No. 23-1103

IN THE

Supreme Court of the United States

SAWTOOTH MOUNTAIN RANCH, LLC,
LYNN ARNONE, AND DAVID BOREN,

Petitioners,

v.

UNITED STATES FOREST SERVICE, *et al.*,

Respondents.

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

BRIEF OF SAWTOOTH CONSERVATION & RECREATION ALLIANCE, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS' PETITION FOR WRIT OF CERTIORARI

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INTERESTS OF *AMICUS CURIAE*

The Sawtooth Conservation & Recreation Alliance, Inc. ("SCRA") is a 501(c)(3) nonprofit entity organized under the laws of the State of Idaho.[1] Its members are persons or entities who own real property located within the boundaries of the Sawtooth National Recreation Area ("SNRA"), or who own businesses that conduct operations primarily within the SNRA. The purposes and goals of the SCRA include: developing guidelines for the SNRA administration and property owners as to the unique role of private property located within the SNRA as mandated by Public Law 92-400; acting as a resource for the SNRA administration and private property owners on managing conflicts; developing a pro-active vision on private property's role in preserving and protecting the natural, scenic, historic, pastoral, fish and wildlife values of the SNRA as mandated by Public Law 92-400; enhancing recreation facilities and services in the SNRA; facilitating volunteer projects within the SNRA; partnering with private, public and governmental stakeholders and policy makers to protect the SNRA; and educating the public about the roles each stakeholder plays in a healthy SNRA.

Unlike most preserves managed by the Forest Service, vast swaths of the SNRA are held in private ownership stretching back one hundred years or more. The pattern

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1. Pursuant to Supreme Court Rule 37.6 *amicus curiae* states that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief. Pursuant to Rule 37.2, *amicus curiae* provided notice of its intent to file this brief to the parties more than 10 days before its due date.

of land ownership dates back to a series of Proclamations issued in 1905 and 1906 by President Roosevelt that reserved some land in this area for use by the Forest Service, leaving the land along the Salmon River open for settlement. Pres. Proclamation (May 29, 1905) 34 Stat. 3058; Pres. Proclamation (November 6, 1906), 34 Stat. 3260. The intent behind the Proclamations was to reserve the timber and mountains while leaving the open land available for settlers. In 1972, Congress passed the Sawtooth National Recreation Area Act, 16 U.S.C. § 460aa et seq., to preserve existing conditions in this beautiful area. When the SNRA was established over 25,000 acres of private land was included within the SNRA boundaries.[2] Section 3 of the Act explicitly recognized the importance of maintaining the private land ownership within the SNRA by limiting the amount of private property that could be acquired by the United States to five percent of the total acreage of private property as of the date of the Act. 16 U.S.C. § 460aa-2(a).

As described in the Petition for *Certiorari*, the intent of the SNRA Act, 16 U.S.C.§ 460aa et seq. (ER-79.), is "to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith. . . ." 16 U.S.C. § 460aa. But that is not the only purpose of the SNRA. The Secretary

2. *See Hearings before the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs, House of Representatives, Ninety-Second Congress, First Session on H.R. 6957 to establish the Sawtooth National Recreation Area in the State of Idaho*, June 7 & 8, 1971, p. 41 (Statement of Sen. Len Jordan (Idaho)) and p. 45 (Statement of Rep. James McClure (Idaho)).

of Agriculture is required to administer the SNRA to (1) protect salmon and other fisheries, (2) "**conserv[e] and develop[ ] scenic, natural, historic, pastoral, wildlife and other values, . . . including the preservation . . . of the economic and social history of the American West,**" and (3) manage and utilize natural resources for timber, **grazing** and mineral resources. Id. § 460aa-1(a) (emphasis added). In carrying out this statutory obligation, protecting the historic ranching and pastoral activities and preserving the economic and social history of the American West rests on the foundation of the ranchers and landowners' private property rights within the boundaries of the SNRA.

