IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
Petitioner,	)	No. 84716-9
	)	
v.	)	En Banc
	)	
LESTER RAY JIM,	)	
	)	Filed February 9, 2012
Respondent.	)	
	)	

OWENS, J. -- Lester Ray Jim, an enrolled member of the Yakama Nation, was cited by the State for unlawfully retaining undersized sturgeon. This occurred at the Maryhill Treaty Fishing Access Site (Maryhill), a plot of land set aside by Congress exclusively for the use of four Columbia River tribes to exercise their treaty fishing rights. The State argues it has rightfully assumed criminal jurisdiction at Maryhill. We disagree. We hold that Maryhill is reserved and held by the United States for the exclusive use of tribal members and that the State therefore lacks criminal jurisdiction.

FACTS

The basic facts of this case are undisputed. On June 25, 2008, Jim incidentally caught five undersized sturgeon in his gill net when fishing commercially, under right

of treaty, in the Columbia River. Jim took the undersized sturgeon ashore at Maryhill. There, officers from the Washington State Department of Fish and Wildlife issued a citation to Jim for unlawful use of a net and unlawfully retaining the undersized sturgeon, citing RCW 77.15.580(1)(b) and former WAC 220-32-05100W (Wash. St. Reg. 08-14-029 (June 21, 2008)), *repealed by* Wash. St. Reg. 08-14-091 (July 1, 2008).[1]

Jim describes it as the usual practice among Yakama fishers to wait until coming ashore to release sturgeon. He contends that he told the Department of Fish and Wildlife officers that he planned to release the sturgeon, which can survive out of water for several hours, and that the officers in fact released the live fish back into the river. While both state and tribal law restrict the retention of undersized sturgeon, only state statute makes it unlawful to "[f]ail[] to return unauthorized fish to the water *immediately*." RCW 77.15.580(1)(b) (emphasis added). Tribal law allows "[a]ll Yakama members . . . a *reasonable opportunity* to release alive any sturgeon of prohibited length incidentally caught in authorized fisheries." Revised Law & Order Codes of Yakama Nation § 32.18.07(D) (emphasis added); Clerk's Papers (CP) at 21.

This incident occurred at Maryhill. Maryhill is one of several treaty fishing access sites established by Congress in 1988. Indian Reorganization Act

[1] The cited WAC was an emergency rule, which has since been repeatedly revised by the Department of Fish and Wildlife. *See* Wash. St. Reg. 08-14-091 ("Because conditions change rapidly, the fisheries are managed almost exclusively by emergency rule.").

Amendments, Pub. L. No. 100-581, § 401, 102 Stat. 2938 (1988). These treaty fishing access sites were created by Congress in response to the devastation of many accustomed fishing grounds of Columbia River tribes that were flooded when the Bonneville Dam was built. S. Rep. No. 100-577, at 43 (1988), *reprinted in* 1988 U.S.C.C.A.N. 3908, 3933.

By way of background, by treaty in 1855, the Yakama Nation ceded claim to tens of thousands of acres of land and reserved other land and rights, including "the right of taking fish at all usual and accustomed places." Treaty between the United States and the Yakama Nation of Indians, arts. 1-3, June 9, 1855, 12 Stat. 951, 953. In 1945, in response to the devastation of many of the "usual and accustomed places" for Yakama and other Indian treaty fishing, Congress first created several "in-lieu" fishing sites. River and Harbor Act of 1945, Pub. L. No. 79-14, § 2, 59 Stat. 10, 22 (1945) ("[S]uch lands . . . shall be subject to the same conditions, safeguards, and protections as the treaty fishing grounds submerged or destroyed."); *see State v. Sohappy*, 110 Wn.2d 907, 908-09, 757 P.2d 509 (1988). Then, in 1988, Congress provided for the establishment of at least six additional treaty fishing access sites, as well as the improvement of existing in-lieu sites. Maryhill is one such treaty fishing access site. Congress indicated that these newer treaty fishing access sites were to be created and treated consistently with the existing in-lieu sites and that they were "for the *permanent* use and enjoyment of the Indian tribes." S. Rep. No. 100-577, at 31, 43,

reprinted in 1988 U.S.C.C.A.N. at 3921, 3933 (emphasis added). By law, the land

must "be administered to provide access to usual and accustomed fishing areas" for four tribes, including "the Confederated Tribes and Bands of the Yakima Indian Nation." § 401(a), 102 Stat. at 2944. Federal regulations make clear that the right of use is reserved *exclusively* for the named tribes. 25 C.F.R. §§ 247.2(b), .3.

