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CASE NO. 20-35683
IN THE UNITED STATES COURT OF APPEALS

For the NINTH CIRCUIT

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THOMAS G. LANDRETH

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA
QUINAULT INDIAN NATION
DOES, Persons or Parties Unknown
Who may have an interest in property at
Township 23 North, Range 10 West,
Section 13, Lot 19,

Defendant,-Appellee.

PLAINTIFF-APPELLANT LANDRETH'S
INFORMAL BRIEF WITH 13,989 WORD AND
4 VOLUMES OF ADDENDUM AND EXHIBITS.
With four volumes,
Volume 1, 2, 3, 4 with 75 pages or less.

Appeal from the Judgment of the United States District Court
For the Western District of Washington
D.C. No. 3:20-cv-05333-RBL

Thomas G. Landreth
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Hoquiam, WA 98550
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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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9th Cir. Case Number(s) 20-35683

Case Name THOMAS G. LANDRETH, V. UNITED STATES ET AL /

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FOR THE NINTH CIRCUIT

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Case No. 20-35683

IN THE UNITED STATES FEDERAL COURT OF APPEALS

NINTH DISTRICT

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INFORMAL BRIEF with

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Congressional Act known as the Dawes Act of 1887 is the bases for the Indian Appropriations Act of 1891. Appropriations Act referred to in the Special Instructions to Deputy Surveyors in 1895. No NON-agricultural lands will be surveyed. Mountainous areas are not surveyable as agricultural lands.

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297. Department of the Interior, 1895, "yet, the location made under the said act upon unsurveyed land has always been required to be adjusted to the lines of public survey."

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300-302. 1891 Indian Appropriations Act. Fifty First Congress. Sess. II. Ch. 543. 1891, Page 17... *"For support and civilization of the Quinaelts and Quillehutes, including pay of employees, four thousand dollars."*

And Page 19... *"To enable the President to cause, under provisions of the act of February eight, eighteen hundred and eighty-seven, entitled "An act to provide for the Allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," such Indian reservations as in his judgment are, advantageous for agricultural and grazing purposes to be surveyed, or resurveyed, for the purposes of said act, and to complete the allotment of the same, including the necessary clerical work incident thereto in the field and in the office of Indian Affairs, and delivery of trust patents, so far as allotments shall have been selected under said act, forty thousand dollars."*

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H

304-305. 1965 letter to Area Director, Bureau of Indian Affairs, Portland, Oregon. *“That the Quinault Tribe is not the sole owner of the reservation was also noted by the Court of Claims (102 C.ls. 822) 1045.”*

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS G LANDRETH,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

JUDGMENT IN A CIVIL CASE

CASE NUMBER: C20-5333RBL

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- XX Decision by Court.** This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

THE COURT HAS ORDERED THAT

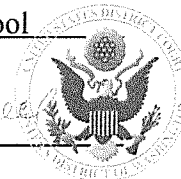
QIN's Motion to Dismiss Dkt. # 25 for lack of subject matter jurisdiction is GRANTED and Landreth's claims against QIN are DISMISSED without prejudice. Dft United States' Motion to Dismiss Dkt. 26 is GRANTED and Landreth's claims against it are DISMISSED for lack of subject matter jurisdiction. All remaining Motions Dkts 19 , 20 , and 22 are DENIED as moot. The matter is closed.

DATED: July 29, 2020

William M. McCool

Clerk

Deputy Clerk



HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS G LANDRETH,

Plaintiff,

v.

UNITED STATES OF AMERICA, et
al.,

Defendants.

CASE NO. C20-5333RBL

ORDER

[Dkt. #s 10, 19, 20, 22, 25, AND 26]

THIS MATTER is before the Court on the following motions: *Pro se* Plaintiff Landreth's Motion to Annex Additional Exhibits [Dkt. # 10]; Landreth's Motion for an Extension of Time [Dkt. # 19], Landreth's Motion to Un-Redact Information from the Bureau of Land Management or the Bureau of Indian Affairs [Dkt. # 20]; the United States' Motion to Stay Initial Disclosure Deadlines Pending Resolution of its Motion to Dismiss [Dkt. # 22]; The Quinault Indian Nation's Motion to Dismiss [Dkt. # 25]; and the United States' Motion to Dismiss [Dkt. # 26].

Landreth owns property abutting Lake Quinault in the Olympic National Park. This is at least his fourth attempt to obtain a judicial determination that the United States does not own the waters of and submerged lands under Lake Quinault (up to the ordinary high water mark) in trust for the benefit of the Quinault Indian Nation (QIN), but rather that Washington State owns those

lands and the United States or QIN has tortiously converted them. He claims the United States owes him a duty to protect his riparian rights. He seeks “quiet title” and \$250,000 damages.

Landreth was a plaintiff in *North Quinault Properties, LLC, et al. v Quinault Indian Nation et al.*, Cause No. 14-cv-6025RBL. This Court dismissed QIN and the Washington State Department of Natural Resources on May 5, 2015. A Judgment was entered on June 9, 2015, and Landreth did not appeal. [See Dkt. #s 23, 24, and 25 in that case].

Landreth sued again in state court, and lost. *N. Quinault Properties, LLC v. State of Washington*, Washington Superior Court, Thurston County, Case No: 15–2–01809–1, *aff’d*, 197 Wash. App. 1056 (2017). He sued a third time in the Federal Court of Claims, and lost. *Landreth v. United States*, No. 1:18-cv-00476, 144 Fed. Cl. 52, 54–55 (July 24, 2019), *aff’d*, 797 F. App’x 521, 522 (Fed. Cir. 2020).

Landreth’s new lawsuit asserts claims for (or at least quotes authorities discussing) the tort of conversion, the Quiet Title Act, the Equal Footing Doctrine, Public Trust Doctrine, and the 14th Amendment, among others. All appear to relate to his claim that QIN does not own the area between the low- and high-water marks (in front of his property, that land is 75 feet by 40 feet). It does not appear that he claims ownership of that area, but instead claims the QIN does not own it (and Washington State does). He seeks to enforce his riparian rights despite QIN’s determination to not allow adjacent landowners to use the lake.

The United States seeks dismissal, arguing that Landreth has not alleged and cannot allege that it did any act (or failed to do any act) causing his claimed injury. It claims it has sovereign immunity, depriving this Court of subject matter jurisdiction over Landreth’s claims. It also argues that Landreth cannot state a claim under the Quiet Title Act (QTA) 28 U.S.C § 2409a because he does not claim ownership of the “disputed land”—adjacent to his property, between

1 the Lake's ordinary high and low water marks—and even if he did, the QTA specifically does
2 not waive sovereign immunity where the disputed property is “trust Indian land.”

3 QIN similarly seeks dismissal of all Landreth's claims against it, arguing that it has
4 sovereign immunity from suit, which it has not waived, and that the QTA bars the relief Landreth
5 seeks. It suggests that Landreth's Motion to Annex [Dkt. # 10] additional documents to his
6 Complaint might be construed as an amended complaint, and its Motion to Dismiss appears to
7 address the complaint including the proposed annexed exhibits. For that reason, Landreth's
8 Motion to Annex Additional Exhibits [Dkt. # 10] is **GRANTED**.

9
10 A complaint must be dismissed under Rule 12(b)(1) if, considering the factual allegations
11 in a light most favorable to the plaintiff, the action: (1) does not arise under the Constitution,
12 laws, or treaties of the United States, or does not fall within one of the other enumerated
13 categories of Article III Section 2 of the Constitution; (2) is not a case or controversy within the
14 meaning of the Constitution; or (3) is not one described by any jurisdictional statute. *See Baker v.*
15 *Carr*, 369 U.S. 186, 198 (1962); *see also D.G. Rung Indus., Inc. v. Tinnerman*, 626 F.Supp.
16 1062, 1063 (W.D. Wash. 1986); 28 U.S.C. §§ 1331 and 1346. When considering a motion to
17 dismiss under Rule 12(b)(1), a court is not restricted to the face of the pleadings, but may review
18 any evidence to resolve factual disputes concerning the existence of jurisdiction. *See McCarthy*
19 *v. United States*, 850 F.2d 558, 560 (9th Cir. 1988), *cert. denied*, 489 U.S. 1052 (1989); *see also*
20 *Biotics Research Corp. v. Heckler*, 710 F.2d 1375, 1379 (9th Cir. 1983). A federal court is
21 presumed to lack subject matter jurisdiction until the plaintiff establishes otherwise. *See*
22 *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375 (1994); *see also Stock West, Inc. v.*

1 *Confederated Tribes*, 873 F.2d 1221, 1225 (9th Cir. 1989). Landreth bears the burden of
2 establishing subject matter jurisdiction. *See Stock West*, 873 F.2d at 1225.

3 The United States points out that under the 1855 Treaty of Olympia, all of Lake Quinault
4 is within the Quinault Reservation. *See Quinault v. United States*, 102 Ct. Cl. 822 (1945). It
5 argues that it has sovereign immunity and that Landreth has not and cannot tie his alleged injury
6 to any act or omission of the United States over the past century.

7 Where a claim is asserted against the United States, the question of subject matter
8 jurisdiction is inextricably tied to the doctrine of sovereign immunity. *See, Roberts v. United*
9 *States*, 498 F.2d 520, 525 (9th Cir. 1974), *cert. denied*, 419 U.S. 1070 (1974) (axiomatic that a
10 congressional waiver of sovereign immunity is a prerequisite to any suit brought against the
11 United States). And any action against the United States begins with the “assumption that no
12 relief is available.” *Tucson Airport Authority v. General Dynamics Corp.*, 136 F.3d 641, 644 (9th
13 Cir. 1988). It is therefore the burden of any party advancing a claim against the United States to
14 plead and prove that a statutory waiver of sovereign immunity exists. If the claimant fails to
15 carry that burden, the Court has no jurisdiction to entertain the claim. *See Holloman v. Watt*, 708
16 F.2d 1399, 1401 (9th Cir. 1983), *cert. denied*, 466 U.S. 958 (1984).

17 The United States argues that Landreth has no colorable claim under the QTA because he
18 does not claim that he owns the disputed area, but rather that Washington State does (and QIN
19 does not). Such a claim is not one within the QTA. *Match-E-Be-Nash-She-Wish Band of*
20 *Pottawatomi Indians v. Patchak*, 567 U.S. 209, 215-225 (2012). Thus, it claims, the QTA is not a
21 waiver of sovereign immunity allowing Landreth to assert such a claim against the United States
22 here.

1 Furthermore, and in any event, the QTA expressly does *not* include a waiver of sovereign
2 immunity where the disputed land is Indian land:

3 The United States may be named as a party defendant in a civil action under this
4 section to adjudicate a disputed title to real property in which the United States
claims an interest, other than a security interest or water rights. *This section does
not apply to trust or restricted Indian lands*[.]

5 28 U.S.C. § 2409a(a) (1978) (emphasis added). *See State of Alaska v. Babbitt*, 38 F.3d 1068
6 1072 (9th Cir. 1994); *and United States v. Mottaz*, 476 U.S. 834, 843 (1986). The QTA also
7 includes a 12-year limitations period, which would have accrued when QIN first started treating
8 the “disputed” property as its own. The United States points out that it did so at least three times
9 that Landreth has identified, the latest of which was 1977.

