NO. 94157-2

Court of Appeals No. 76017-3-I

SUPREME COURT OF THE STATE OF WASHINGTON

NORTH QUINAULT PROPERTIES, LLC, a Washington limited liability company; THOMAS LANDRETH, an individual; and BEATRICE LANDRETH,

Petitioners,

v.

STATE OF WASHINGTON; and PETER GOLDMARK, in his official capacity as Commissioner of Public Lands,

Respondents.

RESPONDENTS' ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

The Uniform Declaratory Judgments Act (UDJA) requires that, before a court can proceed to issue a declaratory ruling, "all persons shall be made parties who have *or claim* any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. . . ." RCW 7.24.110 (emphasis added). The language of RCW 7.24.110 is unambiguous, well established, and not challenged by Petitioners North Quinault Properties and the Landreths (Landreths).

The Landreths have a disagreement with the non-party Quinault Indian Nation (Nation) over access to Lake Quinault (Lake). The Nation has long claimed beneficial ownership of the Lake under the 1856 Treaty of Olympia and subsequent 1873 Executive Order of President Grant. Because the Nation has sovereign immunity, the Landreths cannot directly sue it, and instead have sued the State and its Commissioner of Public Lands (State) seeking to have a court order the State to do what it cannot: divest the Nation of its asserted interest over part of its reservation.

The Landreths brought this case seeking a declaration under the UDJA regarding the ownership of Lake Quinault, and based on that declaration a writ of mandamus and injunctive relief to order the State to take some undefined enforcement action against the Nation at Lake

Quinault under the guise of the public trust doctrine. But this appeal is not about the public trust doctrine; it is about well-established legal principles that apply to obtaining review under the UDJA and under a writ of mandamus.

The plain language of RCW 7.24.110 frames a threshold and determinative question that was the basis of the Court of Appeals' opinion, and that language is not addressed anywhere in the Landreths' Petition. This fact alone should be sufficient for this Court to deny review under RAP 13.4(b). Moreover, it is well settled that a court will not issue a writ of mandamus to order a state official to perform a discretionary act, or to generally comply with state law. Finally, while it was not necessary for the Court of Appeals to address the trial court's CR 19 ruling, CR 19 provided an independent basis supporting the trial court's dismissal. Nothing in the trial court's order conflicts with this Court's decision in *Automotive United Trades Organization (AUTO) v. State*, 175 Wn.2d 214, 285 P.3d 52 (2012), or the recent decision in *Lundgren v. Upper Skagit Indian Tribe*, No. 91622-5 (Sup. Ct. Feb. 16, 2017). Simply put, the Court of Appeals' decision does not conflict with Supreme Court precedent or involve a matter of substantial public interest warranting review under RAP 13.4(b)(1) or 13.4(b)(4). Accordingly, the State respectfully requests this Court deny the Landreths' Petition.

II. IDENTITY OF RESPONDENTS

Respondents State of Washington and its Commissioner of Public Lands ask this Court to deny review of the Court of Appeals' January 30, 2017, decision terminating review.[1]

III. COURT OF APPEALS DECISION

The slip opinion is attached to the Petition.

IV. COUNTERSTATEMENT OF THE ISSUES

1. Did the Court of Appeals correctly affirm the superior court's decision that review is not available under the UDJA because the Quinault Indian Nation and the United States must be joined under RCW 7.24.110 but cannot because of their sovereign immunity, and because review of how the State applies or administers state law is not available under the UDJA?

2. Did the Court of Appeals correctly determine as a matter of law that it did not need to address the Landreths' CR 19 arguments because their claims were barred under the UDJA? If the Court of Appeals should have addressed the Landreths' CR 19 arguments, then did the superior court properly exercise its discretion under CR 19 by determining

[1] Commissioner of Public Lands Hilary Franz took office on January 11, 2017, replacing former Commissioner Peter Goldmark. Should this Court accept review, the Respondents will request that Commissioner Franz be substituted in this matter for former Commissioner Goldmark under RAP 3.2(f).

that the Quinault Indian Nation and the United States are necessary and indispensable parties that cannot be joined in this matter due to their sovereign immunity?

3. Did the Court of Appeals correctly affirm the superior court's decision as a matter of law that the Landreths are not entitled to a writ of mandamus because such a writ is not available to compel a state official to take discretionary action and is also not available to order general compliance with state law?