Jim challenged the State's jurisdiction to prosecute him for an alleged criminal violation at Maryhill. Specifically, Jim filed a motion in the Klickitat County District Court to dismiss this case because the State lacks jurisdiction to regulate or prosecute him under RCW 77.15.580. On October 21, 2008, the district court granted Jim's motion. The State appealed to the Klickitat County Superior Court. In a written opinion dated April 1, 2009, relying on *State v. Cooper*, 130 Wn.2d 770, 928 P.2d 406 (1996), the superior court concluded that the State has jurisdiction because "[t]he Maryhill Treaty Fishing Access Site is not within the boundary of the Yakama reservation." CP at 51.

Jim, in turn, appealed. The Court of Appeals reversed the superior court, reinstating the district court's order of dismissal. *State v. Jim*, 156 Wn. App. 39, 44, 230 P.3d 1080 (2010). The Court of Appeals relied on *State v. Sohappy*, which "was limited to a particular in-lieu fishing site." *Jim*, 156 Wn. App. at 42. However, it reasoned that, "[w]hile *State v. Sohappy* merits a narrow construction, . . . that court did not intend no other treaty site could ever be exempt from State criminal

jurisdiction." *Id*. at 43. The Court of Appeals concluded that Jim's case is factually similar to the facts in *State v. Sohappy* and, accordingly, that the State does not have criminal jurisdiction at Maryhill. *Jim*, 156 Wn. App. at 43.

The State again appealed, and this court accepted discretionary review. *State v. Jim*, 170 Wn.2d 1001, 245 P.3d 226 (2010).

ISSUE

Does the State have criminal jurisdiction to cite an enrolled member of the Yakama Nation at Maryhill?

ANALYSIS

Standard of Review

Where there is no factual dispute as to the location of the alleged crime, the question of the State's jurisdiction is a question of law. *State v. L.J.M.*, 129 Wn.2d 386, 396, 918 P.2d 898 (1996). This court reviews questions of law de novo. *State v. Squally*, 132 Wn.2d 333, 340, 937 P.2d 1069 (1997).

Public Law 280 and State Jurisdiction

Washington State's jurisdiction over Indian country is limited. Indian country is defined by federal law to mean:

> (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,

> (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
>
> (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

18 U.S.C. § 1151.

Through Public Law 280, Congress gave leeway to states, except those it required, to assume jurisdiction over Indian country. Pub. L. No. 83-280, 67 Stat. 588 (1953) (codified as amended at 18 U.S.C. § 1162; 25 U.S.C. §§ 1321, 1323, 1324); *see Washington v. Confederated Bands & Tribes of Yakima Indian Nation*, 439 U.S. 463, 471-74, 99 S. Ct. 740, 58 L. Ed. 2d 740 (1979) (*Yakima Indian Nation*). Public Law 280 was later amended by Congress to require tribal consent to state jurisdiction in Indian country. *See* 25 U.S.C. §§ 1321, 1323. However, before then, Washington State assumed some criminal and civil jurisdiction over Indian country. Laws of 1957, ch. 240, § 1, *amended by* Laws of 1963, ch. 36, § 1; *see Yakima Indian Nation*, 439 U.S. at 499, 502 (holding that RCW 37.12.010 complies with Public Law 280 and is constitutional). This case concerns Washington's assumption of criminal jurisdiction.

State jurisdiction over Indian country is codified at RCW 37.12.010. The statute provides that Washington assumes criminal jurisdiction

> over Indians and Indian territory, reservations, country, and lands . . . , but such assumption of jurisdiction shall not apply to Indians when on their tribal lands or allotted lands within an established Indian reservation and held in trust by the United States or subject to a restriction against

alienation imposed by the United States.

