No. 25-462

In the Supreme Court of the United States

CHINOOK LANDING, LLC, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

D. JOHN SAUER
Solicitor General
Counsel of Record
ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
ROBERT N. STANDER
Deputy Assistant Attorney General
SEAN MARTIN
JASON LEE
Attorneys
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

QUESTION PRESENTED

Whether the Quiet Title Act's 12-year statute of limitations, 28 U.S.C. 2409a(g), bars petitioner's claim asserting exclusive rights to a road that the government has used to access public power lines since 1955.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Statutes and rule:

In the Supreme Court of the United States

No. 25-462

CHINOOK LANDING, LLC, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-9a) is available at 2025 WL 1693163. The order of the district court (Pet. App. 10a-11a) is available at 2023 WL 2572613. The findings and recommendation of the magistrate judge (Pet. App. 12a-42a) are available at 2022 WL 19039088.

JURISDICTION

The judgment of the court of appeals was entered on June 17, 2025. On August 14, 2025, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including October 10, 2025, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. The Quiet Title Act (QTA), 28 U.S.C. 2409a, "authorizes (and so waives the Government's sovereign immunity from) a particular type of action, known as a quiet title suit: a suit by a plaintiff asserting a 'right, title, or interest' in real property that conflicts with a 'right, title, or interest' the United States claims." *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians* v. *Patchak*, 567 U.S. 209, 215 (2012) (quoting 28 U.S.C. 2409a(d)). Congress imposed various conditions on the QTA's waiver of sovereign immunity, including a statute of limitations providing that a quiet-title action (except one brought by a State) is "barred unless it is commenced within twelve years of the date upon which it accrued." 28 U.S.C. 2409a(g). Accrual occurs "on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States." *Ibid.* Although the QTA's 12-year statute of limitations is "unusually generous," *United States* v. *Beggerly*, 524 U.S. 38, 48 (1998), and is not jurisdictional, *Wilkins* v. *United States*, 598 U.S. 152, 155 (2023), it must—like other conditions on waivers of sovereign immunity—"be "strictly observed, and exceptions thereto are not to be lightly implied," *Block* v. *North Dakota*, 461 U.S. 273, 287 (1983); see *Wilkins*, 598 U.S. at 162.

2. a. The Bonneville Power Administration (BPA) is a federal agency that has marketed hydroelectric power in the Pacific Northwest for more than 80 years. See *Aluminum Co. of Am.* v. *Central Lincoln Peoples' Util. Dist.*, 467 U.S. 380, 382-383 (1984); Pet. App. 20a. In 1955, the United States acquired easements from multiple property owners for a BPA initiative to build and

maintain power transmission lines in the Oregon coast region. Pet. App. 16a.

As relevant here, the United States obtained "a perpetual easement" across a parcel of land in Tillamook County, Oregon. Pet. App. 50a. The easement included a "right to enter" the parcel and "erect, operate, maintain, repair, rebuild, and patrol one or more electric power transmission lines." *Ibid.* The United States also obtained "a permanent easement and right-of-way" across the parcel "for the purpose of constructing an access road." *Id.* at 52a. The access road was "to be used in connection with the aforementioned transmission line easement and right-of-way, together with such other rights and the right to construct such other appurtenant structures as are necessary to accomplish the purposes for which th[e] access road easement and right-of-way is granted." *Ibid.*

BPA exercised its easement rights "by building the access road and erecting transmission lines, towers, and related facilities on the easement area." Pet. App. 20a. BPA used a private road, Reeher Road, to reach the easement areas and complete those tasks. *Ibid.* Reeher Road was also made "the beginning point" of BPA's new access road. *Id.* at 29a; see *id.* at 3a. Those roads are depicted on a map reproduced in the petition appendix (*id.* at 101a): Reeher Road runs northwest from the Wilson River Highway, and the access road (labeled "BPA Road" and traced by the leftmost black line) branches off of Reeher Road, runs north, and then turns back south to reach the transmission lines.*

---

* Thus, although the map reproduced in the petition for a writ of certiorari (at 8) appears to depict Reeher Road with a green line, the blue line does not reflect the location of the BPA Road.

