No. 22-35000

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SAUK-SUIATTLE INDIAN TRIBE,

Plaintiff-Appellant,

v.

CITYOF SEATTLE and SEATTLE CITY LIGHT,

Defendant – Appellee,

On Appeal from the United States District Court for the Western District of Washington

APPELLANT'S OPENING BRIEF

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Plaintiff's state court complaint was not properly removable as it asserts claims purely arising under state law and does not conflict with Congress' intent embodied in the plain text of the Federal Power Act
Resolution of plaintiff's state-based claims by the state court is not "exclusively" subject to federal jurisdiction, as the Federal Power Act's savings clause expressly precludes complete federal preemption
Although adjudication of Plaintiff's complaint may <i>involve</i> federal questions raised as a <i>defense</i> , the claims raised in the <i>complaint</i> are based upon state law and state constitutional provisions which merely incorporate by reference federal laws
The district court's determination that Plaintiff's common law claims and claim of Nuisance involve a question foreclosed by federal law or that it involves a federal question is without merit. That respondents' possess a license to generate hydropower does not vitiate the applicability of Washington common law



The district court erred in mischaracterizing the basis of plaintiff's claims. That certain territorial acts for Oregon and Washington were repealed in 1873 and 1933 respectively have no bearing on this case, since Washington had by then already incorporated their provisions as matters of Washington state law. Plaintiff's claims do not arise directly under now repealed federal law, rather, the claims are based upon the incorporation by	
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The claims raised in plaintiff's complaint are not preempted by the Federal Power Act nor exclusively subject to determination by the Federal Energy Regulatory Commission.	1
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