10 Landreth’s response does not address these issues. Instead, he repeats his allegations that
11 the Lake is navigable water, and that it is in the National Park. He reiterates his core factual
12 claim that QIN engaged in an “armed take over” of the navigable lake in 2013, when it decided
13 to close Lake Quinault to non-Indian users, including those with waterfront property on the lake.

14 The Court does not have subject matter jurisdiction over Landreth’s QTA claim against
15 the United States and its Motion to Dismiss on that basis is **GRANTED**, and Landreth’s QTA
16 claim is **DISMISSED**.

17 The United States also argues the Court does not have subject matter jurisdiction over
18 Landreth’s conversion claim, if he indeed asserts such a claim against it. Landreth seeks
19 \$250,000 from the United states for the tort of conversion. Tort claims against the United States
20 must be filed under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b); 2671-2680; *and*
21 *see Brown v. Bode Constr.*, No. 16-CV-01148-JSC, 2016 WL 1588382, at *3 (N.D. Cal. Apr. 20,
22 2016). The FTCA requires a claimant to file an administrative claim as a prerequisite to filing a
23
24

lawsuit. The United States points out that Landreth did not do so. The United States' Motion to Dismiss Landreth's tort claim against it is **GRANTED** and that claim too is **DISMISSED**.

Furthermore, this Court does not have jurisdiction over Landreth's claim for money damages over \$ 10,000. Under the "Tucker Act," 28 U.S.C. § 1491, the United States Court of Federal Claims has exclusive jurisdiction over such claims. *Lexington Ins. Co. v. United States*, No. 3:20-CV-05038-RBL, 2020 WL 3000777, at *3 (W.D. Wash. June 4, 2020).

For these reasons, the United States' Motion to Dismiss [Dkt. # 26] is **GRANTED** and Landreth's claims against it are **DISMISSED** for lack of subject matter jurisdiction.

Native American tribes and their governing bodies possess sovereign immunity and may not be sued absent express and unequivocal waiver of immunity by the tribe or abrogation of immunity by Congress. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58–59 (1978).

As a federally recognized Indian Tribe, QIN enjoys sovereign immunity from suit. *See Bodi v. Shingle Springs Bank of Miwok Indians*, 832 F.3d 1011, 1016 (9th Cir. 2016) ("Among the core aspects of sovereignty that tribes possess is the common-law immunity from suit traditionally enjoyed by sovereign powers.") (Internal quotations and citations omitted). Sovereign immunity bars suit absent a clear waiver, congressional abrogation, or application of the *Ex Parte Young* exception. *See Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indians Tribe of Oklahoma*, 498 U.S. 505, 509 (1991); *see also Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2035 (2014). A waiver "cannot be implied but must be unequivocally expressed" *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58 (1978), and a waiver as to one claim does not waive sovereign immunity as to other claims. *See Oklahoma Tax Comm'n*, 498 U.S. at 509.

1 QIN's motion is based on a simple and powerful argument: it has not waived its
2 sovereign immunity, and the Court does not have subject matter jurisdiction over Landreth's
3 claims against it:

4 *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 788, 134 S. Ct. 2024, 188
5 L.Ed.2d 1071 (2014) (citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98
6 S.Ct. 1670, 56 L.Ed.2d 106 (1978)). Tribal sovereign immunity "is a necessary
7 corollary to Indian sovereignty and self-governance." *Three Affiliated Tribes of the*
8 *Ft. Berthold Reservation v. Wold Eng'g, P.C.*, 476 U.S. 877, 890, 106 S.Ct. 2305, 90
L.Ed.2d 881 (1986). It shields Indian tribes, for both on- and off-reservation conduct,
from suit absent unequivocal and express authorization by Congress or clear waiver
by the tribe. *Bay Mills Indian Community*, 572 U.S. at 789. Courts will not assume
such an abrogation lightly. *Id.* at 790.

9 [QIN's Motion, Dkt. # 25 at 14].

10 The bulk of Landreth's Response does not address this argument, but instead
11 describes the history of the land, the Treaty of Olympia, the QIN reservation, Washington
12 State, and Olympic National Park. He reiterates that the lake is navigable and claims that
13 under Washington law, the public has an interest in the use of navigable waters and their
14 underlying lands. He claims that the Court has jurisdiction to resolve disputes over the lake
15 and the Treaty:

16 This Court definitely has subject matter jurisdiction over my complaint for Quiet Title and the
17 Tort activities of the Quinault Indian Tribe/Nation. The entire navigable Lake Quinault is
18 surrounded with federally reserved land for recreational purposes and the making of any
19 decision regarding the navigable Lake Quinault is a Federal Question.

20 [Landreth's Response, Dkt. # 27 at 32].

21 Landreth's claims are inconsistent with settled law.

22 QIN also argues that Landreth cannot state a claim to "remove the cloud of ownership on
23 his property" under the QTA:

1 The Indian land exception to the QTA's waiver of the United States' immunity
2 creates an "insuperable hurdle" to suits to challenge the government's interest in
3 Indian trust or restricted land. *Id.* at 1075. It also applies without regard to
4 whether there is an alternate means of review and may leave a party with no
5 forum for its claims. *Id.* at 1077 (citing *Makah Indian Tribe v. Verity*, 910 F.2d
6 555, 560 (9th Cir. 1990)).

7 [Qin's Motion Dkt. # 25 at 20]. This is correct, and Landreth seems to concede as much, though
8 he points out that that would leave him with no recourse. His frustration is understandable, but
9 the fact that he has no remedy is not a basis for inferring a waiver of sovereign immunity, or
10 ignoring the QTA's plain language.

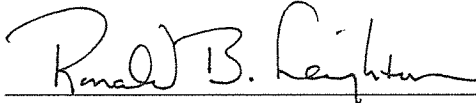
11 Finally, Landreth's remaining claims (for money damages, possible criminal prosecution,
12 and potential renegotiation of the Treaty of Olympia) are baseless and do not cure the fatal-to-
13 his-claims jurisdictional problem.

14 QIN's Motion to Dismiss [Dkt. # 25] for lack of subject matter jurisdiction is
15 **GRANTED** and Landreth's claims against QIN are **DISMISSED**. Because the Court does not
16 have the power to adjudicate his claims, the dismissal is without prejudice. Landreth should not
17 view that legal determination as an invitation to file a fifth lawsuit on this topic.

18 All remaining Motions [Dkt. #s 19, 20, and 22] are **DENIED** as moot. The matter is
19 closed.

20 IT IS SO ORDERED.

21 Dated this 29th day of July, 2020.

22 

23 Ronald B. Leighton
24 United States District Judge

WAWD – Notice of Civil Appeal (Revised 4/6/2017)

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| AUG 03 2020 | |
| CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA | |
| BY | DEPUTY |

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Thomas G. Landreth

NOTICE OF CIVIL APPEAL

Plaintiff(s),

v.

Case No 3:20-cv-05333RBL

United States et. al
and Quinault Indian Tribe

District Court Judge

Defendant(s).

Honorable Judge Leighton

Notice is hereby given that Thomas G. Landreth
(Name of Appellant)

appeals to the United States Court of Appeals for the Ninth Circuit from

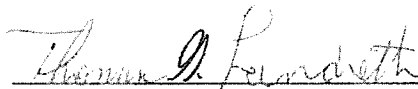
ORDER Document 29
(Name of Order/Judgment)

entered in this action on 07/29/2020
(Date of Order)

Dated: 07/29/2020

Thomas G. Landreth
425 Chenault Avenue
Hoquiam, WA 98550
tbland100@gmail.com

Name, Address and Phone Number of Counsel for
Appellant or Appellant/*Pro Se*


Signature of Counsel for Appellant or
Appellant/*Pro Se* 7-31-2020

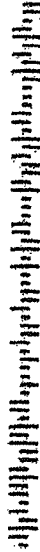
Mr. Thomas Landreth
425 Chenault Ave.
Hoquiam, WA 98550

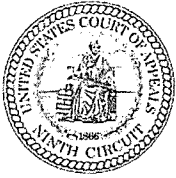


U.S. DISTRICT COURT
CLERK'S OFFICE
1717 PACIFIC AVENUE
TACOMA, WA 98402-3200

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98402-320099





Office of the Clerk
United States Court of Appeals for the Ninth Circuit
Post Office Box 193939
San Francisco, California 94119-3939
415-355-8000

Molly C. Dwyer
Clerk of Court

August 04, 2020

No.: 20-35683
D.C. No.: 3:20-cv-05333-RBL
Short Title: Thomas Landreth v. USA, et al

Dear Appellant/Counsel

A copy of your notice of appeal/petition has been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit. The U.S. Court of Appeals docket number shown above has been assigned to this case. You must indicate this Court of Appeals docket number whenever you communicate with this court regarding this case.

Motions filed along with the notice of appeal in the district court are not automatically transferred to this court for filing. Any motions seeking relief from this court must be separately filed in this court's docket.

Please furnish this docket number immediately to the court reporter if you place an order, or have placed an order, for portions of the trial transcripts. The court reporter will need this docket number when communicating with this court.

The due dates for filing the parties' briefs and otherwise perfecting the appeal have been set by the enclosed "Time Schedule Order," pursuant to applicable FRAP rules. These dates can be extended only by court order. Failure of the appellant to comply with the time schedule order will result in automatic dismissal of the appeal. 9th Cir. R. 42-1.

Payment of the \$505 docketing and filing fees is past due. Failure to correct this deficiency may result in the dismissal of this case for failure to prosecute. See 9th Cir. R. 42-1. The fee is payable to the District Court.

Appellants who are filing pro se should refer to the accompanying information sheet regarding the filing of informal briefs.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 04 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

THOMAS G. LANDRETH,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA;
QUINAULT INDIAN NATION;
DOES, Persons or Parties Unknown
who may have an interest in property at
Township 23 North, Range 10 West,
Section 13, Lot 19,

Defendants - Appellees.

No. 20-35683

D.C. No. 3:20-cv-05333-RBL
U.S. District Court for Western
Washington, Tacoma

TIME SCHEDULE ORDER

The parties shall meet the following time schedule.

Fri., October 2, 2020

Appellant's opening brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

Mon., November 2, 2020

Appellees' answering brief and excerpts of record shall be served and filed pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

The optional appellant's reply brief shall be filed and served within 21 days of service of the appellees' brief, pursuant to FRAP 31 and 9th Cir. R. 31-2.1.

Failure of the appellant to comply with the Time Schedule Order will result in automatic dismissal of the appeal. See 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: John Brendan Sigel
Deputy Clerk
Ninth Circuit Rule 27-7

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

____Thomas G. Landreth____
Appellant(s),

9th Cir. Case No. _20-35683

vs.

District Court or
BAP Case No. C20-53333RBL

____United States, et al.
Appellee(s).

APPELLANT'S INFORMAL OPENING BRIEF

(attach additional sheets as necessary, up to a total of 50 pages including this form)

JURISDICTION. This information helps the court determine if it can review your case.

1. Timeliness of Appeal:

- a. What is the date of the judgment or order that you want this court to review? __July 29, 2020_____
- b. Did you file any motion, other than for fees and costs, after the judgment was entered? Answer yes or no: _____NO
 - If you did, on what date did you file the motion? __
 - For prisoners or detainees, what date did you give the motion to prison authorities for mailing? _____
 - What date did the district court or bankruptcy appellate panel (BAP) decide the motion that you filed after judgment?

What date did you file your notice of appeal? ____August 4, 2020
c.