Since 1955, BPA has continued to use Reeher Road "at least annually" to transport equipment and personnel needed to maintain the transmission lines. Pet. App. 3a; see *id.* at 29a. Reeher Road remains "the only direct route" from the Wilson River Highway to "the easement area" because "alternative routes are overgrown and abandoned." *Id.* at 34a-35a.

b. The land at issue in this case, which encompasses portions of the United States' transmission-line easement and Reeher Road, has changed hands multiple times since 1955—first in 1972 and again in 2004, when John Lund, the original plaintiff in this action, acquired it. Pet. App. 20a, 53a.

By the 2010s, BPA had adopted a practice of trying to "minimize conflicts with landowners and to avoid exercising the power of eminent domain." Pet. App. 31a (brackets and citation omitted). BPA staff would seek permission from landowners to come onto their land even when existing easements authorized BPA to enter the property to, among other things, maintain and rebuild transmission lines. See *ibid.* In 2012, in preparation for a project to rebuild transmission lines, BPA approached Lund to negotiate a permanent easement for Reeher Road that would give BPA the right to grade, gravel, and add cuts and fills to the road as needed. See *id.* at 30a. Although BPA acquired similar easements from Lund's neighbors, negotiations with Lund failed. See *id.* at 3a. In 2014, Lund sent BPA an email "revok[ing] 'any formal or implied permission' to enter or cross his property." *Ibid.* (citation omitted). But "BPA continued to use Reeher Road as an entry route to the transmission lines." *Ibid.*

3. a. In 2019, Lund filed suit against the United States in the United States District Court for the Dis-

trict of Oregon. Pet. App. 4a. His amended complaint raised a QTA claim alleging that he has an exclusive interest in Reeher Road where it crosses his property. *Ibid.* He also brought an inverse condemnation claim under the Little Tucker Act, 28 U.S.C. 1346(a)(2), alleging that the government had taken his property without just compensation. Pet. App. 4a. The United States moved for summary judgment, and a magistrate judge recommended that the motion be granted. *Ibid.*

The magistrate judge first concluded that BPA had a right under the transmission-line easement "to use [Reeher Road] to enter the easement area to accomplish the purposes" of the easement. Pet. App. 36a (brackets in original); see *id.* at 23a-36a, 41a n.12. Based in part on principles of Oregon law, the magistrate judge found the easement's text ambiguous as to whether it included an implied "right of entry via" Reeher Road. *Id.* at 27a. But he determined that the ambiguity was resolved, and that BPA had such a right, in light of the "relevant surrounding circumstances." *Ibid.* (citation omitted). Those circumstances included the facts that Reeher Road is "the only viable route" to the transmission lines from the highway, *id.* at 28a, and that BPA had engaged in "immediate, continued, and sole use of [Reeher] Road to enter the transmission line right-of-way" since 1955, *id.* at 29a; see *id.* at 32a-36a; cf. *Motes* v. *PacifiCorp*, 217 P.3d 1072, 1078 (Or. App. 2009) (company's prescriptive easement to run transmission lines over private property included "a right to enter the subject property to maintain the lines and the surrounding vegetation").

The magistrate judge rejected Lund's contention that recent developments belied BPA's right to use Reeher Road. Pet. App. 30a, 35a-36a. Lund cited BPA's

attempt to acquire an easement from him in 2012; internal BPA records that he understood to "acknowledge[] 'inadequate land rights'" to the road; and communications he had received from two BPA contractors circa 2015. *Id.* at 30a (citation omitted); see *id.* at 35a. But the magistrate judge emphasized evidence that "it was always BPA's position" that it had the right to use Reeher Road and had sought an additional easement for other reasons, *id.* at 31a, as well as evidence that the contractors were not "authorized to speak on BPA's behalf regarding [its] legal rights," *id.* at 35a; see D. Ct. Doc. 46, at 2-5 (Sept. 21, 2021).