RCW 37.12.010. State jurisdiction is further limited by a provision that provides, among other things, that nothing in chapter 37.12 RCW shall deprive any Indian or tribe of a treaty fishing right.[2] RCW 37.12.060. While a tribe can consent to greater state jurisdiction, *see* RCW 37.12.021, the Yakama Nation has never given its consent and is therefore only subject to the nonconsensual jurisdiction asserted by the State in RCW 37.12.010. *Yakima Indian Nation*, 439 U.S. at 465-66. In sum, under RCW 37.12.010, the State does not have criminal jurisdiction over Yakama Indians on tribal lands that are within an established reservation and held in trust or subject to a restriction on alienation by the United States.[3]

State Criminal Jurisdiction at Maryhill

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[2] Jim alternatively argues that the State does not have jurisdiction to enforce RCW 77.15.580(1)(b) because it interferes with his exercise of his treaty fishing rights. However, this is an issue for trial, not a question of jurisdiction. *State v. Reed*, 92 Wn.2d 271, 275, 595 P.2d 916 (1979); *State v. Petit*, 88 Wn.2d 267, 269-70, 558 P.2d 796 (1977).

[3] The parties argue this case based on reading RCW 37.12.010 to only limit state jurisdiction within a reservation on lands held in trust or subject to a restriction on alienation. Another potentially legitimate, plain reading of the text is to separate the sentence earlier so that "within an established Indian reservation" only modifies "allotted lands." RCW 37.12.010. Under that reading, the State does not have jurisdiction over "Indians when on their tribal lands." *Id.* Nor does it have jurisdiction on "allotted lands within an established Indian reservation." *Id.* The statute does not define "tribal lands" but, given again that Maryhill is held for the exclusive use of tribes to exercise their treaty fishing rights, it plainly seems to be tribal land. Because we find that the State does not have jurisdiction even under the interpretation of the statute that gives the State the broadest jurisdiction, we need not reach this question of an alternative statutory interpretation.

The State lacks criminal jurisdiction at Maryhill because the treaty fishing access site is tribal land, established and reserved by Congress for the exclusive use of tribal members. The State does not dispute that the site is tribal land. Rather, this case turns most prominently on whether Maryhill is an established reservation. Accordingly, because we find that Maryhill is an established reservation held in trust by the United States for the benefit of tribes, we hold that RCW 37.12.010 precludes state criminal jurisdiction.

"'The term "Indian reservation" is not defined by statute.'" *State v. Sohappy*, 110 Wn.2d at 910 (quoting *United States v. Sohappy*, 770 F.2d 816, 822 (9th Cir. 1985)). While the treaty between the federal government and the Yakama Nation reserves and defines the boundaries of one large tract of land, there is no indication in the law that "reservation" means only a specific tribe's original treaty reservation. The State jurisdictional statute does not specify how or when the reservation of land must be established.

A plain reading of the statute and consideration of the character of the land indicates that Maryhill is a reservation. The site was reserved by Congress for the exclusive and "*permanent* use and enjoyment of the Indian tribes." S. Rep. No. 100-577, at 43, *reprinted in* 1988 U.S.C.C.A.N. at 3933 (emphasis added); *see* 25 C.F.R. §§ 247.2(b), .3. While more than a century after the treaty with the Yakama Nation,

Congress clearly established Maryhill and reserved it for tribal use. Dictionary definitions offer a broad conception of the term "reservation." Black's Law Dictionary 1422 (9th ed. 2009) ("[a] tract of public land that is not open to settlers but is set aside for a special purpose; esp., a tract of land set aside for use by indigenous peoples"); Webster's Third New International Dictionary 1930 (2002) ("a tract of public land set aside for a particular purpose (as schools, forest, or the use of Indians)"). So, while Maryhill is not *the* Yakama Indian Reservation, it is nonetheless an area of land reserved for the exclusive use of four named tribes, making it *an* Indian reservation.

Federal law also strongly informs our conclusion that Maryhill is an established reservation for purposes of determining state jurisdiction. The federal definition of Indian country and the land on which the State has assumed criminal jurisdiction do not exactly align. *Compare* 18 U.S.C. § 1151, *with* RCW 37.12.010. So whether land is Indian country for purposes of federal jurisdiction is not itself dispositive of whether the same land is within an Indian reservation for purposes of state criminal jurisdiction. However, the term "Indian reservation" appears in the federal definition of Indian country as one of three categories of land of which Indian country is comprised. 18 U.S.C. § 1151(a). If a tract of land is considered Indian country *because* it is a reservation, *see id*., this informs whether such land is also a reservation

for purposes of State jurisdiction under RCW 37.12.010. The term "reservation" is not defined in federal statute, though federal courts have had an opportunity to consider the matter. Because the very authority of Washington's statutory assumption of state criminal jurisdiction over Indian lands derives from federal law, *see* 25 U.S.C. §§ 1321, 1323, the two schemes are necessarily related.

