

---

*PRELIMINARY PRINT*

---

VOLUME 584 U. S. PART 2

PAGES 837–838

---

OFFICIAL REPORTS

OF

THE SUPREME COURT

JUNE 11, 2018

Page Proof Pending Publication

---



NOTICE: This preliminary print is subject to formal revision before the bound volume is published. Users are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, [pio@supremecourt.gov](mailto:pio@supremecourt.gov), of any typographical or other formal errors.

---

## Syllabus

WASHINGTON *v.* UNITED STATES ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

No. 17–269. Argued April 18, 2018—Decided June 11, 2018  
853 F. 3d 946, affirmed by an equally divided Court.

*Noah G. Purcell*, Solicitor General of Washington, argued the cause for petitioner. With him on the briefs were *Robert W. Ferguson*, Attorney General of Washington, *Frondda C. Woods*, Assistant Attorney General, and *Jay D. Geck* and *Anne E. Egeler*, Deputy Solicitors General.

*Allon Kedem* argued the cause for the United States. With him on the brief were *Solicitor General Francisco*, *Acting Assistant Attorney General Wood*, *Deputy Assistant Attorney General Kneedler*, *William B. Lazarus*, and *Evelyn S. Ying*.

*William M. Jay* argued the cause for tribal respondents. With him on the brief were *Brian T. Burgess*, *Jaime A. Santos*, *Kevin P. Martin*, *Riyaz A. Kanji*, *John C. Sledd*, *Jane G. Steadman*, *Mary Neil*, *James R. Sigel*, *Deanne E. Maynard*, *Brian R. Matsui*, *Thomas Zeilman*, *Craig Dorsay*, *Lea Ann Easton*, *Brian Gruber*, *Alan C. Stay*, *Ann E. Tweedy*, *Lauren Rasmussen*, *Steve Suagee*, *Sam Hough*, *Earle David Lees*, *Kevin R. Lyon*, *Samuel J. Stiltner*, *John Howard Bell*, *Harry R. Sachse*, *Timothy J. Filer*, *Scott Owen Mannakee*, *David Hawkins*, *Arthur W. Harrigan, Jr.*, *Tyler L. Farmer*, *Kristin Ballinger*, *James Rittenhouse Bellis*, *Emily Hutchinson Haley*, and *Mason D. Morisset*.\*

---

\*Briefs of *amici curiae* urging reversal were filed for the State of Idaho et al. by *Lawrence G. Wasden*, Attorney General of Idaho, *Steven L. Olsen*, Chief of Civil Litigation, and *Clay R. Smith*, Deputy Attorney General, and by the Attorneys General for their respective States as follows: *Curtis T. Hill, Jr.*, of Indiana, *Derek Schmidt* of Kansas, *Jeff Landry* of Louisiana, *Janet T. Mills* of Maine, *Bill Schuette* of Michigan, *Tim Fox* of Montana, *Doug Peterson* of Nebraska, *Mike Hunter* of Oklahoma, *Brad D. Schimel* of Wisconsin, and *Peter K. Michael* of Wyoming; for the American For-

Per Curiam

PER CURIAM.

The judgment is affirmed by an equally divided Court.

JUSTICE KENNEDY took no part in the decision of this case.

Page Proof Pending Publication

---

est & Paper Association et al. by *Timothy S. Bishop* and *Chad M. Clamage*; for Business Organizations et al. by *Eric D. Miller* and *Jennifer A. MacLean*; for Citizens Equal Rights Foundation et al. by *James J. Devine, Jr.*, *Lana E. Marcussen*, and *Lawrence A. Kogan*; for Modoc Point Irrigation District et al. by *Ronald S. Yockim*; for Pacific Legal Foundation by *Damien M. Schiff*; and for Washington State Association of Counties et al. by *Robert M. McKenna*, *Brian T. Moran*, and *Marc R. Shapiro*.

Briefs of *amici curiae* urging affirmance were filed for the Confederated Tribes of the Warm Springs Reservation of Oregon et al. by *Howard G. Arnett*; for Law Professors by *Collette Routel*; for the National Congress of American Indians et al. by *Troy A. Eid*, *Jennifer H. Weddle*, *Paul Spruhan*, and *John T. Harrison*; for Pacific Coast Federation of Fishermen's Associations et al. by *Amanda W. Goodin*, *Janette K. Brimmer*, *Jonathan W. Dettmann*, and *Craig S. Coleman*; for Washington State Officials et al. by *Pratik A. Shah*; and for Daniel J. Evans by *Joseph P. Mentor, Jr.*