Shoshone-Bannock Tribes of the Fort Hall Reservation v. U.S., 2023 WL 2456403 (D. Idaho, March 10, 2023).

- **Holding**: On motion for reconsideration, the court held that it had properly dismissed the Tribes' claims against the U.S. seeking reversion of former railroad right-of-way because the claims were not brought within the 12-year statute of limitations in the Quiet Title Act, but allowing ejectment and restitution claims against City of Pocatello to proceed.
- **Summary**: The Shoshone-Bannock Tribes moved to reconsider the dismissal of certain of the Tribes' claims against the United States and the City of Pocatello, Idaho, asserting that land no longer used for railroad purposes should be returned to the Tribe, and not to the United States or the City. In previous litigation before the D.C. District Court, *Shoshone-Bannock Tribes of Fort Hall Reservation v. Bernhard*, 486 F. Supp. 3d 61 (D.D.C. 2020), the court ruled that all claims to the former railroad right-of-way arising before a 2012 agreement between the Tribes and the U.S. were waived by the agreement, and left to the District of Idaho the question of whether injuries alleged by the Tribes arose on or after the date of the settlement agreement.

  In a decision reported at 575 F. Supp. 3d 1245 (D. Idaho 2021), the district court had dismissed the Tribe's Quiet Title Act claims, ruling that the QTA's 12 year statute of limitations had accrued in 2004 when the Tribe, in response to a FOIA request, received a copy of a BLM internal memorandum approving a grant of the former railroad right-of-way to the City to construct a nature trail, which noted that ownership of the granted lands was not 100% clear; dismissed claims seeking a writ of mandamus because the statutes establishing the railroad right-of-way did not "plainly prescribe" reversion of title to the Tribes; dismissed claims seeking rejectment and restitution because the Quiet Title Act is the exclusive means by which adverse claimants can challenge the U.S.'s title to real property; and dismissed claims against the BIA for breach of trust because the Tribes had not alleged a final agency action reviewable under the APA.

  The Tribe filed a motion to reconsider, asserting that none of their claims should have been dismissed. The Court held that:

  - An action under the QTA accrues when an action of the United States would have alerted a reasonable landowner that the government claimed an interest in the land, and the Tribes were so alerted in 2004 when they received a copy of an internal BLM memo approving the City's building of a nature trail on the land, and the SOL was not "reset" by the later 2012 settlement agreement because the agreement does not "state that the Tribes own the land or that the United States is abandoning any interest in the land";
  - Because the 1888 act granting a right-of way to the Tribe contained conflicting provisions, one stating the lands would revert to the Tribe upon cessation of railroad use, and one stating that the lands would revert to the U.S., a writ of mandamus to enforce the 1888 act could not be issued, since such writs can only be issued to command an official to perform a positive command that is plainly prescribed and free of doubt;
  - A 2014 BLM decision accepting the railroad's relinquishment of the right-of-way with reference to those portions of the 1888 act providing for title to revert to the

Tribe did not constitute a command to perform certain actions for which the Tribe could seek a writ of mandamus;
    - The court would not consider the Tribe's claim that the BIA breached its duty of trust to the Tribes by failing to bring trespass actions because the Tribe could not raise such issue for the first time on a motion for reconsideration, and because nothing in the 1888 act or the 2014 BLM memorandum required the BIA to bring a trespass action;
    - The tribe could not bring an action for ejectment and restitution against the U.S. because such actions were eliminated when Congress passed the Quiet Title Act;
    - The court committed clear error when it dismissed the Tribe's ejectment and restitution claims against the City of Pocatello, because "[t]here is no case law suggesting that the QTA eliminates actions in ejectment and restitution of property against local government entities."
- **Relevant (2023) Deskbook Section**: 3:3