In *United States v. Sohappy*, the Ninth Circuit held that Cooks Landing, an in-lieu fishing site, "amount[s] to 'reservation land'" within the federal statutory definition of Indian country. 770 F.2d at 823. Cooks Landing is an in-lieu fishing site that was established for the use and benefit of several Columbia River tribes with treaty fishing rights at usual and accustomed locations that were devastated by flooding caused by the Bonneville Dam. *See State v. Sohappy*, 110 Wn.2d at 908-09. The Ninth Circuit *Sohappy* case involved a question of federal jurisdiction to prosecute several Indian defendants for catching and selling fish "outside the seasons prescribed by Indian tribal and state law" under the federal Lacey Act Amendment of 1981, 16 U.S.C. § 3372.[4] 770 F.2d at 817. The Ninth Circuit had to decide whether

[4] The State argues that failure to recognize state criminal jurisdiction will result in Maryhill being void of jurisdiction. While this is not a basis for state jurisdiction, we note that the concern is also overstated. Here, for example, it is notable that the Lacey Act provides federal jurisdiction to prosecute certain violations of tribal and state law related to wildlife in Indian country. 16 U.S.C. § 3372(a). There is federal jurisdiction over major crimes. 18 U.S.C. § 1153. There is also tribal jurisdiction at Maryhill. *See United States v. Lara*, 541 U.S. 193, 210, 124 S. Ct. 1628, 158 L. Ed. 2d. 420 (2004); *Settler v. Lameer*, 507 F.2d 231, 237 (9th Cir. 1974). And the State has full jurisdiction where non-Indians are involved. *Yakima Indian Nation*, 439 U.S. at 498.

Cooks Landing was within Indian country to determine whether a necessary element of the crime was proved. *Id*. at 822. The Ninth Circuit determined that the in-lieu site was a reservation, and thus Indian country, based on language from two United States Supreme Court cases discussing the meaning of "reservation." *Id*. at 822-23 (citing *United States v. John*, 437 U.S. 634, 649, 98 S. Ct. 2541, 57 L. Ed. 2d 489 (1978); *United States v. Pelican*, 232 U.S. 442, 449, 34 S. Ct. 396, 58 L. Ed. 676 (1914)).

In *John*, the United States Supreme Court considered whether the Indian Major Crimes Act, 18 U.S.C. § 1153, gave the federal government *exclusive* jurisdiction over an assault that occurred "on lands within the area designated as a reservation for the Choctaw Indians residing in central Mississippi." 437 U.S. at 635. The Supreme Court held that the land in question was part of Indian country and that the federal government therefore had exclusive jurisdiction over the assault while the state had none. *Id*. at 647-49. The Court specifically considered whether the land was an Indian reservation, the first category of Indian country land. *Id*. at 648 (citing 18 U.S.C. § 1151). The Court described "[t]he principal test" as "whether the land in question 'had been validly set apart for the use of the Indians as such, under the superintendence of the Government.'" *Id*. at 648-49 (quoting *Pelican*, 232 U.S. at 449). The *John* Court made this additional persuasive observation:

> The Mississippi lands in question here were declared by Congress to be held in trust by the Federal Government for the benefit of the Mississippi Choctaw Indians who were at that time under federal

> supervision. There is no apparent reason why these lands, which had been purchased in previous years for the aid of those Indians, did not become a "reservation," at least for the purposes of federal criminal jurisdiction at that particular time. But if there were any doubt . . . , the situation was completely clarified by the proclamation in 1944 of a reservation.

Id. at 649 (citation omitted). *John* suggests that the land in question was a reservation as soon as it was set aside for the benefit of the tribe. This is the language that the Ninth Circuit in turn applied to hold that the in-lieu fishing site of Cooks Landing is a "reservation" for purposes of federal law in *United States v. Sohappy*, 770 F.2d at 822-23.

