Examining the applicability of the federal Quiet Title Act to easement litigation - Does every issue generated by the presence of an easement constitute a title issue?

For centuries, it has been generally understood that the concept of sovereignty carries with it title to real property in its strongest form. No title to land is stronger than that acquired by conquest, and once such title has been established, it is substantially armored against subsequent events that may tend to negate it, by propositions such as "nullum tempus occurrit regi" (FN 1) which operate to protect title held by the government in trust for the public from the sort of depredation to which privately held land is typically subject. In the United States, the phrase "public domain" has been widely used to characterize such land in its most elemental form, which is thus legally shielded, by virtue of its status as real property standing under the sole and absolute control of the federal government. While a great deal of public domain remains intact today, primarily in rather remote areas, our country is now covered by a dense quilt, comprised of countless private titles, resulting from well over 200 years of conveyances of every kind, which of course has produced, and continues to produce, literally innumerable title conflicts. Although the great majority of title conflicts occur between private parties, arising for a whole host of reasons far too broad to even begin to enumerate here, many such controversies also involve land or land rights held by the United States in a sovereign capacity, and one such recent battle provides us with a gateway, through which to embark upon a review of a particularly interesting and important, yet rather poorly understood, region of the federal land rights spectrum.

Recognizing that few if any internal civil matters are of higher importance to the preservation of our society than the stability of land ownership and private titles, the US Congress enacted the Quiet Title Act (QTA) (FN 2) in 1972. In a nutshell, the QTA was targeted at facilitating the expeditious resolution of title conflicts that emerged in the federal context, and the driving intent behind its creation was the clear need to address the persistent recurrence of highly problematic title conflicts between private parties and the federal government. For decades, the inherently omnipotent nature of federal title, alluded to above, stood as a veritable barricade to those private parties involved in conflicts concerning federal land rights, who were faced with immense bureaucratic hurdles, when they sought to resolve such issues, so by the middle of the twentieth century it was clear to Congress that something had to be done. The QTA amounts to a limited or partial waiver of the aforementioned sovereign immunity, with specific reference to title to real property, meaning that it represents a voluntary and intentional relinquishment or concession on the part of the federal government, enabling certain legal actions to play out, which would not otherwise be able to proceed. Upon enactment of the QTA, the federal government was no longer able to effectively crush and eliminate the title concerns of private parties with the sheer weight of bureaucracy, by abjectly defying or simply disregarding such issues, thus a window of opportunity was opened, by means of which such conflicts could be adjudicated, when appropriate conditions prevailed.

The QTA language, like most federal statutory law concerning land rights, was intentionally highly general in design, enabling the QTA to cast a broad net, in the hope that it would be used to resolve disputes of many kinds, in a manner which was at least relatively efficient, compared to the bureaucratically cumbersome and typically futile options that were previously available to property owners and the general public. To that end, the QTA carries only 2 core specifications, defining the subject matter which it is intended to address, first it dictates that any given conflict must involve real property bearing a federal title interest of some form, and second a dispute involving some component of that federal title must exist. In reality, there are many other factors of vital importance which are quite relevant to anyone who may consider launching a QTA action, and a vast panoply of interesting case law documenting those factors exists to be explored, but here we will focus upon the core question of exactly what constitutes title, and thus presents appropriate subject matter for QTA purposes. The most basic form of title, fee simple absolute, is obviously within the scope of the QTA, so actions to adjudicate the outright ownership of land itself are clearly among those to which it can apply, and boundary issues have been deemed to come within the range of appropriate QTA subject matter as well, given the modern judicial perspective, under which boundaries are viewed as an essential component of title. Fee ownership of land need not be at issue however, to bring the QTA into play, the presence of a less comprehensive form of title, such as an easement for example, also fits under the QTA umbrella. As we will learn here, perhaps the most elementary question pertaining to QTA jurisdiction relates to the determination of exactly what comprises a dispute that is truly focused upon title.