- For prisoners or detainees, what date did you give your notice of appeal to prison authorities for mailing? _____

FACTS. Include all facts that the court needs to know to decide your case.

What are the facts of your case?

FACTS. Include all facts that the court needs to know to decide your case.

2. What are the facts of your case?

3. The Western District Court's decision (DKT 29) determined the Appellant does not have a colorable claim of ownership of the shore land between the ordinary high water and the bed of navigable Lake Quinault (pg. 298-300, pictures)
4. The Western District Court's decision (DKT 29) decided that Appellant's complaint is over a century late; however, in *Johnson v. United States*, 544 U.S. 305 (2005) the court said "calling it "highly doubtful" that Congress would intend on pursuing a claim to expire before the claim arose". The United States admits Appellant's shore land ownership is in dispute and claims that when the QIN first started claiming ownership of the disputed property is the time the 12-year statute begins. Appellant's harm began on April 15, 2013, and continues today in 2020. (*Johnson v. United States*)
5. Documents used by the Western District Court's decision (DKT 29) determining the Quinault Indian Tribe ownership of Lake Quinault are The 1856 Treaty of Olympia (Binding contract) between the Quinault, Quilleute Indian Tribes and two bands and the 1873 *Executive Order* enlarging the first reservation established in 1862 from 42,000 acres of land to approximately 200,000 acres of land. (pg. 96-99, 101, 102, 103)
6. The 1945 decision by the Court of Claims did not consider the public land laws of the United States in this case, in regard to the General Land Office Survey Manual dated 1890 and 1894. Mountains not suitable for survey shall not be surveyed. (pg 130-133)
7. The Western District Court's decision (DKT 29) asserts the *Quinault v. United States*, 102 Ct. Cl. 822 (1945) places the lake bed and water within the

boundary of the Quinault Indian Reservation and Appellant cannot tie his alleged injury to any act or omission of the United States over the past century. This case is about the land north and west of the lake and does not place the lake in the reservation. (pg. 223-235)

The following are acts and/or omissions of the United States:

- a. The State of Washington and the Federal Government did not take any actions to end the QIN armed takeover of Lake Quinault in 2013 and subsequent denial of Appellant's civil rights. The armed and unarmed QIN tribal police patrols on the lake in 2013 displayed a threat of harm if directives of the QIN were not met. Threats of confiscation of property with unknown penalties and directives to obtain permits to enter any land below the ordinary high-water mark falls under a tortuous act. (25 U.S. @1302) (pg. 148)
- b. The Superintendent of the Olympic National Park did not raise any public objection to the illegal acts of the QIN and has continued to support the QIN by inaction of fulfilling the purpose of the Olympic National Park, and that is the purpose of recreation.
- c. The Bureau of Land Management (BML) failed to provide the proper Historical Index during the 1945 Court of Claims decision.
- d. The BML failed to provide accepted and approved maps of the time period to the 1945 Court of Claims decision.
- e. The United States Government failed to produce evidence including Presidential Proclamations to disprove the QIN allegations of a survey error during the 1945 Court of Claims decision.
- f. The Appropriations Act of 1891 did not permit for the survey of non-agricultural land. Hence, surveyors were prohibited from surveying or including the mountainous areas of the Lake Quinault region to be included in the reservation. This information was not provided by any government agent during the 1945 Court of Claims decision.
- g. The Director of the Washington State Department of Ecology failed to act on or after April 16, 2013, after the QIN sent a letter informing of lake closure and intent to enforce Lake Quinault with QIN tribal police using **QIN tribal laws**.
- h. The United States failed its Public Duty Doctrine and Administrative Procedure Act with permissive actions supporting the illegal actions committed by the QIN.
- i. The Federal and State Government has failed to provide protection to the citizens of the United States when a separate, sovereign government commits harm on such citizens.

- j. Officers of the Federal and State Courts have not upheld the Laws and Constitution of the United States to protect the rights of citizens for equal justice.
 - k. The United States failed to act and uphold the United States Supreme Court *Cappaert v. United States* decision. When the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation.The doctrine applies to Indian reservations and other federal enclaves, encompassing water rights in navigable and non-navigable streams.
 - l. The Government allowed the QIN to deny access and deny use of a common public highway of Commerce violates the Public Duty and Public Trust Doctrine.
8. The Western District Court's decision claiming United States to be the Title Holder of the bed of the lake and the water held in trust for the Indian Tribes violates the Equal Footing Doctrine, Public Trust Doctrine, Constitution, and Federal Laws. (pg. 193) (pg. 177-179)
9. The Western District Court's decision (DKT 29) falsely claims QIN ownership of the lake bed and water and holds in trust for the Indians of the reservation and implies all actions taken prior to 1920 are not relevant to Appellant's complaint. This new decision by DKT 29 does not specify when the United States began ownership of the lake bed and water. The signing of the 1846 Oregon Territory Treaty and Presidential proclamations establishing the Olympic Forest Reserve in 1897/1902/1907 do not provide ownership to the QIN. Navigable public highways are to remain open and free to all people forever. (pg. 81)
10. Appellant is a property owner on the North Shore of Lake Quinault, in the county of Grays Harbor in the state of Washington. Appellant has asserted ownership of the shore land in front of his private property on the north shore of the lake by using the Federal Bureau of Land Management Glossary submitted with this brief as a riparian owner of land within a federal enclave in the State of Washington. The 1906 Land Patent submitted with Appellant's original complaint states there are real property rights to all appurtenances to Appellant's private land. That would include the shore land and the lake. The county title search states Appellant owns the upland.

11. The closure of the Lake Quinault denied the Appellant's civil, real and incorporeal rights as a riparian/littoral owner of private property abutting navigable LQ within the boundaries of the Olympic National Park, a federal enclave.
12. Appellant alleges the *Johnson v. United States*, 544 U.S. 305 (2005) stating (calling it "highly doubtful" that Congress would intend for a time limit on pursuing a claim to expire before the claim arose). The Appellant's harm began on April 15, 2013, and continues today due to the claims of sovereign immunity by sovereign governments. The barring of Appellant's Quiet Title Action over admittedly disputed ownership of shore land is repugnant to the Constitution of the United States, 5th Amendment, 14th Amendment, equal justice under the law, Civil Rights Act, U.S. Statutes, and Washington State Laws.
13. The Quinault Indian Nation closed navigable Lake Quinault (LQ) to all non-Quinault Indian Tribal Members on April 15, 2013. The closure came with demands to remove all docks and intrusions with unknown penalties if Appellant did not comply with these demands by the mandated December 31, 2013. No official documentation was provided by the QIN proving their claimed ownership of the bed of LQ up to the ordinary high-water mark. (pg. 180-192)
14. The Quinault Indian Nation/Tribe (QIN) closure to navigable Lake Quinault denied Appellant and Appellant's family ownership (usufruct) rights of Appellant's shore land between the ordinary high-water mark and the bed of navigable Lake Quinault for any and all recreational purposes on April 15, 2013. The closure denied Appellant's ingress and egress from using the surface water for all recreational purposes placing a cloud of ownership over Appellant's real property. (pg. 180-192)
15. The QIN sent a letter to the Director of the Washington State Department of Ecology on April 16, 2013, informing the Department Ecology of the State of Washington, LQ is closed and will be enforced by the QIN tribal police using **QIN tribal laws**. The QIN proceeded to enforce the closure with armed and unarmed QIN police patrols thereby displaying the threat of harm for noncompliance of their directives. (Color of Law)(Diversity Jurisdiction) (pg. 236)

16. All navigable water during the territorial period of the Washington Territory remained as common public highways and the Constitution of the State of Washington continued all laws in force during the territorial period to continue in Washington State. Article XXVII Section 2 of the Washington State Constitution.
17. Public Law 280 provides the knowledge the State of Washington retained jurisdiction over all non-Indians on all highways, roads etc. within the land boundary of the reservation. This is in compliance with the Treaty of Olympia. Banning the use of a common public highway such as navigable waters is outside the jurisdiction of the Quinault Tribal Police.
18. The QIN acknowledges the Quinault River was used by them for thousands of years as a means to travel from one place to another and for commerce.
19. All navigable water in the United States is inalienable when it has or may be used for commerce. All citizens have the paramount right to use all navigable water for commerce, navigation and fishing.
20. It is established law that all federally reserved land for a public purpose has the implied right to all water within or appurtenant to the reserved land in the amount needed to support the purpose of the reservation. (pg. 195)
21. "A treaty is a contract, a binding and legal agreement, between two or more sovereign nations." (pg. 98)
22. The United States has the fiduciary duty under the Administrative Procedure Act to enforce all binding contracts and the laws of the United States. The Treaty of Olympia is a part of the law of the land. Appellant's civil, real and incorporeal property rights are protected by the Constitution of the United States which is the supreme law of the land. Express Trust (fiduciary responsibility) between the United States and its people.
23. Indian Tribes have a unique status in the American system of government. They are neither foreign nations, nor exactly like states. Tribes are distinct political communities, defined in law as "domestic, dependent nations," In its 1831 *Cherokee Nation v. Georgia Decision*, the Supreme Court described the obligation of the United States to tribes as that of a guardian to his wards. Subsequent court decisions have made it clear that the agencies of the federal government are to be held to the most stringent "fiduciary" (trust) standards."

A binding contract holds a fiduciary (trust) standard to be the same for all signatory to the binding contract.

24. Tribal members have dual citizenship. They are subject to 25 U.S.C. @ 1302 and tribal laws and authorities and can exercise sovereign rights reserved at the time their treaties were enacted. All Tribal people, since 1924 have also been citizens of the United States, subject to its laws and authorities, privileges and rights.
25. Individual Indians have the usufructory rights as property rights to use others property, but Appellant has been denied usufructory property rights to use navigable Lake Quinault (common public highway) which is appurtenant to appellant's privately-owned land abutting the lake.
26. The QIN admits in the 1977 publication *Handbook on Legislation and Litigation Affecting the Quinault Reservation* the following: In 1872 R.H. Milroy was Superintendent of Indian Affairs in Washington Territory and he recommended enlarging the Quinault reservation for several reasons. By enlarging the reservation, Milroy hoped to make it a suitable place for more coastal Indians to fish. The larger reservation would have an additional fishery at Queets and perhaps another one at Lake Quinault, also there would be a larger **amount of agricultural land**. This was the significant because the United States at that time had a policy of encouraging the Indians to become farmers.
27. The QIN is the federally recognized Indian Tribe to govern all the Indians residing upon the Quinault Reservation under Quinault Tribal Law, under their own Constitution. The Quinault Tribal Members are subject to two separate Constitutions and laws. One within the reservation and one without the reservation. Thus, creating citizens in two separate states or diversity jurisdiction living under separate and different laws.
28. The QIN is a federally established governmental entity similar to a State receiving and spending tax payer funds. With taxpayer funds, the QIN has a fiduciary responsibility to uphold all agreements made by them. For example, the QIN receives Treated as a State Status by the Environmental Protection Agency regarding the Clean Water Act.
29. Although the Western District Court used these two documents in their decision, neither the Treaty of Olympia nor the 1873 Executive Order

expressly gives the ownership of water or land under the water to the Indian Tribes. "*Around the east shore*" is not explicit because the only information available to the President in 1873 was the knowledge that a lake existed in the area. The land was un-surveyed and remained un-surveyed until 1891, after Washington entered the Union in 1889. The first accepted General Land Office Survey of the enlarged Quinault Indian reservation did not occur until 1904 in preparation for the issuing of allotments to the Indians under the 1887 Dawes Act and in compliance with Article 6 of the Treaty of Olympia and Article 6 of the Treaty with the Omahas. (pg. 102-103)