The magistrate judge also concluded that Lund's QTA claim was time-barred because his "predecessor[s] in interest knew or should have known" of the United States' interest in Reeher Road as early as 1955, so that the statute of limitations had expired in 1967. 28 U.S.C. 2409a(g); see Pet. App. 36a-40a. The magistrate judge rejected Lund's contention that the government had subsequently abandoned and reasserted its claim, finding "no facts showing 'clear and unequivocal' abandonment." Pet. App. 39a; see *id.* at 38a-40a. The magistrate judge likewise found Lund's inverse-condemnation claim untimely. *Id.* at 40a-41a.

b. The district court adopted the magistrate judge's recommendation in full and granted summary judgment to the government. Pet. App. 10a-11a. By the time of the court's decision, Lund had died and had been succeeded as plaintiff by petitioner, "a single member LLC wholly owned by Mr. Lund's widow." *Id.* at 4a n.3. Petitioner appealed, and the Ninth Circuit transferred the appeal to the Federal Circuit, which has exclusive jurisdiction over nontax cases in which the district court's

decision rested in whole or in part on the Little Tucker Act. *Id.* at 77a; see 28 U.S.C. 1295(a)(2).

c. The court of appeals affirmed in a nonprecedential decision. Pet. App. 1a-9a.

The court of appeals agreed with the district court that petitioner's QTA claim was untimely because petitioner's predecessors in interest had known or should have known in 1955 of BPA's claim of a right to use Reeher Road. Pet. App. 6a-7a. The court noted that BPA had started to use Reeher Road in connection with the transmission-line easement in 1955, had continued to use it "at least annually" thereafter, and had "built its BPA Road with its starting point on Reeher Road." *Ibid.* For much the same reason, the court rejected petitioner's contention that BPA had "acted in a way that reflected a belief that it had the right to use the road" only after Lund purported to revoke BPA's permission to use the road in 2014. *Id.* at 8a (citation omitted).

The court of appeals also concluded that petitioner's inverse-condemnation claim was untimely. Pet. App. 7a-8a. The court further explained that it had "considered [petitioner's] remaining arguments and [found] them unpersuasive." *Id.* at 9a.

ARGUMENT

Petitioner contends (Pet. 22-26) that its QTA claim is timely because the government abandoned its interest in Reeher Road before reasserting it in 2014. The Federal Circuit correctly rejected that contention. Contrary to petitioner's assertions, the court did not reject the *possibility* that the government's abandonment of a property interest could affect the running of the QTA's statute of limitations; its opinion is best read as simply holding that no such abandonment had occurred here.

The court of appeals' decision thus does not implicate any circuit conflict. And this case would be a poor vehicle to resolve the question presented, since petitioner's QTA claims would fail on the merits even if they were not time-barred. Further review is not warranted.

1. The court of appeals correctly held that petitioner's QTA claim is untimely. Pet. App. 6a-8a.

a. The QTA requires that any claim under the statute must be brought "within twelve years of the date upon which it accrued." 28 U.S.C. 2409a(g). A claim accrues "on the date the plaintiff or his predecessor in interest knew or should have known of the claim of the United States." *Ibid.* Inaction by a predecessor-in-interest therefore may foreclose efforts by a subsequent possessor of land to bring suit under the statute.

That is what happened here. BPA began to use Reeher Road to access the easement areas shortly after recording the transmission-line easement in 1955, and since then it has continued to use the road "at least annually" to reach and maintain the transmission lines. Pet. App. 6a-7a. Petitioner's predecessors-in-interest were thus on notice of the government's interest decades ago. Congress enacted the QTA's limitations provision to preclude stale land claims like petitioner's. See *Block* v. *North Dakota*, 461 U.S. 273, 283 (1983).

Petitioner suggests (Pet. 4, 9, 24) that until 2014, BPA used Reeher Road only by "permission." That is incorrect. Petitioner relies on Lund's assertion that his immediate predecessor-in-interest, who had acquired the land in 1972, claimed to have given BPA such permission. Pet. App. 8a, 30a n.9; see *id.* at 53a. Even if that statement were not inadmissible hearsay, it would shed no light on the state of affairs between 1955 and 1972, by which point the statute of limitations had ex-

pired. *Id.* at 8a, 30a n.9. Given that BPA built its access road off of Reeher Road, requiring use of Reeher Road to reach the transmission lines, see p. 3, *supra*, it is implausible that BPA viewed its use of Reeher Road as depending on the landowner's grace.

b. Petitioner principally argues (Pet. 3-5, 18, 22-26) that BPA abandoned its interest in Reeher Road beginning in 2011 and reasserted that interest in 2014, thereby restarting the QTA limitations period. In *Shultz* v. *Department of the Army*, 886 F.2d 1157 (1989), the Ninth Circuit held that, under the QTA, "[i]f the government has apparently abandoned any claim it once asserted, and then it reasserts a claim, the later assertion is a new claim and the statute of limitations for an action based on that claim accrues when it is asserted." *Id.* at 1161.