4. Did the Court of Appeals correctly affirm the superior court's exercise of discretion in denying Landreths' request for injunctive relief?

V. COUNTERSTATEMENT OF THE CASE

A. Factual Background.

The Landreths own property adjacent to Lake Quinault and have had a dispute with the Quinault Indian Nation over access to the Lake. CP at 317-21. The Nation asserts ownership of the Lake based on the 1856 Treaty of Olympia and subsequent Executive Order of President Grant in 1873. CP at 92; CP at 120-33; CP at 327-28; CP at 335-39.

The Nation's asserted rights predate Washington's entry into the Union in 1889, and the Nation has argued that the United States transferred the beneficial interest in the bedlands of Lake Quinault to it

under the Treaty of Olympia. CP at 135-36. Accordingly, the Nation asserts ownership over the Lake as part of its reservation. *Id.* That the Nation claims such interests in Lake Quinault is uncontested. *North Quinault Prop., et al. v. State, et al.*, No. 76017-3-1, slip. op. at 4 (January 30, 2017).

B. Proceedings Below.

On December 30, 2014, the Landreths filed a Verified Complaint for Declaratory Judgment, Injunctive Relief and Damages (Federal Complaint) in the U.S. District Court for the Western District of Washington. CP at 57-87. The Landreths brought their Federal Complaint against the Quinault Indian Nation, the State of Washington, and the Department of Natural Resources (DNR). *Id.* The factual basis of Landreths' Federal Complaint was a dispute with the Nation over access to the Lake. CP at 57-96.

The Landreths alleged that the Nation deprived them of access to Lake Quinault, and sought declaratory and injunctive relief from the court based on their argument that the bed of Lake Quinault is owned by the State of Washington, and that the Nation has no right, title, or legal interest in the Lake. CP at 57-87. The Landreths also sought damages from the Nation, the State, and DNR. *Id.*

The Nation, the State, and DNR subsequently filed motions to dismiss the Landreths' Federal Complaint. CP at 88-96; CP at 100-01. The Nation argued that it has sovereign immunity from suit and that the United States was a necessary and indispensable party that could not be joined. CP at 88-96. The State and DNR asserted their immunity from suit in federal court under the Eleventh Amendment of the United States Constitution. CP at 100-01.

By orders dated May 4, 2015, U.S. District Court Judge Ronald B. Leighton granted the motions to dismiss. CP at 97-101. The District Court subsequently entered its judgment on June 9, 2015. CP at 102.

On September 21, 2015, the Landreths initiated the present action against the State of Washington and former Commissioner of Public Lands Peter Goldmark in Thurston County Superior Court. CP at 5-35; CP at 317-21. As with their previous Federal Complaint, the Landreths in this matter alleged that the Quinault Indian Nation blocked their access to Lake Quinault. CP at 30-32. The Landreths also asserted that Lake Quinault is owned by the State of Washington, and sought a declaration to that effect. CP at 33-34. The Landreths requested an order requiring the State to take some form of action to assert their alleged rights under the public trust doctrine. *Id.* The Landreths asked the trial court to grant them

relief under the UDJA, issue a writ of mandate against former Commissioner Goldmark, and grant them injunctive relief. CP at 24-34.

The Nation subsequently filed a motion to submit an *amicus curiae* brief before the trial court. CP at 134-38; CP at 324-39. The trial court granted this motion and allowed the Nation to appear as an amicus. CP at 307-08.[2]

The State presented and argued a motion for summary judgment that the trial court granted in its entirety, dismissing the Landreths' suit with prejudice on March 4, 2016. CP at 103; CP at 309-13. The trial court concluded as a matter of law that the Nation and the United States were necessary and indispensable parties under RCW 7.24.110, and that it therefore could not proceed under the UDJA; that review is not available under the UDJA to challenge how the State is applying or administering state law; and that a writ of mandamus is not available to order discretionary acts or general compliance with state law. CP at 310-13. Moreover, the trial court determined that, under the balancing test of CR 19, the Nation and the United States were necessary and indispensable parties that could not be joined because of their sovereign immunity. *Id.* The trial court also denied the Landreths' request for injunctive relief. CP at 312. The Landreths appealed.

[2] The Nation also appeared as an amicus before the Court of Appeals.