On July 23, 2015, a Missouri federal court (FN 3) issued a Memorandum and Order in the case of Rodgers v Vilsack (FN 4) a quiet title action in which Rodgers invoked the QTA, in an effort to settle certain problems we was having with the US Department of Agriculture (USDA). Rodgers was evidently the owner of vast acreage in an unspecified part of eastern Missouri, containing a large amount of wetland. He apparently allowed duck hunting on his

property, and charged duck hunters to use his land, although this was presumably not his primary business or source of income. In 1998, for unspecified reasons, Rodgers decided to enroll a substantial amount of his presumably rural land in the federal Wetlands Reserve Program, which was administered by the Natural Resources Conservation Service (NRCS) a branch of USDA. For that purpose, Rodgers granted NRCS an easement over several hundred acres of his property, which he presumably held under clear title, and his fee title to his land was never challenged. The full details of this easement are unknown, but it was clearly a typical conservation easement, primarily intended to insure that the protected area would remain substantially undisturbed wetland, and Rodgers was paid over 1 million dollars for creating this easement. As the years went by however, Rodgers evidently became dissatisfied with the manner in which the easement area was being federally managed, so he took certain steps to modify the landscape upon his own volition, such as building dams for example. It appears that his main objective was to preserve or expand duck habitat within the easement area, and he believed that he had the right to do that, since the terms of the easement expressly allowed him to continue to conduct duck hunting activities within the easement area.

For unspecified reasons however, the NRCS evidently took issue with the landscape modifications made by Rodgers, and some of his other actions within the easement area as well, such as tree cutting, and informed him that such activities were unauthorized. Whether or not any NRCS personnel or government contractors actually entered the Rodgers property and rearranged the landscape in some manner is unknown, but the text of the case suggests that they did at least take some steps to undo what Rodgers had done, and they may well have made other unspecified changes which he found unacceptable, though the easement evidently authorized NRCS to do so without his consent. Nonetheless, Rodgers apparently continued to engage in his own activities independently, although they were expressly prohibited in the easement documentation, so NRCS eventually fined him, accusing him of violating the terms of the easement. Rodgers refused to concede that he was in violation of the easement, and he repeatedly protested the way he and his land were being treated by NCRS personnel, until his protests were finally officially rejected by the Easement Program Director in 2014. At that point, Rodgers decided to file a legal action against the US, in which he sought nearly 12 million dollars for various unspecified kinds of damage that had allegedly been done to his land, presumably all within the easement boundaries, as a result of mismanagement of the easement by NRCS. Rodgers was informed that he had options, regarding the type of legal action that he could choose to take, but he decided to file a QTA action, because in his view the federal easement burdening his land was the true ultimate source of the damage that had been done.

At first glance, it may seem clear that Rodgers had legitimate grounds upon which to file a QTA action, given the very minimal core requirements for such an action outlined above. There was no question that the federal government held a land rights interest in a portion of the Rodgers property, thus the opposing parties held overlapping title interests, the federal easement resting atop the underlying land still owned in fee by Rodgers. Further, a genuine disagreement, rising to the level of an outright dispute, very obviously also existed between the parties, and in fact the evidence clearly indicated that the dispute had existed and steadily intensified for several years, following the creation of the federal interest in the Rodgers property. From this set of circumstances, Rodgers was convinced that the QTA was the appropriate channel for his litigation, but his ignorance of the true definition of "title", along with his inability to distinguish title from land use, was destined to betray him. A US legal team engaged Rodgers, and promptly proposed to Judge Baker that his case should be dismissed, without any consideration of the merits of his allegations, because this scenario did not qualify as a valid QTA case. Recognizing that the US position was correct, Judge Baker agreed that her court had no jurisdiction over this matter, and declined to address any of the evidence that Rodgers had prepared. There was indeed a dispute, involving land upon which federal title existed, she accurately observed, but the dispute was not over title itself, it was merely a dispute over land use, so the QTA was inapplicable, making it impossible for Rodgers to prevail.