The lower courts correctly declined to apply that principle on the facts of this case. Pet. App. 8a, 10a-11a, 40a. As purported evidence of abandonment, petitioner cites (Pet. 18) a 2011 email from a BPA employee stating that BPA "ha[s] the transmission line easement but no easement for an access road" and describing Reeher Road as "a historical way to travel, not an easement," Pet. App. 91a; a 2014 email from a BPA contractor stating that BPA "wanted to secure the property rights," *id.* at 102a; and internal BPA communications from 2011 and 2018 referring to a lack of "documents giving BPA the right to use" Reeher Road and "inadequate land rights," *id.* at 80a-81a.

That evidence does not show abandonment. As noted, BPA continued to use Reeher Road throughout the relevant time period, which is inconsistent with abandonment. Statements that BPA lacked an easement that was specific to Reeher Road are consistent with the

view that BPA's right to use the road was implicit in the transmission-line easement. In rejecting petitioner's QTA claim on the merits, the magistrate judge found that such a right existed. See Pet. App. 36a. As BPA explained below, its pursuit of an easement from Lund merely reflected a policy of coordinating with landowners and a desire to "establish a permanent, defined route of travel that BPA could improve." D. Ct. Doc. 46, at 4; see *id.* at 2-3; see also Pet. App. 30a, 32a.

Petitioner's reliance on the internal and contractor communications is flawed for additional reasons. Intra-office governmental communications cannot "'bind the government' * * * such that they can effect an abandonment of property and stop the QTA's limitations clock." *Rio Grande Silvery Minnow (Hybognathus amarus)* v. *Bureau of Reclamation*, 599 F.3d 1165, 1187 (10th Cir. 2010) (citation omitted). Absent evidence that Lund was "aware of any of the [documents], they certainly could not have led [him] to believe that the United States had abandoned its" interest in Reeher Road. *Id.* at 1185. One of those records dates from 2018, four years after BPA's alleged reassertion of its interest. See Pet. 18. And petitioner does not rebut the evidence presented below that the contractors lacked authority to make representations on BPA's behalf about its legal rights, even assuming that they purported to do so. Pet. App. 35a.

The United States "cannot be deemed to have abandoned" a property interest unless it does so "'clearly and unequivocally.'" *Kingman Reef Atoll Invs., L.L.C.* v. *United States*, 541 F.3d 1189, 1201 (9th Cir. 2008) (citation omitted); see *Rio Grande*, 599 F.3d at 1185-1187; cf. 28 U.S.C. 2409a(e) (providing that a district court's jurisdiction under the QTA "shall cease" if "the United

States disclaims all interest in the real property or interest therein adverse to the plaintiff at any time prior to the actual commencement of the trial, which disclaimer is confirmed by order of the court"). Particularly given BPA's continuous use of Reeher Road throughout the relevant time period, petitioner cannot satisfy that standard.

The courts below therefore correctly rejected petitioner's contention that the government had abandoned and reasserted its interest in using Reeher Road and had thereby reset the QTA's limitations period. That fact-specific determination does not warrant this Court's review, see Sup. Ct. R. 10, particularly when, as here, the "district court and court of appeals are in agreement as to what conclusion the record requires." *Kyles* v. *Whitley*, 514 U.S. 419, 456-457 (1995) (Scalia, J., dissenting) (citing *Graver Tank & Mfg. Co.* v. *Linde Air Prods. Co.*, 336 U.S. 271, 275 (1949)).

