

SUPREME COURT OF THE STATE OF WASHINGTON

Quinault Indian Nation v. Imperium Terminal Services, LLC

No. 92552-6 · No. No. 92552-6 · Decided January 12, 2017

SUMMARY

The Washington Supreme Court held that the Ocean Resources Management Act applies to proposed expansions of oil terminal facilities in Hoquiam, Washington. The court concluded that the projects constituted ocean uses, transportation, and coastal uses under the relevant statute and Department of Ecology regulations. It reversed the Court of Appeals and remanded for further review under the Act.

CASE DETAILS

COURT	Supreme Court of the State of Washington
WRITING FOR THE COURT	Owens, J.
JURISDICTION	Washington
DECIDED	January 12, 2017
DOCKET	No. 92552-6
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioners sought review of the Court of Appeals' affirmance of the Shorelines Hearings Board's partial summary judgment ruling that the proposed terminal expansion projects were not subject to review under the Ocean Resources Management Act.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Statutory and administrative-rule interpretation are also reviewed de novo as questions of law.
PRECEDENTIAL VALUE	Published Washington Supreme Court en banc opinion; precedential.
PARTIES	Quinault Indian Nation, Friends of Grays Harbor, Sierra Club, Grays Harbor Audubon, Citizens for a Clean Harbor v. Imperium Terminal Services, LLC, City of Hoquiam, Washington State Department of Ecology, Westway Terminal Company, LLC, Washington Shorelines Hearings Board

TOPICS

environmental law

judicial review of agency action

administrative law

statutory interpretation

municipal law

PRACTICE AREAS

environmental law

administrative law

municipal law

tribal law

QUESTIONS PRESENTED

1. Whether the proposed terminal expansion projects trigger review under the Ocean Resources Management Act, chapter 43.143 RCW.
2. Whether the proposed projects qualify as ocean uses under WAC 173-26-360(3).
3. Whether the proposed projects qualify as transportation under WAC 173-26-360(12).
4. Whether the proposed projects qualify as coastal uses under WAC 173-26-360(6).

HOLDINGS

1. The proposed projects trigger review under RCW 43.143.030 because they are permitted activities involving the management, use, or development of natural resources in Washington's coastal waters and may adversely affect renewable resources, navigation, and other ocean or coastal uses.
2. The terminal expansion projects qualify as ocean uses under WAC 173-26-360(3).
3. The projects qualify as transportation under WAC 173-26-360(12).
4. The projects qualify as coastal uses under WAC 173-26-360(6), independently providing a basis for ORMA review.

KEY QUOTATIONS

“We hold that this interpretation improperly restricts ORMA, which was enacted to broadly protect against the environmental dangers of oil and other fossil fuels.” (1)

“To hold that the statute does not apply to a storage facility transferring oil products from land transport to sea transport because the project is not literally “in” the ocean would be an overly narrow reading of the text.” (12)

“Accordingly, we reverse the Court of Appeals and remand the case for further proceedings consistent with this opinion.” (22)

FACTUAL BACKGROUND

Westway and Imperium operated adjacent bulk-liquid storage terminals on the shores of Grays Harbor and the Chehalis River in Hoquiam. They sought to expand their facilities to receive, store, and ship crude oil and other fuel products by rail, truck, and ocean vessel, substantially increasing train and vessel traffic. The projects required shoreline development permits and posed potential risks to coastal waters, wetlands, migratory bird habitat, navigation, and other environmental resources.

PROCEDURAL HISTORY

Westway and Imperium applied for substantial shoreline development permits for petroleum-terminal expansions. The Department of Ecology and City of Hoquiam issued mitigated determinations of

nonsignificance and permits. The Shorelines Hearings Board granted petitioners partial summary judgment on a cumulative-impact issue, but granted respondents partial summary judgment on the ORMA issue. The Court of Appeals affirmed the ORMA ruling, and the Washington Supreme Court granted review, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals and remand for further proceedings consistent with the opinion, including review of the proposed projects under ORMA's provisions.

CASES CITED

- Quinault Indian Nation v. Imperium Terminal Servs., LLC, 190 Wash. App. 696, 360 P.3d 949 (2015)
- Quinault Indian Nation v. City of Hoquiam, 185 Wash. 2d 1017, 369 P.3d 500 (2016)
- Bostain v. Food Express, Inc., 159 Wash. 2d 700, 708, 153 P.3d 846 (2007)
- Michak v. Transnation Title Ins. Co., 148 Wash. 2d 788, 794-95, 64 P.3d 22 (2003)
- Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wash. 2d 1, 9-10, 43 P.3d 4 (2002)
- In re Marriage of Schneider, 173 Wash. 2d 353, 363, 268 P.3d 215 (2011)
- Kucera v. Dep't of Transp., 140 Wn.2d 200, 212, 995 P.2d 63 (2000)
- Leschi Improvement Council v. Washington State Highway Commission, 84 Wash. 2d 271, 277, 525 P.2d 774 (1974)
- Hama Hama Co. v. Shorelines Hr'gs Bd., 85 Wash. 2d 441, 448, 536 P.2d 157 (1975)
- Cannon v. Dep't of Licensing, 147 Wash. 2d 41, 56-57, 50 P.3d 627 (2002)
- Port of Seattle v. Pollution Control Hr'gs Bd., 151 Wash. 2d 568, 593, 90 P.3d 659 (2004)
- Alverado v. Wash. Pub. Power Supply Sys., 111 Wash. 2d 424, 429, 759 P.2d 427 (1988)
- Kitsap County v. Allstate Ins. Co., 136 Wash. 2d 567, 576, 964 P.2d 1173 (1998)

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