30. Congressional power was given to the President in 1891 to establish national forests with Presidential Proclamations which override Executive Orders. The 1873 Executive Order enlarging the Quinault Reservation was not ratified by Congress. (pg. 114-129)
31. It is known in general that Executive Orders are directives to the federal agencies and proclamations become law when written and approved by Congress. Placing Lake Quinault within the Olympic Forest Reserve in 1897 was within the powers of the President and all three proclamations were approved by Congress.
32. In *United States v. Milner* the Ninth Circuit used a two part test to determine if the Equal Footing Doctrine can be overcome; (1) the lands were intentionally reserved by the United States, and (2) that intent, in a way to prevent transfer, is recognized by Congress. In 1897 the President had the power to exclude the lake from the reservation per Article 6 of their treaty and the authorization from Congress in 1891 to establish national Forests. (pg. 96-99)

Test:

(1) The 1856 Treaty of Olympia reserved a tract or tracts of land to be selected by the President, surveyed and located on a map. Indian Agent established a 42,000 acre reservation of land at the mouth of the Quinault River in 1862 which was accepted by the Surveyor General of the Washington Territory in 1862. Two years after the *Treaty of Olympia* was ratified by Congress and the President. The Quinault River flows across the reserved land and the river was used by the Indians as a public highway and for commerce. The land selected as the reservation was what the Chief of the Quinault Indian Tribe desired and he did not want the land to the east of the Reserve because no one lived

there. It was a two-day trip by canoe to reach navigable Lake Quinault from Taholah. The Lake Quinault area was used for hunting and gathering. In 1856 the number of Indians residing upon the reservation was about 400 people. Fish were plentiful at the mouth of the river where it enters the Pacific Ocean. (pg. 276-281)

(2) The 1873 Executive Order was issued in accordance with the 1856 Treaty of Olympia which allowed for a tract or tracts of land to be reserved for the use and occupancy of the Indians. The Executive Order does not explicitly give ownership of water or land under the water to the Indians nor with meanders. The Executive Order was not ratified by Congress. *The 1787 Northwest Ordinance* (adopted into and a part of the Constitution) provides that all navigable rivers will remain as public highways forever. Since the Indians of the reservation used the river to get from one place to another and for commerce for thousands of years makes the river a common public highway. Indians of the reservation had and continue to have the same rights of navigation on all common public highways as do all citizens and Inhabitants of the United States.(pg. 81)(pg. 101-103)

33. The Treaty of Olympia allows for the President to “*cause the whole or any portion of the lands to be reserved, or of such other land as may be selected in lieu thereof,*” Article 6 of the treaty. (pg. 96-99)

34. *Title 25 U.S.C. Chapter 24-Indian Land Consolidation, @ 2201* defines “Indian” means—(A) *any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of October 27, 2004) a trust or restricted interest in land.(7) the term “land” means any real property;*

Land or soil under navigable water is not real property. All Land under navigable water transferred to the State of Washington upon entering the Union of the United States in 1889 and is held in trust for all people under the Equal Footing Doctrine, Public Trust Doctrine and navigational servitude. (pg. 193) (pg. 177-179)

The signatory to the 1856 Treaty of Olympia ceded and were, paid for all the ceded land that is described in the treaty. The ceded land remained ceded until the land was surveyed, recorded, platted and accepted by the Federal

Government in 1904. The legally admissible land is ready for allotments after the accepted survey. (pg 96)

As a citizen of the United States and a riparian land owner of land abutting a navigable water of the United States, the appellant and appellant's family have incorporeal third party interests in the submerged land under navigable Lake Quinault, the same as all citizens and the Quinault Indian Tribe. (pg.178-179)

35. 1787 Northwest Ordinance adopted into and a part of the Constitution of the United States and became a part of the Supreme Law of the Land. The adoption of the ordinance as a part of the Constitution of the United States also gave Appellant incorporeal interests thereof. (pg. 81)
 - a. Article the Third of the Ordinance allows for the utmost care to be given to the Indian tribes and their lands will not be taken from them without their consent.(pg. 80-81)
 - b. Article the Fourth of the Ordinance allows for all navigable rivers will remain open and free to all people forever. (pg. 81)
 - c. When the Western District Court (DKT 29) claimed to hold Title to the bed and water of Lake Quinault, and gives beneficial ownership of the bed and water to an Indian Tribe, it is in violation of the laws of the United States dating back to the adoption of the 1787 Northwest Ordinance, as a part of the Constitution of the United States. (pg. 156-166)
36. The Congressional Act adopted on May 18, 1796, provides for all navigable rivers to remain as public highways. (pg. 85 section 9)
37. The 1815 Commerce Treaty with England provides for the open and free access and use of all navigable highways for commerce to both countries.
38. The 1818 Joint Occupancy Treaty with England specifically relating to the Northwest Coast of America allows for and demands the open and free use of all navigable waters to the Inhabitants and citizens of both countries. (pg. 89-90)

39. The former sovereign “England” did not give ownership of navigable water to the Indian Tribes.
40. The 1846 Oregon Territory Treaty with England finally gave the United States ownership of all things below the 49th parallel.
41. The 1848 Congressional Act of Congress to establish the Territorial Government of the Oregon Territory included the 1787 Northwest Ordinance.(pg. 92)
42. The 1853 Congressional Act of Congress to establish the Territorial Government of the Washington Territory included all the laws applicable in the Oregon Territory, which includes the Northwest Ordinance and the open and free navigable rivers. (pg. 95)
43. The 1850 Swamp Land Act gave ownership of swamp and overflowed land to the States. Lake Quinault rises above and overflows the land above the Ordinary high-water mark during the winter months. (pg 298-300)
44. The 1856 Treaty of Olympia does not explicitly define the land boundary of any tract or tracts of land to be reserved by the President of the United States for the use and occupation of the signatory to the agreed upon treaty. There was absolutely no mention of reserved water with meanders or land under the water to be held in trust for the QIN. The Treaty of Olympia allows the President to change reservation boundaries. (pg. 97)
45. The adoption of the Treaty of Olympia by the Senate and the President in 1859 placed the fiduciary responsibilities on all signatory to the treaty to uphold the treaty as a part of the law of the land.
46. In 1862 the Indian Agent W.W. Miller surveyed and established the first Quinault Indian Reservation with a contract with Deputy Surveyor Alleck C. Smith containing about 42,000 acres of land to fulfill the obligation under the Treaty of Olympia to reserve a tract or tracts of land. This survey was approved by the Surveyor General of the Washington Territory the same year and is produced and printed on maps for the Surveyor General in 1865. (pg. 100)

47. In 1866 the Congress of the United States adopted the Mining Act severing all navigable water from being considered to be land which made the submerged land inalienable.
48. The 1873 Executive Order issued by President Grant was issued in accordance with the 1856 Treaty of Olympia to enlarge the reserved land area for the use of all non-signatory Indians on the southwest coast of the territory and describes a general land area to be reserved for their use and occupation. There is no explicit terms "with meanders" or words reserving the rights to ownership of water or land under the water. All land remained un-surveyed until after Washington entered the Union. (pg. 101-103)
49. In *Cappaert v. United States* it is stated by the United States Supreme Court: *"This Court has long held that when the Federal Government withdraws its land from the public domain and reserves it for a public purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation.....The doctrine applies to Indian reservations and other federal enclaves, encompassing water rights in navigable and non-navigable streams."* This gives the Olympic National Park implied water rights to navigable Lake Quinault in the amount needed to support the purpose of the park which includes recreation. *"The goals of the Olympic National Park are to preserve the unimpaired natural and cultural resources and values of the National Park system for the enjoyment, education, and inspiration of the current and future generations."* The United States failed to act. (pg. 195)
50. The McCarren Amendment bars the United States from claiming immunity over federal reserved water rights issues which includes ownership of beds of navigable waters. (*United States v. District Court in and for Eagle County*, 401 U.S. 520 (1971) 43 U.S.C. @ 466. (pg. 195)
51. The United States claims to be the Title Holder to the lake bed of Lake Quinault and is holding the bed and water in trust for the benefit of the Indians on the reservation. However, the United States Department of Justice stated in May of 2015, *"regarding the above Eagle County case; "ruled that the waiver of sovereign immunity under the McCarren includes a waiver for adjudication of federal reserved water rights. This ruling opened the door to much litigation over the existence and quantity of federal reserved water rights for national parks, national forests, national wildlife refuges, and other federally reserved lands."*

52. In 1887 the Congress of the United States enacted the Dawes Act to allow for surveys of Indian Reservations and open the land up for allotments to the Indians and to sell all surplus lands to settlers. Submerged, land under navigable water is not available for private ownership and remain in the public domain unless the former sovereign explicitly gave the ownership to person or persons. England did not give ownership of water or land under the water to any Indian Tribe.
53. In 1888 the first settler staked a claim of ownership of land on the north shore of navigable Lake Quinault and used Quinault Indian Tribal Members to transport him and his supplies from the Pacific Ocean at Taholah up the Quinault River approximately 30 miles to navigable Lake Quinault.
54. Washington Territory entered the Union of the United States in November of 1889 and the new state established its own Constitution and laws.
55. Upon entering the Union the new State of Washington gained sovereignty over all navigable waters within its borders under the Equal Footing Doctrine and according to *United States v. Oregon*, 295 U.S. 1 (1935) stating, “*Upon the admission of a State to the union, title of the United States to lands underlying navigable waters within the State passes to it, as incident to the transfer to the local sovereignty, and is subject only to the paramount power of the United States to control such waters for purposes of navigation in interstate and foreign commerce.*”
56. Article XVII of the Constitution of the State of Washington states, “*The state of Washington asserts its ownership in the beds and shores of all navigable waters in the state.*” Thereby, continuing the 1787 Northwest Ordinance to open and free navigable water within the State of Washington.
57. Article XXV of the Constitution of the State of Washington; Jurisdiction, Authority of the United States says, “*That a sufficient description in metes and bounds, and an accurate plat or map of each tract or parcel of land be filed in the proper office of record in the county in which the same is situated, together with copies of the orders, deeds, patents or other evidence in writing of the title of the United States:*”
58. Article XXVII Schedule in section 2. Laws in force continued states, “*All laws now in force in the Territory of Washington, which are not repugnant to*

this Constitution, shall remain in force until they expire by their own limitations.”