In *State v. Sohappy*, this court considered whether the State had criminal jurisdiction at Cooks Landing, the same in-lieu fishing site that the Ninth Circuit held was reservation land for purposes of federal jurisdiction.[5] 110 Wn.2d at 909-11. This court applied the reasoning of the Ninth Circuit that Cooks Landing amounted to a reservation and held that because Cooks Landing is a reservation for purposes of federal law defining Indian country, it is also a reservation for purposes of determining State jurisdiction. *Id*. at 910-11 ("[Cooks Landing] is a part of a reservation for purposes of application of our state jurisdiction statute."). Accordingly, this court unanimously held that the State lacks criminal jurisdiction at the in-lieu fishing site.

[5] State, federal, and tribal jurisdiction can be overlapping so the existence of one is not necessarily determinative of the others. *See State v. Schmuck*, 121 Wn.2d 373, 380, 850 P.2d 1332 (1993).

Id. at 911.

The character of Maryhill is essentially the same as that of Cooks Landing, where this court held that the State did not have criminal jurisdiction. Maryhill was created later for the same purpose of assuring specific tribes could exercise their treaty fishing rights after the devastation of their usual and accustomed fishing sites. S. Rep. No. 100-577, at 43-45, *reprinted in* 1988 U.S.C.C.A.N. at 3933-35. Use of in-lieu sites, including Cooks Landing, is restricted to Indians. *State v. Sohappy*, 110 Wn.2d at 908-09 (citing former 25 C.F.R. § 248.2 (1987)). Treaty fishing access sites, including Maryhill, are similarly subject to federal regulation preserving the site for the exclusive use of the beneficiary tribes. *Compare* 25 C.F.R. §§ 247.2(b), .3, *with* 25 C.F.R. § 248.2. Congress recorded its intent that the treaty fishing access sites should be treated consistently with the in-lieu sites. S. Rep. No. 100-577, at 31, *reprinted in* 1988 U.S.C.C.A.N. at 3921.

In *State v. Sohappy*, we noted that our holding was narrowly limited to the specific in-lieu site based on our reliance upon the *United States v. Sohappy* decision that Cooks Landing is reservation land.[6] 110 Wn.2d at 909-11. However, Maryhill has all the same characteristics of the land in question in *State v. Sohappy*. As the Court of Appeals reasoned in this case, the "[*State v. Sohappy*] court did not intend no

[6] The court also alluded to poor briefing by the State but did not limit its holding on that basis. *State v. Sohappy*, 110 Wn.2d at 909.

other treaty site could ever be exempt from State criminal jurisdiction." *Jim*, 156 Wn. App. at 43. We agree. Because the reasoning in *State v. Sohappy* is sound, we apply it here and conclude that Maryhill is also a reservation.

The State argues that *Cooper* is controlling in this case. We are not persuaded. In *Cooper*, we again confronted the question of state criminal jurisdiction over Indians. 130 Wn.2d at 772. Specifically, Cooper was convicted of child molestation on property held in trust as an Indian allotment outside the Nooksack Reservation, and this court held that the State had criminal jurisdiction because the land was "outside the boundaries of an established Indian reservation." *Id*. The court distinguished *State v. Sohappy* as "clearly limited to the in-lieu fishing site in question." *Id*. at 778. However, *Cooper* and *State v. Sohappy* are not necessarily conflicting. *Cooper* involved allotment land, which means that it was held in trust for an individual Indian, not a tribe. *Id*. at 772 n.1; *see State v. Comenout*, 173 Wn.2d 235, ___ P.3d ___ (2011). Maryhill is unique from allotment land because it is land that was set aside by Congress for the exclusive use of tribes, not an individual. *See John*, 437 U.S. at 648-49; *United States v. Sohappy*, 770 F.2d at 823.

In sum, Maryhill would be considered a reservation for purposes of federal jurisdiction. An in-lieu fishing site is a reservation for purposes of federal jurisdiction, *see United States v. Sohappy*, 770 F.2d at 823, and treaty fishing access sites have the

same status as the previously created in-lieu sites, S. Rep. No. 100-577, at 31, *reprinted in* 1988 U.S.C.C.A.N. at 3921 ("[T]he legal status of the newly provided in-lieu sites will be entirely consistent with those of existing sites."). We interpret the meaning of reservation for purposes of state jurisdiction consistently with federal law.

