



## Costa Rica v. Nicaragua: Proceedings Instituted by Costa Rica Against Nicaragua

ARGUED: November 23 2015  
DECIDED: November 24 2015

1 On the matter of jurisdiction, the Court upholds its ruling in the 2009 case titled *Case concerning the*  
2 *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*. In this case the Court found it held  
3 jurisdiction over the matter based on Article 31 of the American Treaty on Pacific Settlements (Pact of Bogota),  
4 Article 36 of the Statute of the International Court of Justice, and Chapter 5 of the Charter of the Organization of  
5 the American States.

6 The Court has decided to accept the *Award of the President of the United States on the United States*  
7 *on the Validity of the Treaty of Limits of 15 April 1858 between Costa Rica and Nicaragua, given at Washington,*  
8 *22 March 1888 (Cleveland Award)* as a document of International Law, which was accepted by both parties as  
9 arbitration clarifying the doubtful interpretation of the 1858 Boundary Treaty between Nicaragua and Costa Rica.  
10 The document determines that Nicaragua has sovereignty over the San Juan River; however, as the Cleveland Award  
11 established, Costa Rica retains the right to navigation of the river for the purpose of commerce. The 2009 ruling  
12 determined that the right of free navigation in question applies to the transport of persons as well the transport of  
13 goods as the activity of transporting persons can be commercial in nature [] The Court recognizes that this right  
14 includes the transports of tourists.

15 Regarding the ownership of the Calero Island, the Court finds that given the treaties that Nicaragua has  
16 been party to concerning this ownership, its claims to this island through historical context have been rejected. This  
17 is confirmed by our interpretation of the Treaty of Limits, the Cleveland Award, and the decision from the 2009  
18 judgement. The Court has determined that since the Colorado River cannot be the boundary line between the two  
19 states, and the San Juan River is the sovereign territory of Nicaragua, the Calero Island falls within Costa Rican  
20 sovereignty.

21 Regarding the legality of the construction of the canal, this Court finds that the dredging of the southern bank  
22 of the San Juan River is an encroachment of Costa Rican territory, and therefore is a violation of their sovereignty.  
23 The court decided this based on Articles 10 and 11 of the Cleveland Award which requires Costa Rica be consulted  
24 and implores that their consent be obtained before construction begins. Furthermore, according to Article 6 of the  
25 Cleveland Award, The Republic of Costa Rica has the right to demand indemnification for any places belonging to  
26 her on the right bank of the River San Juan which may be occupied without her consent, and for any lands on the  
27 same bank which may be flooded, or damaged in any other way, in consequence of works of improvement.

28 The Court prohibits any organ or agent of the government or anyone acting on behalf of the government  
29 from trespassing in foreign territory, without consent of the government holding sovereignty over the foreign territory,  
30 particularly military operators. According to Article 3(6) of the Cleveland Award, Article 21 of the Charter of the  
31 OAS, Article 62 of the OAS, and the Treaty of Limits, the presence of military force and military encroachment cannot  
32 be used in the surrounding land. This includes the illegality of the threat of force through military encroachment on  
33 Calero Island.

34 Regarding the environmental impact of the dredging of the canal, the Court found that due to Nicaraguan  
35 negligence, the environmental impact of Nicaraguan actions on Costa Rican territory was not properly researched.  
36 This is highlighted by the *Summary of Actual and Potential Environmental Services Losses Due to the Current*  
37 *Ecological Conflict in the Portillos/Calero Island Region in the Caribe Noreste Wetland in Northeastern Costa Rica*,  
38 which indicates that no trans-boundary impact statement has been filed.

39 The Court orders the following:

40 First, we continue to urge all relevant parties to abide by the rulings set by the 2009 ICJ case, *Costa Rica*  
41 *v. Nicaragua*,

42 Second, we order Nicaragua to recognize Costa Rican sovereignty over the lands south of the San Juan River,  
43 including Calero Island,

44 Third, we order the removal of Nicaraguan military personnel and the cessation of construction of the canal  
45 on Costa Rican territory,

46 Fourth and finally, we order that Nicaragua is obligated to provide reparations to Costa Rica for the economic  
47 and environmental impact of the illegal construction of the canal. The monetary amount shall be determined by a  
48 report from the OAS evaluating the economic and environmental impact.

*Signed By*

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Justice Ackerman

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Justice Bell

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Justice Burns

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Justice Cyhaniuk

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Justice Housewright

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Justice Justice

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Justice Kimbro

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Justice Klein

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Justice Larsen

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Justice McCloskey

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Justice Mudd

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Justice Rudolph

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Justice Thornton

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Justice Wade

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Justice Weeks