59. The Washington Territory laws included the 1787 Northwest Ordinance regarding navigable rivers and the utmost care to the Indians. (pg. 95)
60. In 1891 the General Land Office issued its first contract to survey the Quinault Indian Reservation to fulfill the requirements of the Washington State Constitution and establish the legally admissible land to be included within the Quinault Indian Reservation.
61. The Deputy Surveyors were given special instructions which included the directive to strictly adhere to the General Land Office Survey Manual dated 1890.
62. Page 32 of the 1890 Survey Manual states in section 7, ***“No mountains or lands not classified as survey-able are to be meandered, and all lines approaching such lands must be discontinued at the section or quarter section corner.”*** (pg. 130-133)
63. Page 34 of the 1890 survey manual states in section 4, ***“Meander lines should not be established at the segregation line between dry and swamp or overflowed land, but at the ordinary low water of the actual margin of the rivers or lakes on which such swamp or overflowed lands border.”*** (pg. 130-133)
64. Page 618 of the 1894 General Land Office Survey Manual, Miscellaneous—***“7. Lines discontinued at Legal Corners; No mountainous lands, or lands not classed as surveyable, will be meandered, and all lines approaching such lands will be discontinued at section or quarter-section corner nearest the unsurveyed land.”*** (pg. 130-133)
65. When survey instructions and survey manual declares the ordinary low water at the actual low water is the permanent closing corner, nobody can claim ownership on the opposite side of that permanent closing corner up to the ordinary high water mark on the opposite side.
66. In 1891 Deputy Surveyor (Norton Taylor) was given the contract to survey, the already existing south boundary of the original reservation, established in

1862, and run a random line from the most easterly end of the south boundary to the most southerly end of Lake Quinault, and establish a permanent closing corner at the most southerly end of the lake, the actual location of the lake was unknown. At the time the 1873 Executive Order was issued, the lake was thought to lie on a north south axis. Upon reaching the southerly end of the lake, it was determined the lake did not lie on a north south axis but on a northeast/southwest axis making the special instructions to meander around the east shore to be inaccurate. The lake has a south shore, east shore, north shore and was surrounded by 2000 to 3000 foot high mountains and the mountains were un-surveyable.

67. The Deputy Surveyor Norton Taylor could not complete this survey due to personal injury which required cancelation of his contract in 1892 and issuance of a second contract, which was given to Henry Fitch in 1892. Deputy Surveyor Fitch was given the same instructions to survey the south boundary of the existing reservation, and run a random survey line to the most southerly end of Lake Quinault, and establish a permanent closing meander corner at the most southerly end of the lake at the ordinary low water mark, at the actual low water, per the 1890 Survey Manual. Mr. Fitch established two closing corners at the most southerly end of the lake. One permanent closing corner on the random survey line to the most southerly end of the lake establishing the boundary between the public land and the reservation in Township 23 North, Range 9 West, and the permanent closing meander corner on the Township boundary line between Township 23 North, Range 10 West and Township 23 North, Range 9 West. This township line is within the tract of land to become the Quinault Indian Reservation. (pg. 249-A)
68. The original survey diagram of the meander of the lake made by Deputy Surveyor Fitch was presented in the 1945 Court of Claims case *Quinault v. United States*, 102 Ct. Cl. 822 as referred to in document 29 by the Court. (pg. 294)
69. The map clearly shows the meandered land area included to be in the Quinault Reservation and did not include the lake. This is confirmed by the Shattoo survey of the east boundary of the Quinault Indian Reservation in 1995. This 1995 survey was declared to be the east boundary of the reservation and the exact survey completed by Surveyor Fitch in 1892. (pg. 140-142)

70. The recommended location of the Quinault Reservation by the Indian Agent in charge and the Commissioner of Indian Affairs was to take in about one half the lake Shore. *This recommendation was approved by the Secretary of the Interior in 1891.* (letter from commissioner of Indian Affairs to Secretary of the Interior) Secretary of the Interior speaks for the President. (pg. 143)
71. Two letters to the Commissioner of Indian Affairs from Deputy Surveyors Norton Taylor and Jacob Noel along with a sketch map provided the knowledge the lake was 5 miles from where it was thought to be and was surrounded by mountains 2000 to 3000 feet high and un-surveyable and not fit for agriculture. (pg. 284-291)
72. Special Instructions to Deputy Surveyor Oliver Ort in 1895 states, "*By the terms of the Appropriation Act, and in accordance with instructions from the Commissioner of the General Land Office, the survey of all sub-divisional lines of townships must be confined to the lands adapted to agriculture,*" (pg. 244)
- a. This would exclude Point "A" on the map given to the Deputy Surveyor and move the location to the agreed upon point "B" as shown on the diagram given to the Deputy Surveyor.
 - b. The original meander survey (not a boundary survey) of Lake Quinault was surveyed at the ordinary low water mark at the actual low water per the 1890 General Land Office Survey Manual. (pg 296) The accreted land area between ordinary low water and ordinary high water was owned by the United States and transferred to Washington State in 1889 the same as the lake bed and water. Closing meander corners were established at the most southerly end of Lake Quinault and at point "B" as shown on the map issued with the special instructions. (pg. 267-268)
73. The 1945 Court of Claims case used a map showing the supposed position of the lake in 1859. This map is unreliable as evidence and only shows there was a lake. An 1856 map used by Governor Isaac Stevens to show Indian Lands was available to the United States in 1945 but this was not presented as evidence in the 1945 Court of Claims decision. (reprinted pg. 46)
74. The original 1862 Quinault Indian Reservation survey was available to the United States and the Quinault Indian Tribe in 1945. The actual position of the original survey by Alleck Smith is published on the 1862/1865 maps to

accompany the Annual Report to the Commissioner of Indian Affairs. (pg. 100, 220)

75. In 1895, Deputy Surveyor Oliver Ort was given the contract #466 to strictly adhere to the General Land Office Survey Manual dated June 30, 1894. Even though the survey manual changed the surveying of navigable waters from the Ordinary low water to the Ordinary high water in 1894, surveyor Ort was required to re-establish the original closing corners of the survey by surveyor Fitch in 1892 at the ordinary low water mark. Original Surveys are the controlling surveys per the Survey Manual. (pge 144, 148)
76. In 1897, Deputy Surveyor Oliver Ort special instructions state; "*The boundary lines of this Reservation follow the meanders of Quinault Lake.*". (pg. 246) When looking at the approved and accepted map of Township 23 North, Range 9 West dated April 15, 1895, it is evident the meander boundary of the reservation excludes the lake from being within the Reservation. (pg. 48) This is later confirmed in the special instructions to George R. Campbell in his 1901 special instructions. (pg. 251) Campbell's field note diagrams show the meander line and the points he was directed to survey between. (pg. 252-253) In 1902 Deputy Surveyor George R. Campbell was instructed to re-survey the survey work of Deputy Surveyor Ort in 1901 at the ordinary high water mark.
77. These maps and special instructions and proclamations were available to the Federal Government and the Quinault Indian Tribe in 1945 and were not submitted for consideration to the Court in 1945. (1904 accepted map of Quinault Indian Reservation Pg. 254-255)
78. All maps accepted prior to 1897 were available to the President of the United States when he established the Olympic Forest Reserve in 1897 under his authority to establish national forests.
79. The President of the United States had the authority to alter, modify any Executive Order previous, and change the land boundary of the Quinault Indian Reservation as stated in Article 6 the 1856 Treaty of Olympia.
80. In 1897, the President established the Olympic Forest Reserve by Proclamation thereby changing the 1873 Executive Order enlarging the Quinault Indian reservation to allow all other non-treaty Indian Tribes to relocate to the enlarged reservation. (pg.114-129)

81. In 1902, Olympic Forest Reserve Surveyors, Dodd and Rixon, surveyed the Olympic Forest Reserve to tally the different species of timber within Township 23 N. Range 9 W. and states in that survey the following: *"This township contains Queniult Lake and a trifling of Queniult Indian Reservation, which deducted from it leaves the land surface of the township 31 ¼ sections or 20,000 acres."* (pg. 216-217)
82. In 1901 Deputy Surveyor George R. Campbell was issued contract #561 which states; *"At each intersection of each line with the Quinielt Lake and with each bank of the Quinaielt River you will establish a meander corner at the line of ordinary high water and you will meander the lake and river between these meander corners at the line of ordinary high water mark."* Field diagrams and notes provide the location of the boundary of the reservation. (pg. 251) (pg. 249-A, 249-B, original meander survey at low water mark,)
83. In 1902, the President of the United States issued a second Proclamation reducing the size of the Olympic Forest Reserve but did **not** exclude the lake from being within the Olympic Forest Reserve. (pg. 112-129)
84. In 1906, Mr. Higley purchased several government lots on the north shore of Lake Quinault under the 1862 Homestead Act. The land Patent describes the land purchased as being the *"Southwest Quarter of the North West Quarter and the lots numbered one, two, three and four of Section thirteen in Township twenty three North of Range ten West of Willamette Meridian in Washington, comprising one hundred and seventy seven acres and nine hundredths of an acre."* (pg. 57-73)
85. The patent also states; *"To have and to hold the said tract of land, with the appurtenances thereof, unto the said Orte L. Higley and to his heirs and assigns forever subject to any vested and accrued water rights,"*
86. In 1907, the President issued a third and final proclamation reducing the size of the Olympic Forest Reserve. Lake Quinault remained within the Olympic Forest Reserve. (pg. 112-129)
87. From 1910 to 1914, the official maps to accompany the Annual Report to the Commissioner of Indian Affairs removed Lake Quinault from being shown to be within the Quinault Indian Reservation. (pg. 220-225)

88. In 1917, the Washington State Legislature adopted the first water code for the State and declared the waters of the State of Washington are owned by the public. Nothing in this act shall lessen or modify the existing rights of riparian owner. (pg. 194)
89. In 1924-1927, the United States established the Lake Quinault Recreational Area encompassing the south, east and north shores of Lake Quinault. The west shore is the Quinault Indian Reservation. (pg.271-272)
90. In 1924, Mr. Higley subdivided the north shore property and sold the lots as recreational lots. (pg. 58-59)
91. In 1938/1940, the President of the United States established the Olympic National Park with two proclamations. The north shore of Lake Quinault was placed within the Olympic National Park, which received exclusive jurisdiction, from the State of Washington creating a federal enclave. The public land was formerly within the Olympic National Forest and jurisdiction transferred to the National Park System. (pg. 202-204)
92. The 1940 Presidential Proclamation 2380 clearly states that Appellant has the full use and enjoyment of Appellant's land, which would include the right to ingress and egress to the lake. (pg. 202-204)
93. In 1940, the United States adopted the Act of April 25, 1940, regarding motor boats. That act was amended in 1953 with the addition of the following; "*Sec. 22. (a) This Act shall apply to every motorboat or vessel on the navigable waters of the United States, its Territories and the District of Columbia, and every motorboat or vessel owned in a State and using the high seas.*"
94. The Presidential Proclamations issued by the President establishing the Olympic National Park are accepted by the United States as legal and valid to this day and yet the government has determined the three Presidential Proclamations establishing the Olympic Forest Reserve are not legal or believable.
95. Subchapter XXVII Olympic National Park in section 251d. Applicability to privately owned lands it is stated; "*The provisions of sections 251 b to 251d of this title shall not be applicable with respect to any privately owned lands lying within the exterior boundaries of the Olympic National Park which are*

in township 23 north, range 10 west; township 23 north, range 9 west; township 24 north, range 9 west; and township 24 north, range 8 west, West Willamette meridian; and lot 5 of the July Creek lot survey consisting of .15 acre, and lot 12 of the July Creek lot survey consisting of .35 acre.” (pg. 128)

