this issue.

Then on March 25, 2019, the same Mr. McCauley sent an email to petitioner with the instructions on how to read the Historical Index held and maintained by the Bureau of Land Management along with the a copy of the Index and the ownership of the Townships in Township 23 North, Range 10 West. The Index was

highlighted and shows Lake Quinault to be within the Olympic Forest Reserve in 1897. The 1907 Presidential Proclamation enlarging the Olympic Forest Reserve validates the lake is within the forest reserve and not the Indian reservation.

Subsequent later official surveys conducted by the Federal Bureau of Land Management as late as 1995 describe the east boundary of the Quinault Indian Reservation to be the west shore of navigable Lake Quinault.

The Quinault Indian Tribe and the Federal Bureau of Land Management knew or should have known the lake is not within the boundary of the Indian Reservation and should not have authorized the 2009 new meander survey of only the private property along the north shore of the lake as shown in the proposed map reprinted in this document.(pge 19)

Olympic National Park

The Olympic National Park was established in 1938 by Presidential Proclamation and included the entire north shore of the lake. The creation of the park was a public land transfer from the Olympic National Forest to the Olympic National Park. When looking at the proposed survey map (pge 19) of the north shore the red line for survey does not include the land owned by the park to the water edge.

The 1906 Land Patent issued to Mr. Higley included the entire surface of land not covered by water regardless of the water level.

Washington State Law describes the beds of navigable water bodies to be the line of navigability or about 4 feet of water. The reason is to give riparian proprietors access and open and free use of the navigable water.

The Washington State Public Trust Doctrine gives all people the right to use all navigable water within the State of Washington, regardless of ownership of the water.

CONCLUSION

The United States Supreme Court should Grant Writ of Certiorari to clarify the ownership of a five mile by 2 mile wide navigable Lake, what are the limits of the Quinault Indian Tribes sovereign immunity claims, who has the right to the free access and use of the navigable lake Quinault per the laws of the United States and the State of Washington, and what are the limits and definition of the full use and enjoyment of his land.

Why is the 1945 Quinaielt Indian Tribe v. United States redacted?

Respectfully submitted on February 4, 2022



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