In so ruling, Judge Baker astutely took judicial notice of the fact that there has been relatively little litigation defining the true or full scope of the QTA, while pointing out several prior cases, which through their variations highlight the fact that the legal limitations upon the use of the QTA remain somewhat nebulous, particularly in the easement context. The QTA has been applied to a wide variety of situations during its first four decades of existence, but it is still a relatively young statute, and there can be little doubt that its true and exact parameters have not yet been precisely carved out. As Judge Baker indicated on this occasion, the QTA can apply to any form of ownership which qualifies as title to real property, in any context in which federal land rights are implicated. For example, it applies equally to private easements on federal land and federal easements on private land, any such mixture or confluence of private and federal land rights can potentially provide the ingredients which comprise a QTA cocktail. The fatal error made by Rodgers however, was his failure to realize that the mere presence of a federal

easement upon his land was insufficient to invoke the QTA. Had Rodgers disputed the existence of the NRCS easement, or alleged that its boundaries were erroneous or inaccurate in some respect, then his case would have had an opportunity to proceed down the QTA track to resolution, because genuine ambiguity as to either the physical extent of an easement or its intrinsic validity presents an adjudicable title issue. But Rodgers never asserted that the easement documentation was anything less than completely clear, all of his allegations related only to use of the land lying within the easement area, so none of his grievances actually challenged the title held by NRCS in any respect, thus all of his efforts to amass evidence against NRCS were wasted and his case was doomed.

A review of some prior opinions of other courts on the scope of the QTA illustrates some of the guidelines which courts have used when evaluating controversies involving easements for purposes of determining the applicability of the QTA. One such ruling cited in the Rodgers case is Fuqua v United States (2010) (FN 5). Fuqua owned land near Campbell Army Airfield in Kentucky, and she was among several property owners whose lands were burdened with an avigation easement, resulting from a condemnation action, properly completed by the US Army, which was created to facilitate intensified use of the airspace above her land by military aircraft. Fuqua argued that the easement language with respect to emissions of light and sound was unclear, therefore her title was unjustly clouded by the federal easement, and on such grounds she asserted that the QTA was the appropriate legal mechanism to address that problem. The court disagreed however, and notified her that the QTA was of no avail to her, because federal rights acquired through condemnation are not subject to challenge under the QTA. In addition, the court informed Fuqua that easement language which is merely ambiguous is insufficient to support QTA jurisdiction, if that ambiguity relates only to easement details and does not constitute an actual cloud upon the ownership component of the allegedly deficient title. As can be seen, the mistake made by Fuqua was essentially identical to the one made by Rodgers. Fuqua mistakenly assumed that any controversy emanating from a federal land rights document is necessarily a title issue, which justifies application of the QTA, failing to see that she had neglected to point to any genuinely fatal flaw with respect to the validity or the extent of the easement, thus providing the court with no basis upon which the easement could be judicially struck down.

Another recent decision cited in the Rodgers case, as confirmatory of the proposition that not all easement disputes fall within the group of concerns which can be properly categorized as title issues, is Sherwood v Tennessee Valley Authority (TVA) (2013) (FN 6). Since acquiring a series of transmission line easements in 1937, TVA, which is a federal agency, operated and maintained a power line that passed through the properties of Sherwood and her neighbors, whose predecessors had all granted right-of-way easements to TVA. The relevant easement language clearly allowed TVA to keep the right-of-way clear of all growth, but for decades TVA deliberately refrained from doing so. Instead, TVA had always allowed land owners to maintain small trees and other landscaping within the transmission corridor, despite the easement provisions to the contrary, trusting that the property owners would keep such vegetation to a minimum, but in 2012 TVA changed that policy for unspecified reasons and began completely clearing its right-of-way. The plaintiffs filed a legal action against TVA, charging that TVA had effectively abandoned the right to destroy all vegetation within the right-of-way, and seeking a decree to that effect. Although the QTA was not invoked by Sherwood, the court observed that no title issue existed, while pointing out that the real goal of the litigation was to modify existing easement language, which clearly bestowed upon TVA the right to do exactly what TVA was doing, therefore the QTA was inapplicable to this scenario, despite the presence of a dispute over federal rights on private land. Citing the Fuqua case, the court reiterated that the QTA cannot be employed for the purpose of adding, removing or changing specific easement provisions, holding that the QTA comes into play only when the objective is to attack the federal title represented by such an easement at its core, by challenging its validity or existence. (FN 7)