On January 30, 2017, Division I of the Court of Appeals issued its decision affirming the trial court.[3] *North Quinault*, slip op. at 1. The court held that RCW 7.24.110 barred the Landreths' action for declaratory relief. *Id.* at 3. The court also concluded that the UDJA does not allow review of how the State applies or administers state law. *Id.* at 7. Moreover, because the Landreths were seeking an order requiring the State to perform an unspecified discretionary act regarding public access to Lake Quinault, the court concluded that mandamus was not appropriate. *Id.* at 11. Finally, the court affirmed the trial court's denial of injunctive relief. *Id.* at 13. The Court of Appeals found it unnecessary to address whether the Landreths' action was also alternatively barred by CR 19. *Id.* at 10. The Landreths petitioned for review.

VI. REASONS WHY REVIEW SHOULD BE DENIED

The Landreths argue that the Court of Appeals' decision conflicts with this Court's precedent and involves a matter of substantial public interest supporting review under RAP 13.4(b)(1) and 13.4(b)(4). As explained below, the decision does neither. The Court of Appeals applied the plain language of RCW 7.24.110 to conclude that this matter could not proceed without the Nation and the United States. The applicability of RCW 7.24.110 as a statutory bar in this case is not addressed by the

[3] The Landreths' appeal was transferred from Division II to Division I on October 25, 2016.

Landreths. Moreover, while the Landreths focus on this Court's decision in *AUTO* and its application of CR 19, CR 19 was an independent basis supporting the trial court's dismissal in this case, and did not need to be considered by the Court of Appeals given the explicit language of RCW 7.24.110. Regardless, nothing in the trial court's order concerning CR 19 conflicts with this Court's decisions in either *AUTO* or *Lundgren*, and this Court should accordingly deny review under RAP 13.4(b)(1) and 13.4(b)(4).

A. This Case Does Not Present a Matter of Substantial Public Interest Under RAP 13.4(b)(4).

The plain language of RCW 7.24.110 controls the analysis in this case. Because this statute is unambiguous and its interpretation by the Court of Appeals unchallenged here, this matter does not present an issue of substantial public interest under RAP 13.4(b)(4). The Landreths argue that the Nation does not have a valid legal claim to Lake Quinault.[4] However, the test under RCW 7.24.110 is whether a person *claims* an interest that would be affected by the declaration. There is no dispute in

[4] Petition at 5. The Landreths assert that title to the Lake was transferred from the federal government to the State of Washington upon statehood, yet they fail to adequately address that the United States may transfer title of the bed of a navigable water to an Indian tribe prior to statehood, thereby defeating the future state's title. *See United States v. Idaho,* 533 U.S. 262, 281, 121 S. Ct. 2135 (2001) (in a dispute between the Coeur d'Alene tribe and the State of Idaho over ownership of a portion of Lake Coeur d'Alene, the Supreme Court concluded that Congress "intended to bar passage to Idaho of title to the submerged lands at issue . . . .").

the record that the Quinault Indian Nation *claims* an ownership interest in Lake Quinault based on the Treaty of Olympia and the subsequent November 4, 1873, Executive Order signed by President Grant which established the Nation's current reservation. *See The Quinaielt Tribe of Indians v. United States*, 102 Ct. Cl. 822 (1945). *See also Mason v. Sams,* 5 F.2d 255 (W.D. Wash. 1925). CP at 120-33. As the Nation has long argued, the "Quinault Reservation . . . tapers to Lake Quinault about 21 miles inland, which is contained within the reservation and represents its easternmost portion . . . the boundaries of the reservation include the entire lake [and] the United States holds title to the bed of the entire lake in trust for the Indians of the Quinault Reservation." CP at 92.[5] The Nation's claimed interest is determinative under the unchallenged language of RCW 7.24.110.

1. The Court of Appeals Correctly Applied RCW 7.24.110 and the Landreths' Failure to Address the Plain Language of That Statute Should Be Dispositive of Their Petition.