The easement granted by the Pivas to the United States on the land now owned by the Sawtooth Mountain Ranch is not the only federal easement on private lands in the SNRA. The Forest Service has inventoried approximately 108 easements for scenic and conservation purposes held by the United States on private property within the SNRA. These conservation or scenic easements cover portions of lands owned by members of the SCRA and were granted more than twelve (12) years ago. Many of these easements date back to the 1970s and 1980s. The easements' language varied over time, but all easements contain ambiguities over the scope of rights granted to the United States. For example, the easements typically recite that they are intended to "prevent any development that would tend to mar or detract from its natural, scenic, historical, pastoral, and fish and wildlife and recreational values." The Ninth Circuit's opinion suggests that this vague language would put the landowners on notice of a dispute and trigger the statute of limitations on any attempt to challenge the Forest Service's interpretation

of what activities would "detract from" or "mar" these values, based on the intent of the parties at the time the easement was granted.

The conservation easements include easements for trails along various streams and rivers intended for sportsman's access like the trail easements granted by Pivas to the Forest Service. Based on the *Sawtooth Mountain Ranch* decision, the Ninth Circuit could conclude that other landowners are barred under the Quiet Title Act's statute of limitations from contesting the scope of the trail easements on their properties. This is particularly concerning because the Ninth Circuit relied on the fact that the location of the trail passes through wetlands to conclude that the Pivas were on notice that the United States would expand the trail. The Court is aware that wetlands are often located adjacent to relatively permanent bodies of water like the Salmon River and Valley Creek. *See, e.g., Sackett v. EPA*, 598 U.S. 651, 684 (2023); *Rapanos v. U.S.*, 547 U.S. 715, 755 (2006). The presence of adjacent wetlands cannot be a basis for triggering the statute of limitations for trails along streams in the SNRA.

Representatives of the SNRA have made statements claiming a broad range of rights under those easements that are at odds with the terms and conditions of the easements. Often these statements are made by field level SNRA employees who annually inspect the properties. Occasionally a letter is written. Typically, there is no follow up or further communication from the Forest Service, even when the landowner responds with a letter to the Forest Service, contesting the SNRA employee's claims. Only on rare occasions does the Forest Service

ever disavow those statements made by its employees. When the Forest Service takes positions on the rights of the servient landowners, its representatives typically ignore the fundamental provisions of easement law, including that the grant of easement must be construed against the drafter (i.e. the United States), that the burden of the easement must be construed to minimize the burden on the servient estate, that the servient estate owner is entitled to use his or her property as long as that use does not interfere with the dominant estate, and most significantly, that the dominant estate holder cannot expand the scope of the easement or enlarge the use. When the dominant estate holder who initiates or enlarges the use is the government, the government effects a taking. *See United States v. Causby,* 328 U.S. 256 (1946); *Avery v. United States*, 165 Ct. Cl. 357, 365 (1964) (landowners were entitled to just compensation for additional avigation easement taken which significantly decreased property value).

The interest of the SCRA is not to debate the merits of whether the United States has or has not enlarged the use or increased the burden on the Sawtooth Mountain Ranch land under that easement. The SCRA's concern and interest in this petition arises from the determination that the statute of limitations has run on a dispute over enlargement of the burden on the servient estate and a claim to quiet title is forever barred based on the conclusion that the easement was granted more than twelve years ago and the trail encounters wetlands, particularly when the record discloses that the United States' publicly proposed the trail expansion in 2014, well within the twelve year statute of limitations. The Ninth Circuit's decision, focusing on the grant of easement rather

than the increase in the burden of the easement for statute of limitations purposes has profound Fifth Amendment implications for all private property in the SNRA and wherever the United States holds an easement.

INTRODUCTION AND SUMMARY

Claims of interest adverse to a servient landowner do not accrue until the United States claims an adverse interest or implicitly claims an adverse interest through formal action. *Mills v. U.S.*, 742 F.3d 400, 405 (9th Cir. 2014); *Kane County v. U.S.*, 772 F.3d 1205, 1211-12 (10th Cir. 2014) *abrogated on other grounds by Wilkins v. U.S.*, 598 U.S. 152 (2023). Forest Service employees regularly communicate with the public and landowners within the SNRA about potential plans and frequently comment to landowners on the employees' view of the Forest Service's rights under the easements. These communications should not trigger the running of the statute of limitations at the preliminary planning stage for three reasons: 1) the landowners do not have a clear and unambiguous understanding of the United States' plans or the United States' ultimate interest; 2) landowners would be required to bring arguably unripe claims and litigate much more frequently to toll the statute of limitations; and 3) both landowners and judges need clarity on the precise claim of the United States to decide on the merits whether the proposed action falls within the scope of the easement or impermissibly expands the easement. Not every plan for use of a trail easement involves a dispute of title. When the United States' claim is amorphous, it is not possible to pinpoint the time when the specific claim to use the easement becomes adverse to the landowner's interest in the land. If the Ninth Circuit is not reversed, judicial,