In the western states however, a somewhat more inclusive and less restrictive judicial view of the QTA seems to be emerging, as Judge Baker suggests in the Rodgers opinion, and some of the other cases that she cites therein reflect this. The 2009 case of Robinson v United States appears to represent the most authoritative recent judicial statement on the proper role of the QTA with respect to easement disputes (FN 8). The Robinsons were apparently a typical family, who owned a substantial farm or ranch consisting of several hundred acres in Butte County, California, which they had acquired in the 1970s, and their title to their land was unchallenged. During the late 1970s an unspecified portion of the Robinson tract was subdivided, resulting in the creation of an access road within a 60 foot wide access easement, which served to connect the remaining Robinson land with a public highway. Various parcels, either fronting upon that access easement or through which it passed, were sold off over the ensuing years, and all of the conveyance documents acknowledged the rights of both Robinson and the parcel owners to use the easement for access. There is no indication that the location of the road or the 60 foot right-of-way were ever unclear or questioned, and all parties apparently used the road as intended for several years

without any concerns or conflicts arising. During the 1990s however, the Maidu Tribe acquired some of the parcels bearing the access easement, and at an unspecified date they built a casino, along with some other structures and improvements. In 2004, the Robinsons filed an action in federal court, alleging that some of the Maidu improvements encroached upon the access easement, apparently not completely blocking the roadway, but obstructing their use of that right-of-way to some extent.

This matter thus became a federal case, because the US was the actual holder of the fee interest in the Maidu property, which was held in trust for the Tribe, and for that reason the US responded to the Robinson action, in defense of that federal land interest. As can be seen, this case involved a scenario that differed from those of the cases previously discussed herein, because in this instance the issue arose from a private easement crossing federal land, rather than the converse. Nonetheless, the existence of locationally coincident private and federal title interests made the QTA potentially relevant, and the US legal team sought to utilize it to vanquish the Robinsons. Although the Robinsons had not filed their action under the QTA, the US insisted that it must be judicially handled as a QTA action, because it constituted a conflict between a federal title and a private title. The US took this position in this particular situation quite logically, because "Indian lands" are expressly excepted from the operation of the QTA, and the district court agreed with the US, decreeing that any Maidu land use violations could not be successfully challenged by the Robinsons, since the Tribe had been legislatively immunized and shielded from the operation of the QTA. Upon appeal by the Robinsons, who maintained that no title dispute existed, and that the QTA therefore could not be applied to their case, the Ninth Circuit Court of Appeals (COA) was required to squarely address this question, regarding the relevance of the QTA to disputes involving a private easement on federal land.

The COA began by acknowledging that sovereign immunity "insulates" federal title to real property or land rights from attack, until it is proven that the QTA is applicable, which Robinson could not accomplish, due to the tribal trust status of the relevant fee estate. Noting however, that the Robinsons were neither challenging an existing easement nor seeking to create an easement, the COA concluded that the inapplicability of the QTA did not foreclose the Robinson's opportunity to take legal action against the Maidu. The QTA properly applies to both easement disputes and boundary disputes, the COA observed, but since none of the parties had called either title to the easement or the location of the easement boundaries into question, the Robinsons action could not be characterized as a title action. The Robinsons, the COA decided, could not be required to proceed under the QTA, and could not be barred from proceeding by the QTA, because their action was not centered upon title, it was in fact a mere land use dispute, and such issues do not necessarily raise, or equate to, a cloud on title. In so ruling, the COA indicated that in creating the QTA, Congress was "concerned with interests that cloud title" and Congress anticipated that "the most common application (of the QTA) ... would be in boundary disputes", so while the QTA could apply to disputes over title location in the federal context, the mere construction of improvements within an established right-of-way was not the equivalent of a locational dispute, and was thus insufficient to generate QTA jurisdiction. Had the Maidu or the US challenged either the validity or the location of the Robinson access easement, the QTA could have shut the Robinsons down, but since no such attack upon their easement had been made, the district court had wrongly invoked the QTA to dismiss their action. The COA thus vacated the lower court ruling, freeing the Robinsons to proceed with their legal effort to have the Maidu judicially ordered to remove the encroaching objects, or to obtain a damage award (FN 9).