The Court of Appeals correctly applied the plain language of RCW 7.24.110 to determine that this matter could not proceed without the Nation and the United States. Under RCW 7.24.110, when an action for

[5] The Nation also notes that the United States Department of the Interior, Office of the Solicitor has concluded that the Nation "owns the entire lakebed of Lake Quinault because the entire lake falls within the boundaries of the Reservation, which was established prior to Washington entering into statehood." CP at 339.

declaratory relief is brought under the UDJA, "all persons shall be made parties who have *or claim* any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding." (Emphasis added.) Unlike the requirements of CR 19, which require some equitable balancing in evaluating whether a party is "necessary" versus "indispensable," and an exercise of discretion in evaluating these factors,[6] the joinder requirements of RCW 7.24.110 are a statutory prerequisite to obtain review under the UDJA. *Treyz v. Pierce County,* 118 Wn. App. 458, 462, 76 P.3d 292 (2003). If not met, the trial court has no discretion to proceed under the UDJA.

In applying RCW 7.24.110 to the Landreths' claims, the Court of Appeals correctly determined that "[a] threshold issue is whether RCW 7.24.110 bars this action requesting declaratory relief. We hold that it does." *North Quinault,* slip op. at 3. As noted above, the Landreths do not address RCW 7.24.110 anywhere in their brief. Indeed, before the Court of Appeals neither their opening brief, nor their reply, dealt directly with the effect of RCW 7.24.110 and its bar to their action. *North Quinault*, slip op. at 7.

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[6] *See Gildon v. Simon Prop. Group, Inc.*, 158 Wn.2d 483, 493, 145 P.3d 1196 (2006) (recognizing that an analysis under CR 19 requires a "balancing and factual inquiry" and is reviewed under an abuse of discretion standard).

It has long been established that this Court will "not consider issues apparently abandoned at trial and clearly abandoned [on appeal]." *Seattle First-Nat'l Bank v. Shoreline Concrete Co.,* 91 Wn.2d 230, 243, 588 P.2d 1308 (1978). A party abandons an issue on appeal by failing to address it in its brief or by explicitly abandoning the issue at oral argument. *State v. Wood*, 89 Wn.2d 97, 99, 569 P.2d 1148 (1977); *Talps v. Arreola,* 83 Wn.2d 655, 657, 521 P.2d 206 (1974). Here, the Landreths do not brief RCW 7.24.110, despite the fact that their claims for a writ of mandamus, as well as injunctive relief, are predicated on first obtaining a declaration under the UDJA that the State of Washington, and not the Nation, owns Lake Quinault. *North Quinault,* slip op. at 7, 10. Accordingly, this Court should deny their Petition because they have abandoned the dispositive issue in this appeal.

2. The Court of Appeals Correctly Concluded That the UDJA Does Not Allow for Review of the Application or Administration of State Law.

While the requirements of RCW 7.24.110 are well established and not challenged by the Landreths, the Court of Appeals also correctly applied long-standing precedent to determine that RCW 7.24.020 acts as an independent bar to the Landreths' claims. *North Quinault*, slip op. at 7. In *Bainbridge Citizens United v. DNR,* 147 Wn. App. 365, 198 P.3d 1033 (2008), the court recognized that "[d]eclaratory judgment actions are

proper 'to determine the facial validity of an enactment, *as distinguished from its application or administration.*'" *Bainbridge Citizens United*, 147 Wn. App. at 374 (emphasis added) (citing *City of Federal Way v. King County,* 62 Wn. App. 530, 535, 815 P.2d 790 (1991)). The issue in *Bainbridge Citizens United* was whether DNR properly applied or administered its rules by not enforcing those rules in the manner that plaintiffs demanded. *Id.* at 375. Denying plaintiffs' claims under the UDJA, the *Bainbridge Citizens United* court stated that "[b]ecause United does not challenge the regulations' facial validity, a declaratory judgment is not an available remedy under the power specifically enumerated in RCW 7.24.020." *Id.*

Similar to the plaintiffs in *Bainbridge Citizens United*, the Landreths are seeking relief under the UDJA of how the State is applying or administering state law regarding Lake Quinault. CP at 24-28. Based on long-standing precedent, such relief is not available under the UDJA, and therefore this Court should deny review under RAP 13.4(b)(4).[7]

[7] The Court of Appeals also correctly determined that a judgment in this case would not terminate the controversy as required under RCW 7.24.050. *North Quinault*, slip op. at 9. Presumably, the Nation would continue to assert ownership and authority over the Lake, regardless of any judgment rendered in its absence. *See Confederated Tribes of the Chehalis Indian Reservation v. Lujan*, 928 F.2d 1496, 1498 (9th Cir. 1991).

3. The Court of Appeals Correctly Concluded That a Writ of Mandamus Is Not Available to Order a Discretionary Action or General Compliance with State Law.