96. In 1961, in *United States v. State of Washington*, 294 F. 2d 830 (9th cir. 1961) it is stated; *“The Supreme Court has implicitly so recognized, At common law the person whose land is bounded by the sea, lake or river owns any additions thereto resulting from imperceptible accretion.”* Appellant refers to this case in the original complaint, which gives Appellant colorable claim of ownership of the shore land to the line of navigability. (pg. 256-260)
97. In 1977, the Quinault Indian Nation sent a letter to Mr. Higley, President of the North Shore Property Owners Association, claiming the north shore of the lake is within the political boundary of the Quinault Indian Reservation and the north shore falls under the jurisdiction of the QIN. (pg. 233-235) This letter the QIN sent was based upon the 1945 Court of Claims case where the Quinault Tribe alleged the north boundary of the Quinault Reservation was surveyed in error and that the tribe was to be compensated at least on paper. (In actuality the Tribe ended up owing the U.S. \$6.94). (pg. 226-232)
98. The Olympic National Park was given and excepted exclusive jurisdiction over all the land within the Olympic National Park in 1940. Thus, it was not necessary for the Appellant to object to the false claim of QIN ownership in the 1977 QIN letter to Mr. Higley which the Western Court District (DK29) states the Appellant should have and failed to do. The Appellant’s harm began April 15, 2013, and not in 1977. (pg. 233-234)
99. The actions taken by the QIN in 2013 eliminating Appellant’s riparian real and incorporeal property rights are repugnant to the letter to Mr. Higley as the letter to Mr. Higley in 1977 was regarding land and in 2013 is now regarding ownership of the water. Denial of Appellant’s ingress and egress to navigable Lake Quinault as a riparian/littoral property owner is a violation of their treaty and the Public Duty Doctrine. Appellant’s rights come with both ownership and citizenship, while the general public only has access and use as a citizen. **(pg. 218-219 must read)**
100. According to the General Land Office Survey Manual used by the first Deputy Surveyors, the Lake Quinault area survey did in fact strictly adhere to the 1890 Survey Manual. in particular to page 32 section 7 which states all

mountains that are deemed to be unsurveyable are to remain unsurveyed. The mountains surrounding the south and north shore of the lake were estimated to be 2000 to 3000 feet high and not fit for agriculture which was the purpose of the Indian reservation. The Appropriations Act with instructions from the Commissioner of the General Land Office prevented survey of land not fit for agriculture.

101. Appellant now files appeal in the Ninth Circuit because Appellant has not received equal justice under the law as provided in the Constitution of the United States. Sovereign Governments rely upon immunity for all its actions, including violations of the Constitution of the United States and Appellant's legally protected civil, real and incorporeal property rights. The State of Washington and the United States are allowing the self-governing Quinault Indian Tribe to violate Federal Statutes, their agreed upon Treaty of Olympia, and deny Appellant's rights as a citizen of the United States owning land abutting a navigable water of the United States.

PROCEEDINGS BEFORE THE DISTRICT COURT OR THE BAP. In this section, we ask you about what happened before you filed your notice of appeal with this court.

What did you ask the district court or the BAP to do—for example, did you ask the court to award money damages, issue an injunction, or provide some other type of relief?

102. What legal claim or claims did you raise in the district court or at the BAP?

103. Appellant requested the Court to determine appellant's property rights as to the ownership of appellant's shore land and appellant's right to the ingress and egress to navigable Lake Quinault.

104. Determining the ownership of appellant's shore land out to the line of navigability will require knowing who actually owns and has jurisdiction over navigable Lake Quinault. Washington State Law defines beds of navigable water to continue into the water to a depth of navigability. The standard and customary depth is approximately four feet of depth. Washington State Law defines water of the state to include lakes, rivers, ponds, streams, inland waters, underground waters, estuaries, tidal flats, beaches and lands adjoining

the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the State of Washington. (RCW 90.56.010)

105. Through research and supporting evidence, the Appellant alleges the long, controversial QIN claim that the north boundary of the reservation was surveyed in error is incorrect. The survey of the north boundary of the Quinault Indian Reservation in 1892 was surveyed with strict compliance to the Appropriations Act, special instructions and the General Land Office Survey Manual, dated 1890 and no errors occurred. The Fitch meander Survey around the lake was completed on September 5, 1892. (pg. 249-A, 249-B) Therefore, the Appellant alleges that the 1945 Court of Claims decision based on the thought that the survey of the north boundary was done in error, is not accurate.
106. When the United States adopted its Constitution in 1787 it included the Northwest Ordinance as a part of the law of the land. In Article the Third of the ordinance it is stated that no Indian lands will be taken from them without their consent. When the 1846 Oregon Territory Treaty was signed, the United States allowed the Indian tribes on the northwest coast of America to retain their claim to the land used and occupied by their ancestors and was prevented from using the Discovery and Conquest Doctrine. Treaties with the Indians were required to extinguish their claim to land. (pg. 80)
107. It is also stated in the same ordinance in Article the Fourth that all navigable rivers will remain open and free to all people forever. (pg. 81)(pg. 200)
108. The purpose of the Quinault Indian Reservation, as all Indian Reservations, was to extinguish their Title and provide a tract or tracts of land for their use and occupancy to live as their ancestors and at the same time alter their life style to become agriculturists and adapt to the American form of life. The sole purpose of the 1873 Executive Order was to encourage all the non-treaty Indian Tribes to re-locate to the enlarged reservation. (pg. 101-103)
109. The Indian Tribes on the northwest coast of America did not have any Title to the land they occupied or their ancestors occupied when the United States finally gained ownership of the northwest coast of America, with the signing of the 1846 Oregon Territory Treaty with England.
110. The Northwest Coast of America was owned by Spain in 1770 when Spanish explorers planted their flag on the northwest coast of America at or near the

mouth of the Quinault River where it enters the Pacific Ocean. Conquest and Discovery Doctrine. Acknowledged in the *Land of Trees* published by the Quinault Indian Nation in 1997.

111. All Indian people were Inhabitants of Spain, England, and not citizens of any country prior to 1846.
112. The Appellant respectfully requested the Court determine the amount of damages. Appellant did not demand \$250,000 dollars damages. Appellant believes the Court does have the authority to exceed their \$10,000 limit by using Article 8 of the 1856 Treaty of Olympia depredations clause, which states, "if proven before the Agent the Government may make payment out of their annuities." Thus, the Treaty of Olympia does not bar the court from exceeding the Court's limit. (pg. 97-98, Article 8) Appellant has been researching for documents to validate the actions of the QIN for the past six years and Appellant's research shows the QIN acted outside of their authority when the QIN closed navigable Lake Quinault to all non-Quinault Indian Tribal Members on April 15, 2013. The closure came with demands to remove all docks, intrusions, with penalties if Appellant did not comply with their demands.
113. The QIN committed depredations upon Appellant and Appellant's family. Appellant is looking for redress of those depredations. Article 8 of the agreed upon 1856 Treaty of Olympia allows for redress of grievances as well as the 25 U.S.C. statutes of self governing Indian Tribes. The United States is currently allowing the QIN to violate that agreed upon Treaty. (pg. 96-99)
114. The QIN has been and continues to charge the Appellant a fee to place a boat into navigable Lake Quinault. The charging of a fee to access and use navigable water is repugnant to the Constitution of the United States. (pg. 81, open and free)(pg. 200)
115. The utmost care is given to the Indians, and yet open and free navigable water has been ignored. (pg. 81)
116. The Western Court District (DKT 29) has claimed Title Holder ownership of the lake bed and water up to the ordinary high-water mark and is holding it in trust for the beneficial ownership and use of the Indians on the reservation. This means the QIN is not the owner of the submerged land or water. The

QIN is limited to the use and occupancy of the land reserved for their use.
(Equal Footing, pge. 193)

117. The claim of Title Holder places the fiduciary responsibility and Administrative Procedure Act to ensure the agreed upon Treaty or other compacts with the QIN are upheld. The Appellant alleged this is omission of the Public Duty Doctrine and Public Trust Doctrine by the federal government.
118. The claim of "Title Holder" of the lake and giving beneficial ownership to the QIN requires an official written document from the State of Washington and Congress. Such document has not been provided. To allow the QIN to deny access and deny use of a common public highway of Commerce is another omission by the government of the Public Duty and Public Trust Doctrine.
119. The claim of ownership of the lake bed to the ordinary high water is in conflict with Washington State Laws and the Constitution of the State of Washington unless the United States can provide a deed, title or conveyance from Congress in writing stating proof of ownership. The United States (Western District Court DKT 29) has claimed to be the Title Holder of the bed and shore of the lake and has not supplied any documents stating as such. Ownership of land or submerged land requires an explicit deed, title or conveyance from Congress or the State of Washington. In order to have a deed or title, the land must be surveyed and located on an officially accepted map. In order for submerged land to be considered fit for occupancy it must not be covered by water. The first complete accepted survey of the enlarged Quinault Indian Reservation did not occur until 1904. (pg. 293)
120. The Bureau of Land Management Historical records show Lake Quinault to be outside the Quinault Indian Reservation boundary. (pg. 106-113)
121. Claiming immunity for suits involving water rights is repugnant to 43 U.S. Code @ 466. (a) Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights of use of water of a river system or other source, (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amendable

thereto by reason of its sovereignty, and (2) shall be subject to the judgements, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: Provided, That no judgment for costs shall be entered against the United States in any suit. (any judgment is against the annuities of the Quinault Indian Tribe) (pg. 97-98)

122. Article 8 of the Treaty of Olympia allows damages for depredations to be paid out of the annuities of the QIN not the federal treasury.
123. Ownership of water is in conflict with Washington State Laws and the Constitution of the State of Washington. It is also in conflict with the previous Department of the Interior documents stating the water in the State of Washington is owned by the public. Water use requires adjudication for use as a fish hatchery. 1964 Cook Creek Feasibility Study. (pg. 194, 282, 283)
124. It is established by many court decisions that federally reserved land for a public purpose within a State has the same right to water as any citizen. The reserved land comes with the implied right to use the water in the amount needed to support the purpose of the reservation. (Winters Doctrine) (pg. 195)
125. The Olympic National Park has the implied right to the use of the water in Lake Quinault for any and all recreational purposes. Failure of the Olympic National Park to defend my right and the right of the park is an omission of the Administrative Procedure Act.
126. The 1906 Homestead Land Patent issued to Orte Higly gives implied water rights to all appurtenances to the land described in the patent. (pg. 57)
127. **Exhaustion of Administrative Remedies.** For prisoners, did you use up all administrative remedies for each claim before you filed your complaint in the district court? If you did not, please tell us why.
128. Appellant exhausted all means to determine the ownership of Appellant's shore land and the rights of ingress and egress to navigable Lake Quinault.
129. Appellant contacted every Administrative department, elected representative and other individuals that may have been able to provide the legal document stating the QIN is the owner of the bed and water of Lake Quinault.

130. The Appellant contacted the Indian Agent in charge of the Taholah Agency by means of electronic mail regarding Appellant's concerns and complaint. The Indian Agent did not respond in any form to Appellant's complaint. (pg. 167-173)
131. The Portland Office of the Bureau of Indian Affairs (BIA) and the Director of the Bureau of Indian Affairs in Washington D.C. were both aware of Appellant's complaint. The Federal Bureau of Indian Affairs admitted in a letter of response dated March 20, 2014, that they did not consider the navigability of Lake Quinault to be a factor in whether or not it is under the ownership and jurisdiction of the QIN or the Equal Footing Doctrine. (pg. 237-240) Upon unsatisfactory responses from the BIA, Appellant then engaged in the Court System to achieve redress for depredations committed against Appellant by the QIN. (pge. 237-240)
132. Appellant and other property owners contacted the QIN, Governor, elected representatives, department heads of the State of Washington, Federal agencies, Sheriff of Grays Harbor County, United States Attorney's Office, Federal Bureau of Investigation, Federal Bureau of Land Management, Federal Bureau of Indian Affairs and others to obtain the legally admissible document giving ownership of the bed, water and shore land up to the ordinary high water mark to the QIN.
133. The Appellant has three previous lawsuits regarding this matter as noted in the courts, (DKT 29) and to achieve redress for the violations committed against Appellant to no avail.