A somewhat more complex scenario gave rise to City of North Las Vegas (NLV) v Clark County, Nevada (CCN) in 2011 (FN 10) another informative recent judicial assessment of the proper scope of the QTA, which was also cited in the Rodgers case. CCN acquired an easement for a "flood control channel" crossing Nellis Air Force Base, which occupies part of the northerly portion of the Las Vegas Valley, from the Air Force in 1984, and CCN has evidently used their easement for that purpose ever since. In 2008 however, the Air Force agreed to allow NLV to build a wastewater facility in an unspecified area within the federal property comprising the base, and granted NLV a lease covering the site of the proposed effluent plant, along with an easement, purporting to enable NLV to discharge the effluent into a wash, which empties into the flood control channel maintained by CCN. After the effluent plant was built and ready to begin operation, CCN declined to grant NLV a permit allowing such discharge of treated wastewater, rendering the new facility useless. NLV responded by filing a QTA action against both CCN and the US, alleging that a title conflict existed, and seeking a decree upholding the validity and usability of the drainage easement acquired by NLV. CCN asserted that no title conflict existed, and maintained that the only issue was a dispute relating to water, between CCN and NLV, so the fact that the problematic site was on federal land was irrelevant, insisting that the US had no role to play in the litigation. Nonetheless, the US did participate, and the US legal team set forth an argument suggesting that the NLV lease did not contain any drainage easement, and thus did

not authorize NLV to conduct any water into the CCN drainage system.

The district court quite naturally looked to the Robinson decision, among others, for guidance on the subject of QTA jurisdiction, since this scenario was factually similar to the one ruled upon by the COA in 2009. The primary difference in this case was that the real conflict was between 2 easements, both of which had been created by the US, tying the US to both NLV and CCN, as their mutual grantor. Neither CCN nor NLV challenged the title of the opposing party, so if the US had not interjected the US argument mentioned above, no dispute involving title would have existed, and the fact that the controversy took place on federal land may well have been judicially deemed to be extraneous, making the QTA irrelevant, as CCN maintained. Since the US had openly called the existence of the NLV easement into question however, a genuine title dispute, clearly within the parameters of the QTA, did in fact exist, enabling the NLV action to proceed under the auspices of the QTA. Thus quite ironically, although NLV had not proven that any title conflict existed between itself and CCN, its principal adversary, the US had opened a door of opportunity for NLV, by demonstrating that a dispute over the existence of the NLV title did in fact exist. Given this evidence, the court proceeded to find that QTA jurisdiction was present, because the US accusations clouded the easement title held by NLV, citing the Robinson ruling for the proposition that disputes pertaining to "the scope of an easement fall within the purview of the QTA" in so doing. As can thus be seen, although mere physical encroachments are insufficient to support QTA jurisdiction, per the Robinson decision, any assault upon the legitimacy of an easement can potentially be sufficient to bring the QTA into play (FN 11).

It was against this backdrop, establishing a western theme relating to QTA claims, based upon judicial acceptance of the proposition that any cloud upon title can make the QTA available, when federal land rights which can be defined as a form of title are present, that the case of Beasley v United States appeared in 2013 (FN 12) and here we will see the "dark side" of the QTA revealed. In 1963, the Forest Service (FS) an agency within the US Department of Agriculture, acquired an access easement along a road that passes through private land in the mountains of Central Washington, connecting various FS land holdings. FS subsequently maintained the road in the usual manner, and use of the road by the public and local land owners naturally increased over the decades, as the population of the area increased, although the remote area was generally populated only during summer. The road was typically snowbound for some period each winter, and rather than attempting to keep it open year round, FS issued a "winter closure order" in 1987, which stated that henceforward the use of the road would be limited to snowmobiles and non-motorized vehicles when it was snowbound. Under this policy, FS asserted not only the right to cease plowing the road in winter, but also the right to prevent anyone else from plowing it, effectively converting the road into a recreational trail for part of each year. In 1999, Beasley acquired one of the many privately owned properties situated along the road, but he apparently made little if any use of his land until 2010, at which time FS declined to allow him to plow a portion of the road to make his property accessible by car or truck. Upon learning about this limitation, Beasley filed an action against FS, seeking a judicial decree commanding FS to allow him to make use of the road for standard vehicular access year round.