In addition to the plain meaning of the statute and persuasive federal case law, it is also of note that the Department of the Interior, Bureau of Indian Affairs expressed its agreement that "the States do not have regulatory jurisdiction or authority over the in-lieu fishing sites." Use of Columbia River Treaty Fishing Access Sites, 62 Fed. Reg. 50,866, 50,867 (Sept. 29, 1997) (codified at 25 C.F.R. pt. 247). This does not directly inform the understanding of whether Maryhill is within a reservation for purposes of State jurisdiction, but it provides persuasive authority on the intent to preclude states from exercising broad authority over tribal members at these established fishing sites.

We also note that Maryhill is different from other usual and accustomed fishing sites because it is reserved exclusively for tribal use and *not* shared in common with other citizens. *Compare* 25 C.F.R. §§ 247.2(b), .3, *with Washington v. Wash. State Commercial Passenger Fishing Vessel Ass'n*, 443 U.S. 658, 662, 99 S. Ct. 3055, 61 L. Ed. 2d 823 (1979) (discussing a treaty providing for fishing rights "'in common with all citizens of the Territory'" (quoting 10 Stat. 1133)). There is something

fundamentally different about land that is set aside for the exclusive use of tribes and land, which may be privately owned, that is open for shared and equitable use.

We consider all of this in light also of the canon that treaties and statutes passed for the benefit of Indian tribes are to be liberally construed in favor of tribes with "'doubtful expressions being resolved in favor of the Indians.'" *Bryan v. Itasca County*, 426 U.S. 373, 392, 96 S. Ct. 2102, 48 L. Ed. 2d 710 (1976) (quoting *Alaska Pac. Fisheries v. United States*, 248 U.S. 78, 89, 39 S. Ct. 40, 63 L. Ed. 138 (1918)). Under a plain reading of the state jurisdictional statute and consideration of the character of Maryhill, as well as a reading that results in a consistent interpretation of "reservation" in state and federal law, we conclude that Maryhill is an "established reservation."

Finally, the State argues that, even if Maryhill can be considered a reservation, the State nonetheless has jurisdiction because the land is fee land, not trust land, owned by the federal government. *See* RCW 37.12.010 (State criminal jurisdiction does "not apply to Indians when on their tribal lands . . . within an established Indian reservation *and held in trust by the United States or subject to a restriction against alienation imposed by the United States*." (emphasis added)). However, Maryhill is more like trust land or land with a restriction against alienation than fee land: it is held by the government for the exclusive use and benefit of the tribes and remains as such

except by a change in law. § 401, 102 Stat. at 2944; 25 C.F.R. §§ 247.2(b), .3.

A trust or fiduciary relationship can exist "'(unless Congress has provided otherwise) even though nothing is said expressly in the authorizing or underlying statute (or other fundamental document) about a trust fund, or a trust or fiduciary connection.'" *United States v. Mitchell*, 463 U.S. 206, 225, 103 S. Ct. 2961, 77 L. Ed. 2d 580 (1983) (quoting *Navajo Tribe of Indians v. United States*, 624 F.2d 981, 987 (Ct. Cl. 1980)). In *Mitchell*, the United States Supreme Court held that "[a]ll of the necessary elements of a common-law trust are present" where the federal government managed forest resources on tribal land. *Id*. Similarly, all of the necessary elements of a common-law trust are present in this case: a trustee (the United States), a beneficiary (the four Columbia River treaty tribes), and a trust corpus (treaty Indian fishing sites, i.e., "trust property"). Because the necessary elements of a trust exist, we hold that the land is held in trust, even absent that specific designation in the statute providing for the land. *Cf.* 25 U.S.C. §§ 465, 608.

CONCLUSION

Washington State chose only to assume limited jurisdiction over Indian country under Public Law 280. In so doing, it recognized tribal sovereignty, which includes, to some extent, the right and responsibility to self-police. At Maryhill, a site established by Congress and reserved for the exclusive use of tribes, Indians have "the greatest

interest in being free of state police power." *Yakima Indian Nation*, 439 U.S. at 502. Consistent with federal law, the plain reading of the state statute assuming limited jurisdiction in Indian country, RCW 37.12.010, Maryhill is an established reservation held in trust for the tribe. Accordingly, we hold that Maryhill does not fall within the State's assumption of criminal jurisdiction. We affirm the Court of Appeals.

AUTHOR:

Justice Susan Owens

WE CONCUR:

Justice Charles W. Johnson	Justice Debra L. Stephens
Justice Tom Chambers	Gerry L. Alexander, Justice Pro Tem.
Justice Mary E. Fairhurst	