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Lake Chelan ferry service appeal won't be heard by Supreme Court

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The U.S. Supreme Court won't get involved in a long-running dispute about adding ferry service on Lake Chelan.

The court refused this week to hear the appeal of James and Clifford Courtney, who want to provide boat service from their Stehekin businesses to Chelan at the other end of the long lake. It's not possible to drive to Stehekin, so the only way to get between the two communities is by boat, plane or foot.

The Courtneys first proposed a ferry, but the two communities are already served by a ferry operated by the Lake Chelan Boat Co., and under state law a second ferry can't be added if its owners object. The company did object, and the Washington Utilities and Transportation Commission refused to issue the necessary permit.

The Courtneys then asked to operate an on-call boat service for their customers, but the commission never issued a formal opinion whether that, too, required a permit. The U.S. Forest Service, which operates the dock, said it needed proof the Courtneys' operation would be exempt from the requirement. The Courtneys proposed other boat services, which the utilities commission said probably would require permits.

A 2010 study by the commission, which was ordered by the Legislature, recommended no changes in laws or service that would threaten the existing ferry business.

In 2011, the Courtneys sued the WUTC, saying it was interfering with their constitutional right to "use the navigable waters of the United States" under the 14th Amendment. But U.S. District Judge Thomas Rice dismissed the case, saying that right doesn't cover operating a ferry service. The 9th U.S. Circuit Court of Appeals agreed, but said the Courtneys may have standing to sue over their rights to operate private boat services connected to their business.

Attorneys for the Courtneys called the case "a plea for economic liberty" and said they

were disappointed by the Supreme Court's refusal to hear the appeal.

A spokeswoman for the WUTC said the commission was pleased by the decision, calling the appeals court ruling "sound and well-reasoned."

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