Although no dispute over either the existence or the location of the access easement existed, the court decided that this conflict was within the parameters of the QTA, because established precedent dictated that any dispute regarding the scope of an easement, given the presence of any federal land rights interest, is subject to adjudication in a QTA action, citing the Robinson and NLV cases as the basis for that position. Plowing the road, in the view of the court, was not merely a land use issue, it represented a legitimate title issue, because Beasley claimed to hold that right as a component of his title, while FS claimed to hold the right to deny Beasley full use of the easement under its easement title acquired in 1963, as modified or augmented by the 1987 snow closure policy. The veracity of the highly dubious FS assertion, which stood in defiance of the principle that rights associated with a documented easement cannot be unilaterally altered, presented an issue which was adjudicable under the QTA, so the court accepted the premise, set forth by FS, that the litigation launched by Beasley must be judicially regarded as a QTA controversy. Beasley insisted that no true title conflict existed, maintaining that the only real dispute was over the meaning of the 1963 easement language, making contract law the most appropriate legal pathway to resolution of the matter, but to no avail. The court held that the conflicting arguments presented a dispute which was subject to QTA jurisdiction, because the outcome depended upon the interpretation of language found in the document which had created the federal title, and thus proceeded to review the historical facts, which would prove to be decisive.

At this point we encounter the barb implanted upon the QTA hook, for although the QTA giveth, it also taketh away, and Beasley was about to become the next in a long line of QTA victims. FS had adopted the position that it held a right of full control over the road, by virtue of the 1963 easement, and had issued the 1987 closure order in accord with that position. If Beasley actually had no knowledge of that assertion of complete control by FS that was

his own fault, in the eyes of the court, since FS had openly exerted control over the road for decades by the time he undertook his legal challenge to that federal position. Thus it was the powerful principle of notice that sent Beasley down to defeat, in the view of the court he should have known that FS had taken control over the road, and his failure to raise his issue prior to agreeing to acquire his land subject to FS control now negated his right to do so, making the validity of the closure order a moot point, which was unnecessary to review or decide. The QTA, in effect, sanctions and leverages the concept of repose, which also represents the foundation of prescription and adverse possession, for the protection of all federal land rights interests. Full discussion of the operation of the time bar which is incorporated into the QTA, and which doomed Beasley's action, is beyond the scope of this article, but will be addressed in depth in the future. Thus FS was able to accomplish in this case what the TVA had been unable to do in the Sherwood case, and what the US had been unable to do in the Robinson case, which was to turn the QTA into an offensive weapon, silencing the plaintiff rather than assisting him. This is in fact the manner in which Congress intended the QTA to function however, it was designed to operate as the proverbial two-edged sword, supporting those who act prudently and promptly, while cutting down those whose action reveals negligence with respect to land rights.

In summary, we have seen that a judicial rift exists, pertaining to the conditions or factors which support implementation of the QTA. The real extent of any such disagreement over the true intended operation of this important federal statute is unclear however, because relatively few cases have required our courts to analyze the scope of the QTA in significant depth. This judicial uncertainty appears to center upon the question of whether the QTA was legislatively intended to embrace every type of dispute over land rights relating to title in any sense, or whether it was intended to be used to resolve only genuine title conflicts of the most obvious and undeniable variety. The divergent paths chosen by the judges who produced the Beasley and Rodgers rulings, each attempting to follow judicially established regional standards, illustrates nascent judicial tension, which has not yet developed into a clear split, but appears to be set to do so over the coming years. Is a controversy centered upon the scope of an easement, resulting from a dispute over the meaning of the terms that were used when it was created, an adjudicable matter within the QTA, or was the QTA meant only to address the bare question of whether or not the easement exists at all? The answer, if one is forthcoming, will only arrive if more QTA cases demonstrating a diversity of opinion on this issue reach the appellate level, ramping up the pressure on the Supreme Court of the United States to tackle another QTA case, for the purpose of clarifying its parameters. For now, the only clear conclusion to be drawn is that this ongoing uncertainty over the fate of QTA litigation remains problematic for all property owners who have a legitimate need or reason to utilize that valuable legal pathway.