Contrary to the Landreths' assertions, the public trust doctrine does not provide a mandatory obligation for the State to intervene in a dispute between its citizens over access to Lake Quinault.[8] Petition at 14. While the Landreths attempt to characterize this case as a public trust doctrine matter, their public trust doctrine arguments must be viewed through the causes of action pleaded. The Landreths requested a declaration regarding the ownership of Lake Quinault under the UDJA, and based on that declaration, a writ of mandamus requiring the state to take undefined action regarding the public's access to the Lake. *North Quinault,* slip op. at 10-12. Specifically, the Landreths requested a writ of mandamus seeking an order to have the Commissioner of Public Lands "discharge the mandatory duties imposed upon [her] pursuant to the public trust doctrine and the Washington State Constitution." CP at 33.

The discretionary nature of the undefined action the Landreths request is not amenable to a writ of mandamus under well-settled law. What the Landreths are essentially asking the Court to do is order the

[8] *See Wilbour v. Gallagher,* 77 Wn.2d 306, 316 n.13, 462 P.2d 232 (1969) (in a dispute over the removal of fill from Lake Chelan, while the court lamented the absence of State and local action to prevent loss of public access to navigable waters on Lake Chelan, the court never suggested that it could compel the State to act to vindicate public access rights).

Commissioner of Public Lands to take uncertain actions against the Quinault Indian Nation to enforce a nondescript duty under the public trust doctrine and state constitution. Indeed, as the Landreths recognize in their petition regarding the public trust doctrine, the State "does have discretion as to how it chooses to implement that obligation." Petition at 14. It is undisputed that a writ of mandamus will not issue "where the act to be performed is a discretionary act." *Ahmad v. Town of Springdale*, 178 Wn. App. 333, 341-42, 314 P.3d 729 (2013).

Moreover, it is also well established that a court cannot issue a writ of mandamus "to compel a general course of conduct, only specific acts." *County of Spokane v. Local #1553 American Fed'n of State, Cty., & Mun. Emps.*, 76 Wn. App. 765, 769-70, 888 P.2d 735 (1995) (Writ not appropriate as it was not "directed at a specific act or limited to a specific period of time."). *See also Walker v. Munro,* 124 Wn.2d 402, 407-09, 879 P.2d 920 (1994) ("[i]t is hard to conceive of a more general mandate than to order a state officer to adhere to the constitution."). There is nothing in the Landreths' Petition that necessitates revisiting such long-standing precedent. Accordingly, their Petition should be denied.

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B. The Court of Appeals' Decision Does Not Conflict with Supreme Court Precedent and Therefore Does Not Warrant Review Under RAP 13.4(b)(1).

In addition to the reasons discussed above, this Court should deny review because the Court of Appeals' decision does not conflict with either *AUTO* or this Court's more recent decision in *Lundgren*. Neither *AUTO* nor *Lundgren* were decided under RCW 7.24.110 of the UDJA, but instead applied CR 19 to evaluate whether a case could proceed without an absent tribe. *See AUTO*, 175 Wn.2d at 222; *Lundgren*, slip op. at 1. As discussed above, RCW 7.24.110 is a statutory prerequisite to obtain review under the UDJA, and unlike CR 19, does not involve equitable balancing and the exercise of discretion to determine whether a party is "necessary" versus "indispensable."

The Landreths ignore the Court of Appeals' application of RCW 7.24.110 and repeatedly confuse the discretionary standards of CR 19 with the mandatory joinder requirements of the UDJA. Nevertheless, even if the Court of Appeals had addressed CR 19, which it did not need to given its holding under RCW 7.24.110, nothing in the trial courts' application of CR 19 conflicts with *AUTO* or *Lundgren*.

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1. The Court of Appeals Did Not Need to Address CR 19 to Uphold the Trial Court's Dismissal. However, the Trial Court's Analysis of CR 19 Complies with Both *AUTO* and *Lundgren*.

The Court of Appeals' decision does not conflict with either *AUTO* or this Court's more recent decision in *Lundgren*. As the Court of Appeals properly held, "the trial court correctly determined that this case cannot proceed because it is barred by RCW 7.24.110. Likewise, it also correctly concluded that RCW 7.24.020 bars declaratory relief. These bases are dispositive, and we need not also address whether this action is, alternatively, also barred by CR 19." *North Quinault,* slip op. at 10. However, even if the Court of Appeals had addressed the trial court's conclusions that the United States and the Nation were indispensable parties under CR 19, it likely would have upheld those conclusions as consistent with this Court's precedent.