public, and private resources will have to be expended litigating quiet title actions for proposed actions that the United States may never bring to fruition.

To bring this into focus, in the past couple of years a SCRA member and landowner within the SNRA put up a no trespassing sign (at the request of the State of Idaho) on his private property adjacent to a sportsman's access. An SNRA employee sent a letter telling the landowner to take the sign down because he is not allowed under his easement to post such signs on his property. The landowner disputed this interpretation of the easement and notified the SNRA. To date the SNRA has neither admitted a mistaken view of the easement nor taken any further action. Under the Ninth Circuit's recent decision, must the landowner sue the US government or risk 12 years hence losing his right to post no trespassing signs on his property because of a statute of limitations restriction without the ability to argue the merits of the restriction under the easement? While this may seem like a trivial issue, the members of the SCRA experience dozens of such disagreements with the Forest Service each year over a wide range of easement issues. While many courts may find that the dispute has not ripened, it appears that the Ninth Circuit believes that the statute of limitations is nonetheless running.

The Government incorrectly argued, and the Ninth Circuit apparently agreed, that the Petitioners' claim began to accrue when the Conservation Deed was executed and recorded in 2005, on the grounds that that Petitioners were aware of the United States claimed interest to a public use trail at that time. Gov't Brief to 9th Cir. at 22 (citing *Shultz v. Dep't of Army*, U.S., 886 F.2d

1157, 1160 (9th Cir. 1989). However, Petitioners did not dispute the *existence* of the right to public use of a trail; instead, they disputed the *scope* of a permissible trail. Even though Petitioner was aware that Forest Service employees were considering a trail project, the actual interest claimed by the United States was unclear until the Forest Service published the proposed Trail Project in 2014 and remained uncertain until the Forest Service issued its Decision Memorandum in 2017 outlining the scope of the project to be undertaken.

The Government relies on a 2005 letter and a 2014 email from a relative of the landowner as evidence that the United States indicated its intent to develop a trail as early as 2005. The Ninth Circuit's opinion does not identify how the oral communications in 2005 became the United States' formal position rather than an employee's opinion. The Ninth Circuit doesn't say. But the government typically asserts that employees' statements and actions do not create a dispute of title. *See Mills*, 742 F.3d at 405-06 (holding that a BLM employee's decision to deny entry to federal land did not give rise to a quiet title action under 28 U.S.C. § 2409a because the employee's action did not indicate the position of the United States); *see also Wagner v. Dir., Fed. Emergency Mgmt. Agency*, 847 F.2d 515, 519 (9th Cir. 1988).

The Forest Service regularly communicates with the private landowners in the SNRA about the scenic and conservation easements and inspects the land subject to the easements. SCRA requests the Court grant Petitioners *writ of certiorari* to clarify that these informal communications do not create a dispute of title to trigger the statute of limitations because if they did so

the conversations would effectuate a takings under the Fifth Amendment. The Court should require the lower courts to apply equitable tolling principles to prevent injustice, which is particularly appropriate here, when the United States took nearly a decade to develop and make its plans public. Additionally, SCRA requests that the Court ensure that landowners' Fifth Amendment rights to just compensation are not impermissibly limited.

ARGUMENT

I. Quiet Title Act Claims Accrue When the United States Disputes Title.

The Quiet Title Act ("QTA") 28 U.S.C. §§ 2409a "provide[s] the exclusive means by which adverse claimants can challenge the United States' title to real property." *Block v. North Dakota ex rel. Bd. of Univ. & Sch. Lands*, 461 U.S. 273, 286 (1983). Conversely, the United States may bring a quiet title action against a private landowner at any time. *Id*. The QTA requires title to be "disputed," and lower courts have required that the United States adopt a position in conflict with a third party regarding title to property before a claim can be brought. *See Mills*, 742 F.3d at 405-06; *see also Wagner*, 847 F.2d at 519.

