

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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IDAHO *v.* UNITED STATES ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 00–189. Argued April 23, 2001– Decided June 18, 2001

This suit involves a dispute between the United States and Idaho over the ownership of submerged lands underlying portions of Lake Coeur d'Alene and the St. Joe River. The Coeur d'Alene Tribe once inhabited vast acreage in and about what is now Idaho, and traditionally used Lake Coeur d'Alene and the St. Joe River for food, fiber, transportation, recreation, and cultural activities. In 1873, the Tribe agreed to relinquish for compensation all claims to its aboriginal lands outside the bounds of a specified reservation that included part of the river and virtually all of the lake. The agreement required congressional approval, but President Grant set the land aside in an 1873 Executive Order, which set the reservation's northern boundary directly across the lake. An 1883 Government survey indicated that the reservation included submerged lands. When Congress neither ratified the agreement nor compensated the Tribe, the Tribe petitioned the Government to make a proper treaty and Congress authorized negotiations. In 1887, the Tribe agreed to cede its rights to all land except that within the Executive Order reservation, and the Government promised to compensate the Tribe and agreed to hold the land forever as Indian land. Still, Congress did not ratify the agreement. In 1888, the Interior Secretary responded to a Senate enquiry about the reservation's boundaries, reporting that the reservation appeared to embrace all but a small fragment of the lake's navigable waters and that the St. Joe River flowed through the reservation. Also in 1888, Congress approved a railroad right-of-way that crossed the reservation's navigable waters, but directed that the Tribe's consent be obtained and that the Tribe be compensated. Responding to a growing desire to obtain for the public an interest in portions of the reservation, Congress authorized negotiations that

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produced a new agreement in 1889, in which the Tribe agreed to cede the reservation's northern portion, including two-thirds of the lake, for compensation. In 1890, the Senate passed a bill ratifying the 1887 and 1889 agreements, but while the bill was pending in the House, Congress passed the Idaho Statehood Act, admitting Idaho to the Union. In 1891, Congress ratified the 1887 and 1889 agreements. The United States initiated this action against Idaho to quiet title in the United States, in trust for the Tribe, to the submerged lands within the current reservation. The Tribe intervened to assert its interest in those lands, and Idaho counterclaimed to quiet title in its favor. The District Court quieted title in the United States as trustee, and the Tribe as beneficiary, to the bed and banks of the lake and the river within the reservation. The Ninth Circuit affirmed.

Held: The National Government holds title, in trust for the Tribe, to lands underlying portions of Lake Coeur d'Alene and the St. Joe River. Pp. 9–18.

(a) Armed with the strong presumption against defeat of a State's title to land under navigable waters, *United States v. Alaska*, 521 U. S. 1, 34, the Court looks to Congress's declarations and intent when resolving conflicts over submerged lands claimed to be reserved or conveyed by the United States before statehood, *e.g.*, *id.*, at 36. The two-step enquiry used in reservation cases asks whether Congress intended to include submerged lands within the federal reservation, and, if so, whether Congress intended to defeat the future State's title to those lands. *Ibid.* Where, as here, the Executive Branch initially reserved the land, the two-step test is satisfied when an Executive reservation clearly includes submerged lands, and Congress recognizes that reservation in a way that demonstrates its intent to defeat state title. *Id.*, at 41–46, 55–61. Here, Idaho has conceded that the Executive Branch intended, or interpreted, the 1873 Executive Order reservation to include submerged lands. Pp. 9–11.

(b) Congress recognized the full extent of the Executive Order reservation and it intended to bar passage to Idaho of title to the submerged lands at issue. Idaho's concession, in the Ninth Circuit, that the Executive Order reservation included submerged lands and that Congress was on notice regarding the scope of the reservation was prudent in light of the District Court's findings of facts. That court concluded that the submerged lands and related water rights had been continuously important to the Tribe throughout the period prior to congressional action confirming the reservation and granting Idaho statehood, and that the Federal Government could only achieve its goals of promoting settlement in the Tribe's aboriginal area, avoiding hostilities with the Tribe, and extinguishing aboriginal title by agreeing to a reservation that included the submerged lands.

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That is the background of the 1873 Executive Order's inclusion of such lands, which in turn were the subject of the Senate's 1888 request to the Interior Secretary, whose response was consistent with the 1883 survey results. The manner in which Congress then proceeded to deal with the Tribe shows clearly that preservation of the reservation's land, absent contrary agreement with the Tribe, was central to Congress's complementary objectives of dealing with pressures of white settlement and establishing the reservation by permanent legislation. Congress made it expressly plain that its object was to obtain tribal interests only by tribal consent. When it sought to extinguish aboriginal title to lands outside the 1873 reservation and to reduce the reservation's size, it did so by authorizing negotiations with the Tribe to cede title for compensation. It also honored the reservation's boundaries by requiring that the Tribe be compensated for the railroad right-of-way. The intent was that anything not consensually ceded by the Tribe would remain for the Tribe's benefit, an objective flatly at odds with Idaho's view that Congress meant to transfer the balance of submerged lands to the State in what would have amounted to an act of bad faith accomplished by unspoken operation of law. Idaho's position is also at odds with later manifestations of congressional understanding that statehood had not affected the submerged lands. Pp. 11–17.

210 F. 3d 1067, affirmed.

SOUTER, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, GINSBURG, and BREYER, JJ., joined. REHNQUIST, C. J., filed a dissenting opinion, in which SCALIA, KENNEDY, and THOMAS, JJ., joined.