2. Contrary to petitioner's contention (Pet. 16-22), the decision below does not implicate any disagreement among the courts of appeals. Petitioner asserts (Pet. 18) that the Federal Circuit deemed abandonment categorically "irrelevant" to when a QTA claim accrues, in conflict with decisions of the Ninth Circuit and several other courts of appeals that have recognized an abandonment rule in this context. See *Waibel Ranches, LLC* v. *United States*, No. 22-35703, 2024 WL 3384233, at *1 (9th Cir. July 12, 2024); *Michel* v. *United States*, 65 F.3d 130, 132 (9th Cir. 1995) (per curiam); *Shultz*, 886 F.2d at 1161 (9th Cir.); see also *F.E.B. Corp.* v. *United States*, 818 F.3d 681, 688 (11th Cir. 2016), abrogated on other grounds by *Wilkins* v. *United States*, 598 U.S. 152 (2023); *Rio Grande*, 599 F.3d at 1185 (10th Cir.); *Cheyenne Arapaho Tribes of Okla.* v. *United States*, 558 F.3d

592, 597 (D.C. Cir. 2009); *Spirit Lake Tribe* v. *North Dakota*, 262 F.3d 732, 739 (8th Cir. 2001), abrogated on other grounds by *Wilkins*, 598 U.S. 152; *Richmond, Fredericksburg & Potomac R.R.* v. *United States*, 945 F.2d 765, 770 (4th Cir. 1991), cert. denied, 503 U.S. 984 (1992).

As noted above, however, the Federal Circuit did not categorically reject the possibility that the government's abandonment of a property interest could restart the time for filing suit under the QTA. Although the court of appeals' opinion does not use the term "abandonment," the court explained that "BPA started using Reeher Road soon after recording the easement in 1955, BPA specifically built its BPA Road with a starting point on Reeher Road, and BPA continued to use Reeher Road to maintain the transmission lines." Pet. App. 8a. Particularly given the court's prior observations that BPA has used Reeher Road "[s]ince 1955" and has used the road "at least annually," *id.* at 3a, the opinion is best read as concluding that petitioner had failed to establish abandonment on the facts of this case. The magistrate judge had previously reached that conclusion, applying the same Ninth Circuit case law that petitioner invokes here. See *id.* at 36a-37a, 39a-40a (applying *Shultz*). And none of the decisions from outside the Ninth Circuit that petitioner cites held that the government had actually abandoned a claim for purposes of the QTA's statute of limitations. See *F.E.B. Corp.*, 818 F.3d at 688 (finding no abandonment); *Rio Grande*, 599 F.3d at 1185-1189 (same); *Spirit Lake*, 262 F.3d at 739-744 (same); *Richmond, Fredericksburg & Potomac R.R.*, 945 F.2d at 770 (same); *Cheyenne Arapaho*, 558 F.3d at 597-598 (affirming denial of discovery on abandonment claim); see also Pet. 19-22.

3. Finally, this case would be a poor vehicle for addressing the question presented because a ruling in petitioner's favor on the statute-of-limitations issue would not affect the ultimate outcome of petitioner's suit. See *Supervisors* v. *Stanley*, 105 U.S. 305, 311 (1882) (explaining that this Court does not grant a writ of certiorari to "decide abstract questions of law * * * which, if decided either way, affect no right" of the parties).

As petitioner acknowledged below, the district court rejected petitioner's QTA claim on the merits in addition to finding it untimely. Pet. App. 11a (district court adopting magistrate judge's findings and recommendation in full); *id.* at 23a-36a (magistrate judge applying Oregon real-property law and concluding that BPA has an implied right to use Reeher Road under the transmission-line easement); Pet. C.A. Br. 22 (recognizing that the district court had "analyz[ed] the merits of the quiet title claim"). Petitioner challenged the merits ruling in the court of appeals. Pet. C.A. Br. 40-52. After analyzing and affirming the district court's determination that petitioner's claims were time-barred, Pet. App. 8a, the court of appeals stated that it had "considered [petitioner's] remaining arguments and [found] them unpersuasive," *id.* at 9a.

The petition for a writ of certiorari does not raise any merits issue, which falls outside the scope of the question presented. See Pet. i. The unlikelihood that petitioner could ultimately prevail on the merits of its QTA claim, even if it could obtain reversal of the Federal Circuit's timeliness holding, provides a further reason to deny review.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
ADAM R.F. GUSTAFSON
Principal Deputy Assistant Attorney General
ROBERT N. STANDER
Deputy Assistant Attorney General
SEAN MARTIN
JASON LEE
Attorneys

DECEMBER 2025