The Courts of Appeals have applied varying standards for when a dispute has arisen. *See Kane County, Utah v. U.S.*, 772 F3d 1205, 1212 (10th Cir. 2014), abrogated on other grounds by *Wilkins v. U.S.*, 98 U.S. 152 (2023) (holding that a dispute has arisen if the United States has either expressly claimed an interest in the property or has taken action implying an interest in the property); *Leisnoi, Inc. v. U.S.*, 267 F.3d 1019, 1025 (9th Cir. 2001)

(holding that a third-party's assertion of an interest by the United States "clouded" plaintiffs title giving rise to a title dispute justiciable under the QTA). This Court should grant *certiorari* to clarify that a justiciable dispute arises when a person cloaked with authority to act on behalf of the United States has expressly disputed title or has taken formal action that implicitly disputes title.

A. Landowners Have Been Required to Litigate Disputes over Scenic Easements to Resolve the Forest Service's Overzealous Interpretation of Easements.

The Ninth Circuit has had two occasions to interpret scenic or conservation easements within the SNRA and along the Clearwater River in Idaho outside the SNRA. On the first occasion, a landowner submitted a proposal to the Forest Service to develop a portion of the property for dude ranching. *Racine v. U.S.*, 858 F.2d 506, 507 (9th Cir. 1988). The Forest Service rejected the proposal, claiming that the scenic easement only allowed the development of one residence and one tenant building. *Id.* The landowner counterclaimed to quiet title. The Ninth Circuit held that the plain language of the deed allowed the private landowner to use the property for dude ranching. *Id.*

On the second occasion, *U.S. v. Park*, the United States brought an action to enforce a scenic easement on private property along a stretch of the Clearwater River protected under the Wild & Scenic Rivers Act, 16 U.S.C. § 1271 et seq., to prohibit private landowners from operating a dog kennel. That scenic easement reserved the right to use the land for "livestock farming." 536 F.3d 1058, 1059 (9th Cir. 2008). The Ninth Circuit held that summary judgment was

inappropriate because "livestock," as used in the deed, was ambiguous when applied to a dog kennel and remanded. *Id.* at 1059, 1064. On remand the district court held that the scenic easement did not prohibit the use of the land for a dog kennel, contrary to the United States' contention. *U.S. v. Park*, 658 F.Supp.2d 1236, 1246 (D. Idaho 2009).

In both cases, the Forest Service read the easements to overly restrict the private landowners' use of their property. In this proceeding, the Forest Service is interpreting an easement to benefit the interests of the United States Forest Service to allow it to conduct activities and construct a trail which may unduly expand the trail beyond the scope of the original conservation easement. In these examples, the United States looks out for its perceived interests in derogation of private property rights. SCRA urges the Court to reverse the Ninth Circuit's admittedly "strict" interpretation of the statute of limitations and preserve the landowners' remedy to contest actions by the United States that unduly expand the United States' rights under an express easement.

B. Informal Conversations about Possible Future Projects with Federal Employees Should Not Trigger the Statute of Limitations.

In holding that the statute of limitations had run, the Ninth Circuit relied on three factors: (1) that the easement was granted in 2005 (more than 12 years before the action was filed), (2) that the easement authorized a trail through some wetlands, and (3) circumstantial evidence that Robert Piva and unidentified "ranch owners" met with Forest Service employees shortly after the Conservation

Easement was granted to discuss a trail across the property. (Pet. Br. App. 3-4). Robert Piva expressed concern about the trail discussed "*if* put into use in the future." *Id.* at 4 (emphasis added). According to the Ninth Circuit, Petitioners forfeited their claims because the statute of limitations has run based on the grant of the easement more than twelve years before the action was filed and this conversation in 2005 with Forest Service employees.