PROCEEDINGS BEFORE THE COURT OF APPEALS. In this section, we ask you about issues related to this case before the court of appeals and any previous cases you have had in this court.

- 134. What issues are you asking the court to review in this case? What do you think the district court or the BAP did wrong?**
135. The Appellant asks this Court to determine if Lake Quinault is a navigable waterway. Jurisdiction depends upon the Federal Courts declaration of navigability of the lake. Designation of navigable water is with the federal courts.

136. The Appellant asks this Court to determine appellant's property rights as to the ownership of appellant's shore land and appellant's right to the ingress and egress to navigable Lake Quinault.
137. The Administrative Procedure Act has been violated by the QIN. Appellant asks the Court to determine diversity jurisdiction and the federal question of navigable waters. The closure of Lake Quinault to all non-Quinault Indian Tribal members falls under prejudice and diversity. All Quinault Tribal Members were not banned from the closed lake.
138. The Appellant asks this Court to review the United States argument that Appellant cannot tie his injury to any act or omission of the United States over the past century and determine the Quiet Title Action or Administrative Procedure or Admiralty and Maritime Jurisdiction. (pg. 104-108)
139. The Appellant asks this Court to review the *Quinault v. United States*, 102 Ct. Cl. 823 (1945) as referred to by the Western District Court in DKT 29. The Appellant asks this court to review the 1945 Court of Claims decision and determine if correctly adjudicated based on the merits of the case. The Appellant alleges the Court of Claims in 1945 did not have all the factual information regarding the location, special instructions to surveyors, field survey notes or diagrams, and the most current maps. The Court did not have knowledge of the three Presidential Proclamations placing the lake in the Olympic Forest Reserve in 1897/1902/1907. The Court did not have knowledge of the proposed "BILL" submitted to Congress in 1939 by the Quinault Indian Tribe requesting the Federal Government purchase the land surrounding Lake Quinault and the lake bed for the benefit of the QIN. "BILL" submitted by Secretary of the Interior Ickes.
- a. In order for the Court to declare the north boundary of the Quinault Indian Reservation was surveyed in error in 1892, is not supported by the surveys and other pertinent information the 1945 Court of Claims did not review. (pges. 196-197, 198-201, 205-215, 216-217, 293-297, 313-319-B, 331-333, 336-338, 341-343, 218-219, 198-201, 177-179, 156-166, 143-150, 130-133, 126-129, 101-103, 114-129, 89-90, 91-92, 93-95, 89-90, 74-83, 84-88, 202-204, 320-325)
 - b. The Court of Claims did not have knowledge of the Lake Quinault Recreational Area established in 1924/1927 for the purpose of recreation for all people. (pg. 271-273)

- c. The Court of Claims was not provided the Historical Index of all public land maintained by the Federal Bureau of Land Management.
 - d. The Court of Claims had not considered whether the lake was a navigable water of the United States, 1787 Northwest Ordinance, 1818 Joint Occupancy Treaty with England, the Congressional Acts establishing the Oregon and Washington Territorial Governments, 1866 Mining Act, etc.
 - e. The original survey of the enlarged Quinault Indian Reservation **was not surveyed in error** and the 1945 Court was not given sufficient information to determine the facts.
 - f. The 1945 Court of Claims used a meander survey map to display ownership of the lake. The public lands laws and courts have said original meander surveys are not boundary surveys. The waters' edge is the actual boundary between land and water. (196-197)(177-179)(174-176)
 - g. The 1945 Court did not or have knowledge of pertinent information regarding the mountainous area that is or was unsurveyable in 1892 as noted by two Deputy Surveyors of the government with great knowledge of the area. (pg. 284-291)
 - h. The 1945 Court did not consider the General Land Office Survey Manual dated 1890 on page 32 section 7. Mountainous areas are not to be surveyed. (pg 244)
 - i. The 1945 Court did not consider or made aware of the special instructions given to Deputy Surveyor Campbell in 1901 to meander survey the boundary of the Quinault Reservation between the two points already established as the closing corners of the reservation on the west shore of the lake. (pg. 251)
140. The Appellant asks this Court to determine if Washington state acquired the lake bed and water of Lake Quinault under the Equal Footing Doctrine.
141. The Appellant asks this Court to determine if the Bureau of Land Management's Historical Index of public lands is true and accurate. The Western District Court (DKT29) infers acts of omission occurring over 100

years ago are invalid and do not apply today. The Bureau of Land Management knew or should have known what the Historical Land Records contained. (pg. 104-108)

142. The Appellant asks this Court to address the charging of fees by the QIN to place a boat into navigable Lake Quinault, and the required purchase of a QIN tribal fishing license to fish on water within the State of Washington when currently, a Washington State fishing license allows Appellant to fish in all waters of the State.
143. The Appellant asks this Court to confirm if the Constitution adopted in 1787/88 and laws of the United States are still valid today and did not cease in 1920.
144. The Appellant asks this Court to determine if the United States has permitted the QIN to violate several federal laws for self-governing Indian Tribes such as Right to peaceably assemble, Civil Rights Act, Obstruction to navigable water, Color of the law violations, taking of real and incorporeal property rights, denying the right to obtain redress, all under the claim of immunity by a dependent sovereign government established as an instrument of the Government of the United States. (pg. 264-265)
145. The Appellant asks this court to determine if the following statements made in the Cook Creek Feasibility Study of May 1964 are true and accurate:
- a. The Department of the Interior made it very clear in May of 1964 when the U.S. Department of the Interior, Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife, Region 1. Stated the following; *"The law regulating the appropriation of water provides that, subject to existing rights, all waters within the state belong to the public, and that any right to use thereof may be acquired by appropriation in the manner provided in the statute and not otherwise."*(pge. 282-283)
 - b. The same letter; "Riparian" it is stated; *"The riparian doctrine has been recognized repeatedly in court decisions of Washington. In 1897 the State Supreme Court held that riparian rights existed in the state,"*
146. The Appellant asks this court to confirm if The Federal Bureau of Land Management (FBLM) glossary terms used by the FBLM are true and accurate:

- a. Riparian Rights; *"The rights of an owner of land bordering on a river, lake, bayou, or sea which relate to the water (its use), ownership of the shore, right of ingress and egress, accretions, etc."*
- b. As well as: Waters of the United States; *"All waters within the United States which are navigable for the purpose of commerce, or whose navigation successfully aids commerce."*
- c. Color of Title Act of "December 22, 1928 (43 U.S.C., sec. 1068, as amended. Under the terms of and provisions of this act, a patent may be issued for a parcel of not more than 160 acres of public lands. The land must have been possessed in good faith by a claimant, his ancestors or grantors for a period of more than 20 years." (pg. 156-157)
- d. The Bureau of Land Management defines INCORPOREAL PROPERTY as that which cannot be seen or touched Property, such as a right, which exists only in INDEPENDENT RESURVEY---*"An official rerunning and remarking intended to supersede the records of the original survey and establish new section lines and subdivisions on public lands only. Any patented lands involved must be identified and segregated according to the original survey. Only remaining areas of the public lands may be resurveyed without regard to the original survey."* (pg.. 156-166)
- e. The Federal Bureau of Land Management defines navigable waters: *"Waters which afford a channel for useful commerce or travel. The beds of navigable bodies of water are not public domain and are not subject to survey and disposal by the United States. Under the laws of the United States waters have always been and shall forever remain common highways. This includes all tidewater streams and other important permanent bodies of water whose natural and normal condition as the date of the admission of a State into the Union was such as to classify the same as navigable water."* (pg. 164)

147. Did you present all issues listed in Question 6 to the district court or the BAP?

Answer yes or no: YES

If not, why not?

148. The Appellant is not certain what is legally admissible in these sections. Appellant alleges the QIN violated his civil rights given to him under the Constitution of the United States and common law. The QIN also has taken Appellant's real and incorporeal property rights by claiming ownership of Appellant's shore land out to the line of navigability as defined by the State of Washington. The claim of ownership has placed a cloud of ownership over Appellant's legally obtained private property within the Olympic National Park in Grays Harbor County in the State of Washington.
149. The Appellant alleges the United States has not protected his and his family's rights and has instead supported the unlawful actions of the QIN. This support for the QIN is evidenced in the Western District Court's response stating the United States is the Title Holder and holds the bed and lake in trust for the Indians of the reservation. Yet, the only Indians permitted to use the lake in 2013 were the Quinault Indian Tribal members even though the reservation is reserved for several different Indian Tribes.
150. The Treaty of Olympia and the 1873 Executive Order enlarging the Quinault reservation did not include with meander or any language, that gives them ownership of water or land under the water. At best the Indians of the reservation have the implied right to water - the same as all citizens. (pg. 101-103)
151. Public Law 94-578 sec. 320 (d) "*The Secretary is authorized and directed to exclude from the boundaries of the park such private lands and publicly owned and maintained roads within Grays Harbor County which are near and adjacent to Lake Quinault,*"
152. Appellant's private land within the Olympic National Park, was excluded from the park and falls under the jurisdiction of the State of Washington and its laws. (pg. 128)
153. It is also known the QIN is a corporation doing business in the State of Washington and as a corporation doing business in the State of Washington they are required to carry liability insurance for that corporation. Washington State Law requires Indian corporations must give up immunity to conduct business in the State of Washington under Tribal Police Officer, RCW 10.92.020. Public liability and property damage insurance....jurisdiction.....civil liability.....interlocal agreement. (2) (a) (ii) "and that to the extent of policy coverage neither the sovereign tribal

nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law,.....arising from the tortuous conduct.”

154. The Appellant’s legally obtained private property within the Olympic National Park was placed in private ownership in 1906 when the land was within the Olympic Forest Reserve by Mr. Higley under the 1862 Homestead Act, which gives provides Appellant the rights to all appurtenances to the private property and protection under the McCarren Amendment. (pg. 57)
- 155. What law supports these issues on appeal? (You may refer to cases and statutes, but you are not required to do so.)**
156. Appellant has a Usufruct right to use the lake.
157. 1856 Treaty of Olympia----Constitution of the United States/1787 Northwest Ordinance----remain the Supreme Law of the Land.
158. The land patent issued to Mr. Higley placed an express trust and the words on the patent place a fiduciary responsibility on the government to see that the patent is not violated.
159. In *Barney v. Keokuk*, 94 U.S. 338, the court said; “*The United States has wisely abstained from extending, if it could extend, its surveys and grants beyond the limits of high water mark.*”
160. RCW 88.28.050 Obstruction of waterway.
161. RCW 90.56.010 “Waters of the state”
162. RCW 43.101.200 (d) ---43.101.157---10.92.020(2)---43.01.020---37.12.010---7.48.120(nuisance)----9.66.010----49.60.040 (Full enjoyment)----
163. RCW 37.16.180 (jurisdiction ceded, Provided, Upon such conveyance being concluded, a sufficient description my metes and bounds and an accurate plat or map of each such tract or parcel of land be filed in the auditor’s office of the county in which such lands are situated, together with copies of the orders, deeds, patents, or other evidences in writing of the title of the United States.)