In *AUTO*, this Court, in a 5-4 decision, addressed the issue of whether the tribes were necessary and indispensable parties to a suit challenging the constitutionality of fuel tax compacts between the State of Washington and the tribes. The court found that under the particular facts of that case, the tribes were necessary parties but not indispensable. *AUTO,* 175 Wn.2d at 235. In applying the CR 19(b) analysis, the court noted that "CR 19 focuses on whether a party *claims* a protected interest,

not whether it *actually has* one." *Id.* at 224 (emphasis in original). The *AUTO* court determined that, although the tribes had a financial stake in the compacts, "[a] mere financial stake in the action's outcome . . . [would] not suffice" to make the tribes indispensable and require dismissal. *Id.* Because no other forum was available to plaintiff and because the tribes' contractual interest in the compacts did not outweigh broader public interests, the suit could proceed without the tribes. *Id.* at 233-34.

Unlike *AUTO*, the Landreths are not merely challenging a tribe's financial interest in a contract. Rather, they are seeking to force actions that, from the perspective of the absent Quinault Indian Nation, would cloud or divest it of its claimed interest in Lake Quinault, which the tribe asserts is part of its reservation.

The Landreths have continually ignored *AUTO's* admonition that CR 19(b) involves "a careful exercise of discretion and defies mechanical application." *AUTO*, 175 Wn.2d at 229. Accordingly, "courts must carefully consider the circumstances of each case in balancing prejudice to the absentee's interests against the plaintiff's interest in adjudicating the dispute." *Id.* at 233. Here, proceeding in the absence of the Nation would be significantly more prejudicial to the Nation's interests by dealing with title affecting its reservation in its absence. In contrast, *AUTO* focused on

the lawfulness of a fuel tax refund system where the prejudice was limited to the tribes' interests in receiving payment. As such, *AUTO* is entirely consistent with the trial court's application of CR 19 in this case.

More recently, this Court revisited the issue of tribal sovereign immunity and CR 19 in *Lundgren.* In *Lundgren*, this Court evaluated CR 19 in the context of an *in rem* action brought by the Lundgrens to quiet title to a piece of property that they claimed by adverse possession prior to the original owner selling the disputed property to the Upper Skagit Tribe (Tribe). *Lundgren,* slip op. at 1-4. In another 5-4 decision, this Court concluded that the Lundgren's action was not barred by CR 19 and the absent Tribe. *Lundgren,* slip op. at 1-2. The majority determined that the Tribe was not a necessary party under CR 19 because the Lundgrens acquired the disputed parcel long before the Tribe claimed any interest, and because the action was *in rem*, "the Lundgrens [were] not seeking to divest a sovereign of ownership or control." *Lundgren*, slip op. at 13.

The facts of *Lundgren* are markedly different from the present case. Here, the Landreths' claims challenge whether the Nation owns Lake Quinault, as the Nation asserts, or whether the State of Washington owns the Lake subject to state public trust concepts, as the Landreths contend. A decision by the Court thus affects the Nation directly in its capacity as a self-governing sovereign Indian Tribe. *Northern Arapahoe Tribe v.*

Harnsberger, 697 F.3d 1272, 1279 (10th Cir. 2012). A ruling that the Lake is a state-owned resource would purport to displace the Nation of its interests. *Id.* Such a ruling would also impact the United States, who asserts ownership as trustee for the Nation. These facts present a significantly different scenario from *Lundgren*, and as such there is no conflict justifying review.

VII. CONCLUSION

This case does not conflict with Supreme Court precedent or involve a matter of substantial public interest warranting review under RAP 13.4(b)(1) or 13.4(b)(4). Accordingly, the State respectfully requests this Court deny the Landreths' Petition.

RESPECTFULLY SUBMITTED this 21st day of March, 2017.

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CERTIFICATE OF SERVICE

I certify that I caused a copy of the foregoing document to be served on all parties or their counsel of record on March 21, 2017, as follows:

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I certify under penalty of perjury, under the laws of the state of Washington, that the foregoing is true and correct.

DATED this 21st day of March, 2017, at Olympia, Washington.

LISA F. ELLIS
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