The 108 scenic and conservation easements within the SNRA were granted more than twelve years ago. SCRA is concerned that if a Forest Service employee has made any comment that would imply that the United States interprets a vague term in the easement differently from how the landowner reads the easement, the landowner must bring or must have brought suit within twelve years of that conversation, even if the landowner is unsure whether the United States will actually act on the employee's statement and even if the United States has not taken any action to follow through on that conversation.

The QTA provides the exclusive remedy for private citizens to quiet title with the United States, *Block*, 461 U.S. at 285, and it would be patently unfair for the statute of limitations to begin to run based on a federal employee's statement—e.g., that the Forest Service can build a six or a sixty foot wide trail or road over a trail easement—while at the same time, if a landowner brought suit at that time, the United States' practice has been to disavow the action or statement of the employee as binding on the United States. *See, e.g., Mills*, 742 F.3d at 405-06.

SCRA requests the Court to grant *certiorari* to make clear that a dispute of title over the scope of an

easement arises when the United States' clearly claims an adverse interest, either expressly or by action implying the interest, through a formal action by which the United States may be bound. *See Racine*, 858 F.2d at 507 (quieting title for a scenic easement in the SNRA after the Forest Service had formally denied a development proposal). For example, here the statute of limitations could be construed to begin to run when the formal trail plan was published in 2014 to advise the public exactly what the United States' plans were rather than based on a nine-year-old conversation about what the plans might be in the future.

C. This Court Should Allow Equitable Tolling of the Statute of Limitations when the Dispute is Ongoing and when the United States' claim is Vague, Ambiguous, or Unripe to Litigate.

Even if conversations with Forest Service representatives could trigger running of the statute of limitations, the Court should direct the Ninth Circuit to apply this Court's equitable tolling principles where the United States has a shifting view of what it might do with the easement or when the claim is vague, ambiguous, or otherwise unripe for litigation. In *Boechler, P.C. v. Commissioner*, this Court held that "nonjurisdictional limitations periods are presumptively subject to equitable tolling." 596 U.S. 199, 209 (2022). Statutes of limitations are intended to prevent litigation of stale claims, but staleness is not an issue where a dispute is incipient or ongoing. *See Havens Realty Corp. v. Coleman*, 455 U.S. 363, 380 (1982) (holding that a complaint was timely filed where it alleged continuing violations of the applicable statute and the most recent violation was within the statute of limitations period).

In *U.S. v. Dickinson*, a landowner brought a takings claim against the United States for both permanent and intermittent flooding of portions of his property caused by a dam installed by the United States. 331 U.S. 745, 747 (1947). The dam began to impound water in October 1936, but the landowner did not bring suit until April 1943, past the applicable six-year statute of limitations. *Id.* This Court reasoned that it would be illogical to require the landowner to bring suit as soon as flooding was threatened because other factors would run against bringing the claim at that time—damages would be uncertain and *res judicata* could prevent a future suit. *Id.* at 749. The Court further reasoned that "as there is nothing in reason, so there is nothing in legal doctrine, to preclude the law from meeting such a process by postponing suit until the situation becomes stabilized." *Id.* Where circumstances are diverse and uncertain, "procedural rigidities should be avoided." *Id.*

Similarly, when the Forest Service is in the early planning stages and does not have a formal plan for a project, a landowner should not be expected to bring suit. In fact, in the early planning stages of a project, the United States would likely argue that the suit is not ripe because the United States has not made a decision about what its claim might be or whether to formally assert the claim. *See Mills*, 742 F.3d at 405-06; *see also Wagner*, 847 F.2d at 519; *Nat'l Park Hosp. Ass'n v. Dep't of Interior*, 538 U.S. 803, 807–08 (2003) (noting that the ripeness doctrine is "designed 'to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized

and its effects felt in a concrete way.'") (quoting *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148–149 (1967)).

In the underlying case, the Forest Service did not have a formal plan for the trail on Piva's property in 2005. In fact, the evidence suggests that the Forest Service was not certain the trail project would be completed. *See* Pet. Br. App. 4 (quoting Robert Piva's letter that there was concern over the potential trail proposal "*if* put into use in the future"). Indeed, the Forest Service did not begin planning the trail until 2012 and did not make plans public until 2014. Pet. Br. App. 18-19. Even then, the Forest Service had not formally decided to undertake the project until it issued its Decision Memorandum in 2017. *See id.* at 19.