Footnotes

1) "Time runneth not against the King". Although we obviously have no monarch in the United States, this ancient principle has nonetheless always been deemed to be fully applicable to our country, for the simple reason that all land held for the benefit of the public is acknowledged to be fundamentally worthy of the highest and strongest form of legal protection, since it would otherwise be constantly exposed to enormous risk. This is the principle which renders land use that is adverse in nature, and thus might well otherwise have serious adverse consequences upon federal title over time, incapable of having any such legal impact upon federal land rights, and typical public land rights of other kinds as well.

2) The full text of the QTA appears in Title 28 USC 2409a (aka Public Law 99-598 documented as 100 Stat 3351) last revised 1986, and these documents are available for free from various sources on the internet. In effect, the QTA represents a legislatively crafted exception to the general principle that federal title is utterly immune to legal assault, under which anyone is free to require the US to appear in court as a defendant, if the plaintiff party can show that appropriate grounds for QTA litigation exist. Since the QTA represents federal law rather than state law however, a QTA action can only take place in a federal court, no other court, such as the state courts in which title issues are typically adjudicated, is capable of employing the QTA in any manner.

3) US District Court for the Eastern District of Missouri, Eastern Division, Case No. 2:14-CV-81 NAB (Nannette A. Baker, Magistrate Judge). This is a typical court within the Eighth Circuit of the federal judicial system, which covers several states in the midwest and great plains region. The full text of this case is available for free on the internet, and can easily be found by means of a basic keyword search.

4) Thomas J. Vilsack, former governor of Iowa, former presidential candidate, and Secretary of Agriculture as of 2015.

5) US District Court for the Western District of Kentucky, Paducah Division, Case No. 5:09-CV-212.

6) US District Court for the Eastern District of Tennessee, Case No. 3:12-CV-156.

7) In effect, the federal district courts of KY, MO & TN, by means of the positions they have taken in the cases cited herein, construing the scope of the QTA in a narrow manner in the easement context, have announced to those seeking an opportunity to engage in legal combat over federal land rights, that they will need to "come strong, or don't come at all". This ruling against Sherwood was upheld by the Sixth Circuit Court of Appeals in 2014, so it would appear that those litigants who are not prepared to attack the very existence of the federal land rights with which they are interacting may find the QTA to be useless, at least in this part of the country.

8) 586 F.3d 683. This decision of the Ninth Circuit Court of Appeals is the only appellate ruling cited herein, and the 2 district court opinions that are reviewed subsequently herein are also set within the Ninth Circuit region, so these 3 cases viewed together stand as indicative of the present position on the relevance of the QTA to easement issues in the far west, as contrasted with the narrower eastern position. The existence of a "circuit split" between the Sixth and Ninth Circuits on this legal question has been judicially noted in multiple cases, including the Rodgers case, which suggests an emerging Eighth Circuit alignment with the Sixth Circuit view, so it would appear to be likely that the Supreme Court of the United States will need to bring clarity to this matter at some point.

9) The ultimate outcome of the Robinson litigation is unknown, hopefully they settled their issues with the Maidu Tribe amicably, eliminating the need for any further adjudication of the matter, or they may have simply dropped their action for other reasons, but if they did proceed and prevail they did so outside the parameters of the QTA, by employing some other legal channel, unrelated to title conflicts.

10) US District Court for the District of Nevada, Case No. 2:11-CV-00944-PMP.

11) Subsequent documentation appears to suggest that NLV and the US eventually reached a settlement of this matter, which may or not have fully resolved all of the issues presented in this case, but which evidently did at least resolve the dispute over the existence of the NLV easement, making it unnecessary for NLV to prosecute its QTA action. The ultimate outcome of the dispute concerning the refusal of CCN to issue NLV a drainage permit in this location may or may not have been settled without further litigation, but if additional litigation was required to conclude that conflict it would have transpired in state court, and would not have involved the QTA in any respect. As this case also demonstrates, cities and counties are essentially equivalent to private individuals or corporations for purposes of QTA litigation, since the bright judicial line prescribed by the QTA differentiates principally between federal and non-federal parties or interests.

12) US District Court for the Eastern District of Washington, Case No. CV-12-3136-LRS.

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