164. RCW 79.02.010 (Aquatic lands' means all state-owned tidelands, shorelands, harbor areas and the beds of navigable waters.)
165. RCW 79.105.060(1)----79.105.010 (The legislature recognizes that the state owns these aquatic lands in fee and has delegated to the department the responsibility to manage these lands for the benefit of the public.)
166. WAC 173-226-030 (26) "Surface waters of the state" means all waters of the United States as defined in 40 C.F.R. 120.2.
167. WAC 332-30-106 Definitions: (5) Aquatic Lands means.....beds of navigable waters. (9) Beds of Navigable Waters.....waters and waterward of the line of navigability in navigable lakes, rivers and streams. (33) Line of Navigability means a measured line at the depth sufficient for ordinary navigation as determined by the board of natural resources for the body of water in question. (41) Navigability or navigable means.....The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court."
168. *Washington State Court of Appeals, Division 2, Pope Resources December 2016*: "Washington's common law principles of property ownership support this plain language interpretation of "ownership interest." Property ownership in Washington has been determined by evaluating the "bundle of sticks" associated with property ownership and use, such as the right to use, possess, exclude, alienate, and control See *Kiely v. Graves*, 173 Wn 2d296, 936, 271 P.3d 226 (2012)...*Lowe v. Rowe*, 173 Wn App. 253, 264, 294 P.3d 6 (2012)
169. *Shively v. Bowlby* 152 U.S. 1 (1894) "Equal Footing Doctrine & Public Trust Doctrine----*Pollard v. Hagan*----*Goodtitle v. Kibbe*, 50 U.S. 9 How. 471 (1850)----*Smith v. Nechanicky et al.*, No. 1749 (1923) *Riparian Rights*-----*Watkins v. Dorris* (S. Ct 1901.(All meandered rivers, meandered sloughs and navigable waters in this state shall be deemed as public highways,)----
170. *Caminiti v. Boyle* 107 Wn.2d 662 (1987) (upon admission into the Union, the State of Washington was vested with title in, dominion over, its tidelands and shorelands.)
171. *New Whatcom v. Fairhaven Land Co.*, 24 Wash. 493, 499, 64 P. 735 (1901)--
--*Orion Corporation v. State*, 109 Wn. 2d 621 (1987)(*Public Trust Doctrine*;
"We have repeatedly stated that the sale of second class tidelands, like other

trust property, is subject to the paramount public right of navigation and fishery. *Caminiti*, at 667.)

172. *State of Washington v. Eriksen*, No. 80653-5 (2010) (We hold today that tribal officers have authority to continue fresh pursuit of motorists who break traffic laws on the reservation and subsequently drive beyond the reservation boundaries.)
173. *United States v. Holt State Bank---Economy Light & Power Co. v. United States*. No. 104; 256 U.S. 113 (41 S Ct. 409, 65 l. Ed 847)
174. *United States v. District Court in and for the County of Eagle and State of Colorado, et al.* 1971.
175. U.S. Supreme Court, *Scranton v. Wheeler*, 179 U.S. 141 (1900)
176. *St. Clair County v. Lovington*, 23 Wall. 46, 68, 23 L. ed. 59, 63; *Barney v. Keokuk*, 94 U.S. 324, 338, 24 L. ed 224, 228; *McGivra v. Ross*, 215 U.S. 70, 54 L. ed. 95, 30 Sup. Ct. Rep. 27; *St. Paul & P.R.Co. v. Schurmeir*, 7 Wall. 272, 288, 19 L. ed. 74, 78;
177. *Rev. Stat. @ 2476, U.S. Comp. Stat. 1901, p. 1567*, declares: "All navigable rivers within the territory occupied by the public lands shall remain and be deemed public highways;"
178. *Hardin v. Jordan* 140 U.S. 371 (11 S.Ct. 808, 35 L.Ed.428): **JUS PUBLICUM** *Wilbour v. Gallagher*, 77 Wn.2d 306, 316, 462 P.2d 232, 40 A.L.R.3d 760 (1969)
179. *Cappaert v. United States*, 426 U.S. 128 (1975) "until Congress has specifically acted to regulate navigation on a given body of water, the state which it lies may do so." The United States Congress has not acted to regulate navigation on Lake Quinault.
180. Bureau of Land Management Historical Index placing ALL of section 13, T. 23 N. R. 10 W. to be within the Olympic National Park in 1938. (pge 104-113) With instructions on how to read the index.
181. 1895 Department of the Interior decision; unsurveyed land has always been required to be adjusted to the lines of public survey. (pge. 297)

182. *Morgan v. Colorado* 103 Ariz.425 (1968) The doctrine of State Ownership is explained by Rufford G. Patton, writing in the American Law of Property, Vol III,@12.27at 248,249. “*The doctrine is well established that one of the incidents of sovereignty is control of navigable waters and ownership of land thereunder***Except for the few portions of these lands which passed to private ownership by virtue of royal grants, title vested at the date of its independence in each original state as to the navigable waters and the land there under within its boundaries***On the formation of each new state, it becomes the owner of the land underlying its navigable waters, again excepting those portions which have been granted away by a previous sovereignty.*”

183. The land under navigable water is the land under navigable water at its lowest point or actual low water mark. The water is the boundary.

In the case of navigable Lake Quinault located in the Washington Territory in 1856, the land under the lake belonged to the United States as the Title Holder. The United States gained ownership in 1846 and transferred that ownership in 1889 to the State of Washington. During the Territorial Period the 1787 Northwest Ordinance demanded all navigable water to remain open and free to all people forever.

In 1846 the United States and England signed the Oregon Territory Treaty giving the United States 100% ownership of all the land south of the 49th parallel.

The 1818 Joint Occupancy Treaty between the United States and England prevented giving ownership of any navigable water to any one person or persons.

184. In Washington State any corporation doing business in the state must provide an insurance policy to the Washington State Department of Enterprises Services to cover any Liability from doing business in the state. Washington State Law provides the Indian Tribal Corporation and the Insurance Company must promise to not make any claims of Immunity in their defense.

Quinault Indian Tribal Officers enforcing resolutions adopted by the Quinault Indian Business Committee is forcing the Tribal Officers to commit tortuous acts against appellant and appellant’s family. (pge 81)

Appellant and appellant's family claim ownership of appellant's shore land and have a third party interest in the water and land under Lake Quinault. (pge 57)

185. The Congressional Acts: August 7, 1789, chapter 8, Q Stat. 50; Act of May 18, 1796, Chapter 29, 1 Stat, 468 Comp. St @ 4918;
186. The Congressional Act, Fifty First Congress. Sess. II. Ch. 543, (pg 300-301)
187. *Jus tertii* standing; a right of a third party (as to property in another's possession) also: the right to assert the rights of another in a lawsuit. The Constitution of the United States grants all people the free and open easement over and use of all navigable water of the United States.
188. Under *jus tertii* appellant represents all himself and members of appellant's family and their constitutional rights given under the Constitution of the United States and the laws of the United States. Appellant's family rights will be diluted without a proper decision.
189. *Block v. North Dakota ex rel. Bd. Of Univ. & sch, Lands (Block !)*, 461 U.S. 273 (1983) "The equal footing doctrine stands for the principle that a state admitted to the Union after 1789 enters with the same rights, sovereignty, and jurisdiction within its borders as did the original thirteen states, Black's Law Dictionary 557 (7th ed. 1999)
190. *Devils Lake Sioux Tribe v. State of North Dakota* 714 F. Supp, 1019 (1989)
191. *Ninth Circuit; United States v. State of Washington* Nos. 95-35370, 95-35371; "In accordance with treaty with the Quinaielt and Quillehute Indians, concluded on July 1, 1855, and Januray 25, 1856 (stats. at large, vol, p. 971), and to provide for other Indians in that locality, it is hereby ordered that the following tract of country in Washington Territory . be withdrawn from sale and set apart for the use of the Quinaielt, Quilleute, Hoh, Quit, and other tribes of fish-eating Indian on the Pacific Coast."

The description of "a tract or tracts of land" is what Article 2 of the 1856 Treaty of Olympia states. The term Country implies the inclusion of water and land under the water. The Constitution of the United States bars the giving away of all navigable waters within the United States. Governor Stevens was barred from treating away any function of the government.

President Grant did not have the authority to supersede the Constitution of the United States, 1787, Northwest Ordinance, 5th or 14th Amendment when issuing the Executive Order enlarging the Quinault Indian Reservation in 1873. (pg. 274)

192. 1917 Washington State Water Code - All water is owned by the public and cannot be owned by any one or more persons. All people have the usufruct right to the use of water. (pg. 194)
193. To ban Appellant and Appellant's family from ownership and use of their shore land and the ingress and egress to navigable Lake Quinault violated appellant's civil rights, real property rights under the 14th Amendment and is a taking under the 5th Amendment.
194. 1856 Treaty of Olympia - The QIN violated several Federal Statutes, failed to maintain the agreed upon 1856 Treaty of Olympia, express trust placed in them by the Federal Government, hold themselves to the fiduciary responsibility of self-governed Indian Tribes, and certainly has not remained friendly with the citizens. (pge. 97 article 8)(pge 98, article 13)
195. The Court of Claims decision in *Quinaielt Indian Tribe v. United States* referenced on Page 4 of document 29 states on page 13 of the 1945 written decision, "*It is plain, therefore, that the Quinaielts are not entitled to exclusive rights in the reservation.*" *AS WELL AS*; "*What part of the value of these lands plaintiff is entitled to recover, if any, is not shown by the proof.*" (page 45)
196. **Other Pending Cases.** Do you have any other cases pending in the court of appeals? If so, give the name and docket number of each case.
- Appellant has no other cases pending in the court of appeals.
197. **Previous Cases.** Have you filed any previous cases that the court of appeals has decided? If so, give the name and docket number of each case.

United States Court of Appeals Case No. 19-2260, Washington District.

198. Thomas G. Landreth v. United States.

THOMAS G. LANDRETH

Name

425 CITENAUT AVE

HOQUIAM, WA 98550

Address

Thomas G. Landreth

Signature

9-25-20

Date

BEGINNING OF ADDENDUM/EXHIBTS
PICTURES OF MY SHORE LAND

Water level of lake above ordinary high water



Water level of lake at ordinary low water



Appellant's shoreland at ordinary low water



Thomas G. Landreth, PRO SE / THOMAS G. LANDRETH
425 CHEHAULT AVE
HOQUIAM, WA 98550 360-533-5578

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Thomas G. Landreth**DEFENDANTS**

United States et al, Quinault Indian Nation

(b) County of Residence of First Listed Plaintiff Grays Harbor
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Grays Harbor
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Thomas G. Landreth, Pro Se,
425 Chenault Avenue
Hoquiam, WA 98550 360.533.5578Attorneys (If Known)
Brian Kipnis, United States.
Karen Alston, Quinault Indian Nation**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input checked="" type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
U.S.C. 1331

Brief description of cause:

28 U.S.C. 2409(a) Denied access to navigable water/ownership claim of shore land by Quinault Indian Tribe.

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 25,000.00
CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER 20-35683

DATE

09/24/2020

SIGNATURE OF ATTORNEY OF RECORD

Thomas G Landreth, PRO SE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Case: 20-35683, 09/30/2020, ID: 11843047, DktEntry: 4-1, Page 65 of 65