The Forest Service must comply with the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.* NEPA procedures often consume many years, and the project may never come to fruition. *See, e.g.*, *Robertson v. Methow Valley Citizens Counsel*, 490 U.S. 332, 338 (1989) (noting the six years from the initiation of the NEPA process to completion of the environmental impact statement). If the landowners and the Forest Service are in discussion about the potential project and disagree over the application of the easement, the landowners should not be required to file a claim while the scope of the project is unsettled. The claim will not become stale—it won't even be fully defined—until the Forest Service completes the NEPA process and makes a decision on the scope of the project. Because the dispute over title will not even be fully defined, much less begin to become stale, the Court should direct the Ninth Circuit to apply equitable tolling principles to the QTA and allow the

landowners to demonstrate that the scope of the dispute over title matured when the United States' claim through its decision documents is crystalized. *Boechler*, 596 U.S. at 209.

U.S. v. Beggerly, 524 U.S. 38 (1998), is not controlling on this point as the Ninth Circuit assumed it was. That is because *Beggerly* was decided before *Boechler*, which made it clear that equitable tolling applies in non-jurisdictional settings and before this Court's decision in *Wilkins v. United States*, 598 U.S. 152 (2023), holding that the statute of limitations in the QTA is not jurisdictional.

II. Failure to Evaluate the Easement under State Law Creates Unconstitutional Uncertainty for Private Landowners.

Federal courts generally follow state law to resolve property disputes, including the interpretation of easements. *See Wilson v. Omaha Indian Tribe*, 442 U.S. 653, 678 (1979) (applying state law to resolve property dispute arising under federal law); *Oregon ex rel. State Land Bd. v. Corvalis Sand & Gravel Co.*, 429 U.S. 363, 378 (1977) (indicating that the Supreme Court "has consistently held that state law governs issues relating to . . . real property, unless some other principal of federal law requires a different result").

Because state law provides the guidelines for interpretation of an easement, the question of when an action by one party amounts to a dispute of title about that easement should be guided by state property law. Under Idaho law, affirmative actions are required to cause the accrual of a cause of action to dispute title to an easement.

E.g. Sommer v. Misty Valley LLC, 170 Idaho 413, 511 P.3d 833 (2021)(filing a preliminary plat application); *Brown v. Greenheart*, 157 Idaho 156, 162, 335 P.3d 1, 7 (2014)(filing a notice of claim to a water right with the Idaho Department of Water Resources). The lower courts should have looked to Idaho law to determine when a dispute accrued.

Additionally, under Idaho law, a deed that conveys an interest in property must be construed to "give effect to the real intention of the parties." *Benninger v. Derifield*, 142 Idaho 486, 489 129 P.3d 1235, 1238 (2006). Uncertainties are treated as ambiguities, and ambiguities are resolved by looking beyond the four corners of the deed to ascertain the intent of the parties. *Id.* "If a deed's language is ambiguous, the parties' intent becomes a question of fact settled by a trier of fact." *Camp Easton Forever, Inc. v. Inland Nw. Council Boy Scouts of Am.*, 156 Idaho 893, 899–900, 332 P.3d 805, 811–12 (2014). To give effect to the intent of the parties, "the contract or other writing must be viewed as a whole and in its entirety." *Sells v. Robinson*, 141 Idaho 767, 773, 118 P.3d 99, 105 (2005), *holding modified by Weitz v. Green*, 148 Idaho 851, 230 P.3d 743 (2010).

In the decision below, the Ninth Circuit did not acknowledge that state law controls the interpretation of the deed and the dispute over the scope of the easement, including the definition of the term "trail." The Ninth Circuit interpreted the term "trail" in the deed, with no reference to governing law. *Id.* at 3-4. Under Idaho law, ambiguous terms should be resolved by resort to the intention of the parties which is a fact specific inquiry generally inappropriate for resolution on summary

judgment. *See Camp Easton Forever, Inc. v. Inland Nw. Council Boy Scouts of Am.*, 156 Idaho 893, 899–900, 332 P.3d 805, 811–12 (2014).

SCRA is concerned that this decision will lead Idaho federal courts to overlook state law when easement claims are adjudicated in federal court including claims that affect the property rights of SCRA's members. Accordingly, SCRA requests that this Court grant Petitioners' *writ of certiorari* and ensure that the lower courts interpret the deed in accordance with state law when considering the merits of the claims, including accrual of the statute of limitations.

III. Takings Claims Should Be Available Irrespective of the Quiet Title Act because the Quiet Title Act Can Only Expand, Not Limit, the Relief Guaranteed by the Constitution.

The Fifth Amendment requires that landowners must be compensated for damage to land through the taking of an easement. *See United States v. Causby* 328 U.S. 256 (1946). Overburdening or expanding an easement is also a taking subject to the Just Compensation Clause of the Fifth Amendment. *Avery v. United States*, 165 Ct. Cl. 357, 365 (1964) (landowners were entitled to just compensation for additional avigation easement taken which significantly decreased property value).

This Court recently explained that where there is an applicable statute under which a private landowner can seek just compensation, the property owner must proceed under that statute. *See DeVillier v. Texas*, 601 U.S. —, 144 S.Ct. 938, 944 (2024).

The Tucker Act provides a cause of action for monetary relief for a taking by the federal government, but not for injunctive or declaratory relief. *See* 28 U.S.C. § 1346(a). Similarly, the QTA allows citizens to bring suit to quiet title to property in which the United States claims an interest. But the Ninth Circuit reads the QTA to limit the relief available under the Takings Clause, such that only after title is quieted, the United States may either pay monetary damages for the permanent taking or dispossess the land without paying any compensation, leaving no recourse for landowners to seek injunctive relief or compensation for temporary takings.

Legislation cannot limit constitutional rights. *See Marbury v. Madison*, 5 U.S. 137, 176-77 (1803) ("[A] law repugnant to the constitutional rights is void."). Injunctive and declaratory relief are available under the Takings Clause of the Fifth Amendment. *See First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles Cnty., Cal.*, 482 U.S. 304, 315, (1987); *Cedar Point Nursery v. Hassid*, 594 U.S. 139 (2021). The QTA provides a cause of action for declaratory relief but limits the court's ability to provide injunctive relief. *See* 28 U.S.C. § 2409a(b) (providing that the United States cannot be dispossessed of possession or control until 60 days after appeal and that the United States may retain possession "upon payment to the person to be entitled thereto").

Under the decisions of this Court, the QTA cannot be read, as the Ninth Circuit has done, to it limit the courts' ability to provide appropriate relief for a violation of the Fifth Amendment. *See Cedar Point Nursery*, 594 U.S. 139 (2021) (finding a violation of the takings clause where plaintiff did not seek monetary relief, but only to invalidate

a regulation); *Knick v. Township of Scott, Penn.*, 588 U.S. 180, 201 (2019) (Although post-taking monetary relief will "ordinarily" satisfy the Takings Clause, it is not the exclusive remedy.).

As this Court recently noted in *Sheetz v. Cnty. of El Dorado*, the government cannot avoid just compensation through legislation; the Takings Clause does not "distinguish between legislation and other official acts." 601 U.S. —, 144 S.Ct. 893, 900-01 (2024). Thus, the Forest Service cannot forego payment for a taking because the statute allows the Forest Service to disclaim its interest. When any taking has occurred, just compensation is required.

Amicus curiae request that this Court grant *certiorari* to recognize that injunctive relief is available under the Fifth Amendment, that the QTA cannot preclude a plaintiffs' ability to seek injunctive relief, and to ensure that, when a court issues a ruling adverse to the United States under the QTA, the United States must provide just compensation for the temporary taking while the United States possessed the private land.

CONCLUSION

There are 108 scenic and conservation easements on land within the SNRA and thousands of other property owners across the nation who have granted easements to the United States. Therefore, it is important for the Court to grant *certiorari* and reverse the Ninth Circuit's perfunctory opinion which uses the statute of limitations to run roughshod over easement law and eliminates the

Constitutional protections provided to private property owners under the Fifth Amendment.

Respectfully submitted,

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